

GUIDE TO ADVERTISING USING SMS SHORT CODES

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The Guide set out below is intended as a quick basic reference when creating adverts which feature SMS short codes. A typical example would be where a competition is being promoted where consumers enter by SMS or where an advert promotes content that is available for download using SMS or SMS in conjunction with a bearer charge such as WAP. If you have any enquiries please contact dominic@nicciferguson.co.za or telephone 021 465 9175.

INTRODUCTION TO WASPA & THE CODE OF CONDUCT

This Guide is based on version 1.6 of the Advertising Rules of the Wireless Applications Service Provider's Association (WASPA), a self-regulatory body representing the WASP industry. WASPA has introduced a Code of Conduct for WASPS which is backed up by some potentially hefty sanctions and has the support and buy-in of the three South African cellular network operators.

Wireless Application Service Providers (WASPs) generally act as aggregators for Information Providers (IPs) and the rules of the Code are applied to these IPs through their dealings with the WASPs. Examples of well-known South African WASPs include iTouch, Exactmobile and Markatel.

The WASPA Code of Conduct covers issues such as:

- Spam - the Code specifies an opt-in system
- Subscription services
- Advertising and pricing
- Competitions
- Complaint resolution
- Adult services

The latest version of the Code of Conduct is available at <http://www.waspa.org.za/code/index.shtml>.

A list of WASPs who are members of WASPA is available at <http://www.waspa.org.za/members/index.shtml>

THE WASPA ADVERTISING RULES

The Advertising Rules came into effect on 1 January 2006. They are divided up into

- general rules relating to the kind of service offered (e.g. competition, adult etc) and
- specific rules relating to the medium in which an advert appears.

The following media channels are covered:

- TV Programmes and Infomercials
- TV & Cinema advertisements
- Radio
- Newspaper & Newspaper Classifieds
- Magazines (excluding Contents booklets and Z-cards)
- Content booklets
- Outdoor Media/Billboards
- Below-the-line marketing & promotional material
- Web Sites
- email advertisements
- SMS/MMS advertisements

The general rules are common to all the media channels, although there are differences in their application.

The latest version of the Advertising Rules can be found at <http://www.waspa.org.za/code/advertising-rules.shtml>.

For the purposes of this Guide we have focused on advertising using

- Print media (further divided into classified and non-classified advertising)
- Web sites (including third party web sites).

The basic principles behind the Rules are fairly uniform – it is the manner in which they are applied that differs between each media channel.

WASPA Advertising Rules for Print Ads

The following applies to all print advertisements placed in the body of and in the classified portions of ALL newspapers in tabloid or broadsheet format where legally available to all members and ages of the general public where Access Channels (i.e. a manner of accessing a wireless application service) are displayed.

Displaying the Cost of Access

- For each unique access number, the full cost of the access must be displayed immediately below, or above, or adjacent to the unique access number or content access code in a manner that is easily visible and readable. This applies even where there is a uniform cost of access displayed throughout the newspaper and/or a series of pages allocated to one advertiser.
- If multiple offers are made in an advertisement (spread across one or more pages) and the cost differs with each offering, each offering must clearly show the individual costs, again immediately below, or above, or adjacent to the unique access number in a non-serif font
- All access cost information must be placed horizontally.
- Where the Access Channel is SMS/MMS then the display text must indicate the TOTAL cost involved in obtaining the full service, and if applicable, also the number and component cost of the SMSs required for full access, and the potential for additional bearer charges (e.g. WAP).
- The pricing must not be placed within the ad or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad.
- The cost must not be part of a colour scheme that may obscure easy reading of complete details of the price.

