

DECISION OF THE ADVERTISING REGULATORY BOARD

Complainant	Garron Dace
Advertiser	Standard Bank Mobile
Consumer/Competitor	Consumer
File references	426 - Standard Bank Mobile - Garron Dace
Outcome	Upheld
Date	11 October 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Garron Dace against Standard Bank's website advertisement published at <https://mobile.standardbank.co.za/pricingCommercial>.

Description of the advertising

The complainant submitted the following image of the advertisement:

Plan Number	Monthly Payment	Airtime Cost per MB
1	Pay R49 monthly	15c per MB
2	Pay R69 monthly	12c per MB
3	Pay R99 monthly	9c per MB
4	Pay R149 monthly	7c per MB
5	Pay R249 monthly	5c per MB

Complaint

In essence, the complainant is of the opinion that the advertisement is misleading because the wording creates the impression that a consumer, choosing the 4th data plan, for example, will have a credit of R149 that will be consumed in 7 cent increments, resulting in about 2.1GB of data. This is, however, not the case. The complainant added that he was charged 7 cents per megabyte on top of the original R149 that he was already paying.

Response

The Respondent submitted that the complaint is invalid as the complainant has misinterpreted how the plan works by believing that there is “R149 airtime” that is used at 7 cents per megabyte. It submitted that there is an example on its website explaining how the data plans costs works, and attached a screenshot with the following wording:

“How it works – Example

*John Smith has a **Private banking account**. He qualifies for the Private Account Flexi deal which entitles him to **R369 FREE airtime monthly** (the equivalent of his bank account fee) for a R39 per month subscription fee.*

*John is a mobile savvy customer and chose a **R0.12/MB Data Plan at R69.00 and R0.79/min Voice Plan at R79.00***.*

*His **R369 FREE** airtime will now deplete at **R0.12 per MB** and at **R0.79 per minute**.*

*John is also rewarded in data for his **Credit, Debit and Cheque card spend**.*

*But that's not all! Because John is also a UCount member he gets additional **50 tiering points** to improve his reward earning potential. John loves Standard Bank Mobile and being a UCount Tier 5 member he can even get **up to 2GB Monthly FREE data** awarded to his Standard Bank Mobile SIM.*

As you can see, it is rewarding to be with Standard Bank Mobile.

**Rate plans are valid for 30 days."*

Application of the Code of Advertising Practice

The following clause was considered in this matter:

Misleading claims - Clause 4.2.1 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

The question before the Directorate in this matter is whether the advertising in question would lead a hypothetical reasonable consumer to believe that if he/she chose, as an example, the 4th data plan, he/she will have airtime credit of R149 which will be used or depleted at a rate of 7 cents per megabyte. The advertiser submits that the complainant has misinterpreted how the plan works by believing that there is "R149 airtime" that is used at 7 cents per megabyte. It would appear that what in fact occurs is that you are charged R149 for the advantage of thereafter being charged 7c a minute.

The introduction to the plans on the website states:

Select a plan that suits your usage so that your data or voice costs will never change

The consumer's first impression is therefore that they will pay a fixed fee so that their costs never change. This would imply that usage is included in the costs.

The table then states:

Data Plans

Choose how much your data usage costs.

Without a data plan your data will cost you R0.49 per MB

The consumer now knows that they must compare what comes below with a cost of 49c a MB.

After this, the table submitted by the Complainant appears.

The Directorate is of the opinion that the hypothetical reasonable person might reasonably reach one of two conclusions.

The first – which is apparently the correct one - is the promoted monthly fees do not carry any airtime credit but only gives the subscribers an opportunity to be charged at a lower rate when using data or voice calls, and that an additional amount is payable in order to use the actual benefits of a service already paid for through a monthly fee. With this interpretation, it is unclear whether the phrase, for example, “your airtime is used at 7c a MB” means that you are charged an additional 7c, or whether this calculation – which the introduction has made clear you should be using for comparative purposes – takes account of the R149 a month. Presuming that it does not take account of the R149, you would have to use over 304 minutes (R149 divided by the default rate of 49c a minute) before you would “make a profit” from the plan. This calculation has not taken account of the fact that you have also been charged 7c for those 304 minutes. This complicated mathematical reasoning might make the consumer reject this interpretation as the most likely meaning of the advertisement.

The second reasonable interpretation is that, on seeing the heading “Data Plans”, given the wording “your airtime is used at 7c **per MB**” coupled with “Pay R149 monthly”, the consumer will believe that there will be airtime of R149 credited to their account which will be depleted at 7c a MB. This, to the Directorate, is the far likelier interpretation. It would mean that the 7c comparison with 49c is meaningful. It is also implied by the introductory idea that you will have a fixed cost. In addition, consumers are currently familiar with advertisements by different service providers offering deals and plans in a

form of subscription contracts with airtime, data or sms bundles already included in the monthly subscription fee. Consumers might, therefore, combined with the fact that the advertisement is leading with the headlines “Data Plans” and “Voice Plans”, understand this plan to be similar to those that they are familiar with.

Clause 4.2.1 of Section II cautions advertisers that advertisements should not contain any statement or visual presentation, which directly or by omission, ambiguity or exaggerated claim, is likely to mislead the consumer about the advertised product. (our emphasis).

The Directorate is of the opinion that the advertisement is, at best, phrased ambiguously as it is not clear enough that the promoted monthly fees do not carry any airtime credit but only gives the subscribers an opportunity to be charged at a lower rate when using data or voice calls, over and above the plan cost.

The Directorate also notes that clicking on the option “*How it works – Example*” on the advertiser’s website does not offer any clarity at all regarding the issue at hand, but only demonstrates how the monthly data and voice plans can be incorporated into a client’s specific banking account and its linked free airtime deals, to add further value to the client’s banking experience. In fact, the sentence “His R369 FREE airtime will now deplete at R0.12 per MB and at R0.79 per minute” strengthens the impression that the “fee” is a credit – which it appears is incorrect.

Given the above, the Directorate finds that the advertisement is ambiguous and therefore misleading. The advertisement in question is therefore in contravention of Clause 4.2.1 of Section II of the Code.

Sanction

The Advertiser is required to:

1. Withdraw or amend the advertisement in its current format;
2. The process of withdrawing the advertisement in its current format must be actioned with immediate effect;
3. The advertisement may not be used again in its current format.