

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Clare Hutson
Advertiser	Vodacom (Pty) Ltd – First Respondent MultiChoice Holdings South Africa (Pty) Ltd – Second Respondent
Consumer/Competitor	Consumer
File reference	90 – Vodacom/Showmax - Clare Hutson
Outcome	Undertaking
Date	8 April 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Clare Hutson against an email advertisement that she received from Vodacom regarding a Showmax offering to Vodacom customers.

Description of the advertising

The email advertisement states, *inter alia*, “ADD SHOWMAX TO YOUR VODACOM BILL & GET 3 MONTHS FREE SHOWMAX & 15GB FREE SHOWMAX DATA”, and “15GB Showmax data to watch up to 45 hours of entertainment anytime”.

Complaint

The Complainant submitted that when she clicked on the link provided, the text said that she was eligible for 5GB of data. She contacted Showmax and they said that the 15GB of data was over the 3 month period. She asked whether the 45 hours of viewing time was per month (with the 5GB of data) or over three months (with the 15GB of data), and they then said that they “cannot advise as it depends on the size of content you are streaming or downloading and the bandwidth you are using”. The Complainant argued that the banner versus the reality of the offer are not aligned at all.

Response

Ogilvy & Mather Johannesburg submitted a response on behalf of Vodacom and Showmax.

The Respondents conceded that the contents of the email to the complainant did not explain in detail that 15GB Showmax data is distributed over three months and is limited to 5GB per month. However, there was no intention to mislead any consumer in any way. They argued that a reasonable consumer would have deduced that 15GB over three months would be allocated equally per month over that period, in particular given that a consumer is advised of this allocation immediately as they register to activate the product on www.vodacom.co.za/showmax. It is even evident from Ms Hutson’s complaint that she was aware of the data distribution once she clicked on the link.

The Respondents did, however, accept that not all consumers may readily interpret “... get 3 months FREE Showmax & 15Gb FREE Showmax data ...” as 5GB per month. Accordingly, Vodacom and Showmax jointly agreed to amend the promotional message to make it clear that the allocation is 5GB per month over three months. They therefore undertook not to send out further messages to consumers in this current form, and they apologised to Ms Hutson for any inconvenience caused.

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 advertisers have undertaken to amend their advertising in a manner that appears to address the complaint at hand.

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