Text Size For Non-Classified Ads:

- Access cost text must be in 11 point font size, using a non-serif font. [This is 11 point Arial Font]

Text Size for Classified Ads *(ie advertisements with unique content access code/numbers displayed in the classified portion of the body of a newspaper, or which are in classified-type format within the newspaper).*

- Access cost text must be in 9 point font size, using a non-serif font. [This is 9 point Arial Font]

Displaying the Terms and Conditions (T&C)

- The T&C text must be displayed on the same page as the unique access number it applies to, even if there is a uniform T&C applicable to all content in a newspaper or applicable to all the content in advertisement spread across one or more pages.
- Where the advertisement is a double-page only advertisement (with the entire advertisement contained on two facing pages), then it is sufficient that the T&C be placed on only one of the facing pages, provided the T&C is generally applicable to all the Content and Access numbers on both facing pages. If there is any deviation in the general applicability of the T&C, the exact T&C relating to that deviation must be placed at the point where different T&C would apply. (The same font sizes and layout must be used).
- If multiple offers are made on the same advertisement and the cost and T&C differ with each offering, each offering must show the cost & T&C separately and clearly.
- The T&C text must not be placed within the ad or formatted in a manner where it may be obscured by other text or visual information that may be displayed as part of the ad
- The T&C text must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C.
- All T&C information must be placed horizontally.

Text Size For Non-Classified Ads:

- T&C text must be in 9 point font size using a non-serif font [This is 9 point Arial Font]

Text Size for Classified Ads:

- T&C text must be in 8 point font size using a non-serif font [This is 8 point Arial Font]

WASPA Advertising Rules for Ads placed on web sites

This following applies to all advertising placed on internet-based web sites visible to the general public where Access Channels are displayed. This also includes advertisements placed on third-party web sites.

Displaying the Cost of Access

- No cost information may be placed on in-view pages, nor on any pop-up pages, nor on any page requiring a particular add-on component or facility not generally available to all users on the Internet.
- No incorporation by reference may be used to indicate that pricing is available on another page of a web site. This means that the cost information associated with a unique access number must be immediately adjacent to, or above or below that unique access number and may not be placed solely on another web page, graphic or any other media.
- If multiple offers are made on the same web page and the cost differs with each offering, each offering must show the individual costs separately and clearly.
- For each unique access number, the full and final cost of the access must be displayed immediately below, or above, or adjacent to the unique access number in a font size and font type that is easily visible and readable.
- The display text must indicate the TOTAL cost involved in obtaining the full service, as well as the number of, for example SMSs or access times, and their individual cost, required for full access (if applicable).

- The pricing text must be clearly shown being independent of any other text or image, and not be placed or formatted in a manner where it may be obscured by other text information, graphics or marks that may be displayed around it.
- The cost must not be part of a colour scheme that may obscure easy reading of complete details of the price and T&C.
- All access cost and T&C information must be placed horizontally.
- If the ad and/or offer is on a third party web site as a graphic or display text, then the display text with pricing and contact info must be displayed on immediately below, above or to the side of the access number to show the FULL cost to consumer. This includes for example, text-based ads placed on Google-based (or similar) advertisements.

Sized of access cost text

- Access cost text must be of a size that is at least 80% of the largest access number on the page, or 15 point font size, whichever is the greater. The access cost text must be in a non-serif font. [This is 15 point Arial Font]

Displaying the Terms and Conditions

- The T&C text must be placed close as possible to the unique access number.
- No incorporation by reference may be used to indicate that T&C information is available on another page of a web site. This means that the T&C information associated with a unique access number must be immediately adjacent to, or above or below that unique access number and may not be placed solely on another web page, graphic or any other media.
- T&C information must be placed horizontally.
- If multiple offers are made on the same advertisement and the T&C differ with each offering, each offering must show the T&C separately and clearly.
- While cost information associated with an access number may be displayed elsewhere on a web site (for example cost information also placed in the T&C page of a web site), this must be done as part of a duplication of the pricing. Hence, cost information cannot solely be

placed on, for example only the T&C page where accessing the T&C page requires that the user click away from the initial page that displayed the access number.

- The consumer should thus not have to scroll down significantly on that same page or follow any links to other pages to be made aware of the full pricing and T&C associated with a unique access number.

Size of T&C text

T&C text must be in 12 point font size, or 50% of the largest access number on a Web page, whichever is the greater. The T&C must be in a non-serif font. [This is 12 point Arial Font]

GENERAL RULES

The General Rules are divided up into the basic categories listed in the last section. A summary of the important points relevant to each category is provided, although readers should be aware that more detailed provisions do apply.

To illustrate the way in which the general rules operate the Guide focuses on the rules as they relate to competitions.

