

Decision of the ADVERTISING REGULATORY BOARD

Complainant	David Quarmby
Advertiser	Cell C Limited
Consumer/Competitor	Consumer
File reference	219 - Cell C - David Quarmby
Outcome	Undertaking
Date	29 May 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by David Quarmby against the online advertising of Cell C's Data Transfer product / service.

Description of the advertising

The relevant webpage is headed: "DATA TRANSFER – SHARE YOUR DATA BUNDLE WITH YOUR CELL C FRIENDS AND FAMILY".

The body copy reads as follows:

"Data Transfer allows you to buy a Data bundle and share your data with anyone on Cell C. Friends can share with friends, parents can share with kids, employers

can share with employees, just about anyone can share their data. You can share up to 5 of your closest friends. All you need to do is buy a Data bundle by dialing *147# and select option 3 to share your data.

Alternatively, you can get a friend to top you up with data, by dialling *112*1*CellCPhoneNumber#.

For pricing on Data Bundles, click here or recharge online.”

Right below this there are two drop-down boxes – one for frequently asked questions (FAQs) and one for terms and conditions. Under the FAQ section, in answer to the question, “How much Data bundle can I share?” it states: “You can select any Data bundle value to share from a minimum of 5MB to the highest Data bundle value available for transfer.”

Under the Terms & Conditions section it also states: “You can select a variable Data bundle value to share from a minimum of 5MB to the highest Data bundle value available for transfer.”

Complaint

The Complainant submitted that Cell C have a 1GB data transfer limit which is not advertised anywhere.

Response

The Respondent submitted that it launched a data transfer product on 1 February 2016, the terms of which did not limit the amount of data that could be transferred to a recipient. Following the Regulator publishing the End User and Subscriber Charter Amendment Regulations on 20 December 2018, Cell C introduced an updated data transfer product with a new set of terms and conditions. The updated data transfer product allows customers to transfer from applicable inclusive data and data bundles up

to a monthly limit of 1GB. This limitation is clearly communicated in the terms and conditions of the updated data transfer product.

It appears that the offer for the initial data transfer product, as well as the terms and conditions associated with that product, was erroneously not removed from Cell C's website. Both offers and their respective terms and conditions therefore appeared on the website, which has caused confusion. This was not intentional and an obvious error.

The Respondent submitted that it has subsequently removed all elements of the initial data transfer product from its website, and only the updated offer and terms and conditions remain on the website.

The Respondent apologised for the confusion.

Application of the Code of Advertising Practice

The following clauses were 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 main objective of the Advertising Regulatory Board is to protect consumers from advertising that contravenes the Code of Advertising Practice. In the vast majority of instances where advertising is found to contravene the Code, the ARB will require the advertising to be withdrawn or amended.

In this matter, the Advertiser has amended its advertising in a manner that appears to address the complaint at hand.

The ARB Directorate is satisfied that the amendment by the advertiser is unequivocal and addresses the complaint before it, and therefore accepts this undertaking in resolution of the matter.