Competitions

Promotional material must clearly state any information which is likely to affect a decision to participate, including:

- the closing date;
- any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
- an adequate description of prizes, and other items offered to all or a substantial majority of participants, including the number of major prizes;
- any significant age, geographic, or other eligibility restrictions;
- any significant costs which a reasonable consumer might not expect to pay in connection with collection, delivery or use of the prize or item.
- any significant facility, access or skill a consumer must have in order to obtain, use or otherwise access the full or even partial extent of the award promised in the advertisement.
e.g. Having access to and being able to use the Internet in order to fully utilize the prize

- If a prize or reward is offered and the allocation of any prize/reward is conditional on any event and/or date, then this fact must be CLEARLY and visibly stated in the body of the advertisement as well as in the T&C text. For example, if a minimum number of participants to a competition are first required to successfully enter the competition before any prizes may be allocated and/or before the competition begins, then this must be clearly stated in the T&C text.
- Adverts for Competitions must show a specific closing date, except where there are instant prize- winners. However if the instant prize component of a competition is first dependent on any condition (eg a certain number of SMSs must first be received before the ability to win any advertised prizes becomes applicable), then a closing date MUST be indicated.
- If a prize or reward is offered and the notification of whether the participant to that competition has won a prize (or not) is NOT Instant, then a closing date of the competition must be CLEARLY and visibly stated in the T&C text
- An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, notwithstanding the number of entries.
- Prizes must be awarded within 28 days of the closing date, unless a longer period is clearly stated in the promotional material.
- All correct entries must have the same chance of winning.
- Unless the winner of a competition requests anonymity, then the advertiser must advertise the names of the winners of the competition on the web site of the promoter of the competition within one week of appointing the winners, which may not be more than 28 days after the closing date of the competition. This requirement for publication does NOT apply in cases of Instant Prize Competitions where the result of the entry will be instantly communicated to any entrant, but WILL apply if that Instant Prize Competition has any conditions attached to the start of the competition.

- Note that the WASPA Code of Conduct v3.2 obliges disclosure of the names and/or contact details of any winner of any competition to WASPA or to a consumer should they request it so as to verify the legitimacy of the competition.

Other services and practices

Below is a very brief and basic overview of the rules applicable to other categories of services and related issues. Please note this is not intended to be a complete listing of applicable provisions of the WASPA Advertising Rules.

Adult services

- If the ads used to advertise any Adult Content themselves contain Adult Content, these ads are restricted to Adult Media
- Ads referring to any Adult Content are restricted under certain conditions
- An age verification system must be used for access to any Adult Content.
- A warning that users must be 18 years or older to use a service must be shown

Age-restricted services

- Any services that would or should ordinarily be restricted to Adults – which may include Adult Content Services – or where it would be undesirable for Children to have access to those services because of the potential Adult nature of the service, must be indicated as being Age Restricted.
- A warning that users must be 18 years or older to use a service must be shown

Availability of content services

- Indicate any restrictions
- If a service or Content as advertised is (usually) only partially or totally unavailable during certain time periods or days, or for any other reason, then this restriction must be explicitly indicated.

Bearer requirements and charges

- Indicate need for and possibility of additional bearer charges eg “R10/Game + WAP charges”

Contact details

- Provide web site address AND helpline number/shortcode
- Contact details must be displayed as part of the T&C details

Contact-type services

- Indicate if any restrictions apply

- Indicate number of if multiple registration or other steps required before full use of advertised service is possible
- Any services that are advertised as having any sexual or Adult Content or which would, ordinarily, be undesirable for Children to have access to those services, must be indicated as being Age Restricted or for Adults only
- Use AVS if Service has Adult Content as defined and/or if Age-Restricted
- Must include unsubscribe at no more than R1 plus sender identification if no communication for more than 10 days

Distribution lists

- Indicate If Consumer Automatically Placed On List.
- No sexual or sexually suggestive Content in list if the list recipient does not request or expect it.
- Provide reasonable opt-out procedure
- Sender must have direct and recent association with recipient
- Must include unsubscribe and identification of sender if no communication for more than 10 days
- The opt-out facility may not utilize Premium rated numbers beyond R1 in total. No premium rate fax numbers made be used for an opt-out. IVR or time-based opt-out may not exceed 120 seconds total.

Failed requests

- Indicate If Failed Requests Billed
- Best Practice Suggestion - Display text: "Errors billed"

Live services [In relation to live Contact-type services only]

- Advertisements may not use the word 'live' to describe systems where a recording or an automated system is used in place of a real time interaction with a human
- If a live service is offered but is restricted to certain times and/or days, then this restriction must be clearly indicated.

Network compatibility

- Indicate If Services Are Network-dependent
- Indicate if subscription-type dependent
- Best Practice Suggestion: Display text: "Vodacom contract users only"

Pricing

- The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.
- Show component, bearer and total cost
- Cannot use term Standard Rate when no free/discounted SMS/Minutes cannot be utilised
- The display text must show the full or potential cost of access for fully obtaining the advertised Content and/or service.
- For IVR Lines (also show minimum time if over 60 seconds waiting period:
"VAS Rates Apply. Free Minutes Do Not Apply. Minimum 2 minutes"
- Premium Rated SMSs: "Premium Rates Apply. Free SMSs do not apply".
Note: This notation must be used irrespective of the value of an SMS (eg 50c/OBS) not available free or in a bundle, eg "2x R5 SMS = Total R10 + WAP Charges".
- The TOTAL charge that the consumer will incur for the subscription component of their access to that subscription service.
- The frequency (and the minimum frequency, if applicable) at which they will be charged for the subscription component of access to that subscription service.
- Whether, in addition to the periodic subscription charges above, there are any additional charges applicable to obtaining any particular service, Content or class of Content on the advertisement.
- This indication must include the potential and cost of any (additional) bearer charges.
- Must indicate cost of any (additional) per-content access
- Must differentiate clearly between multiple subscription types
- Must clearly differentiate between non-subscription and subscription types if both available in the same advertisement:

Technical conditions for access

- The display text must indicate whether the service can only be accessed by:
 - Phones with any particular technical specification(s)
 - Any particular time period
 - Any particular bearers
 - Any particular mobile operator networks
 - Any particular mobile operator subscription types

Total access requirements

- WAP/GPRS: Indicate if WAP/GPRS required
- For SMSs: Indicate Number of SMSs required for full access to Content or for registration to allow full use of the advertised service.

- For IVR: If over 60 seconds, indicate the minimum number of minutes for required for obtaining the advertised Content or access to service proper Include possibility of bearer charges if applicable.

USSD access

- For menu-driven services such as USSD, the price for the initial service must clearly be stated, along with the minimum time reasonable persons would require to access the service or Content as advertised if this minimum time is over 90 seconds.

VAS / Premium Rates

- If a VAS rate or premium rate access number is indicated, then the display text must indicate that free bundled minutes or SMSs do not apply, and that VAS (Value Added Service) and/or premium rates will apply (if applicable)

VAT

- All access costs shown must always include VAT at 14%
- No VAT-exclusive pricing may be shown

CONCLUSION

While service providers who are members of WASPA are directly bound by the Code of Conduct and Advertising Rules it is important to note that WASPA members are under an obligation to ensure that the information providers (IP) who access gateway services through them also comply with the Code and Rules. This is usually achieved through the inclusion of specific contractual terms in the service agreement between the WASP and the IP which stipulate that

- The IP undertakes to comply with the WASPA Code of Conduct and Advertising Rules
- The IP indemnifies the WASP against any claims made against the WASP as a result of the failure of the IP to so comply
- The IP will be responsible for paying all fines and dealing with such other sanctions as may be imposed by WASPA due to a failure by the IP to so comply.

WASPA has significant powers to deal with transgressions of the Code and Advertising Rules. Possible sanctions range from formal reprimands to fines and suspensions. In such cases, usually where there have been a number of infractions or an ongoing transgression, WASPA can direct that the mobile networks take action and this may include barring the rights of a service provider to access the networks.

The activities of WASPA have ready brought about a major change in the manner in which short code services are structured and marketed. There is still, however, a degree of tightening up to be achieved and there remains an unacceptable level of ignorance amongst information providers and consumers as to their rights and obligations under the Code and Advertising Rules.

And ignorance, as ever, can be a costly state of mind to maintain.

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