

MTN ordered to remove 'misleading' 10GB for R99 data ads

The Advertising Regulatory Board (Arb) has ruled against MTN for 'misleading' 10GB for R99 data ads. The person that issued the complaint alleged the advertisement is misleading because the offer does not stipulate that it is an offer for 5GB Anytime Data and 5GB Night Express Data, and not for 10GB Anytime Data.



A shopper walks past an MTN shop at a mall in Johannesburg, South Africa on 2 March 2017. Reuters/Siphiwe Sibeko/File Photo

The complainant set out that data is normally split into three categories: Anytime data which is available 24 hours a day; daytime data which is available for the day; and night or night data which is available from 11pm or 12am to 6am.

Therefore, if the data was advertised as 10GBs, it was assumed that it is anytime data, otherwise, it should be advertised as, say, 5GB day and 5GBs night or night data.

MTN's defence was the terms and conditions mentioned in the advertisement and which were fully set out on its website. Arb said: "The Advertiser stated that clause 5.6 of the Terms and Conditions expressly recorded that the BozzaGigs LTE bundles would comprise of both Anytime Data and Night Express Data.

“In addition to what was set out in the terms and conditions, it explained that the BozzaGigs Webpage set out the various BozzaGigs bundles as well as how the inclusive data in each bundle would be allotted between Anytime Data and Night Express Data.”

For the complaint, Arb referred to Clause 4.2.1 of Section II of the Code of Advertising Practice, which reads:

“Advertisements should not contain any statement or visual presentation which, directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer.”



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Arb said: “The directorate notes that the Advertisement set out that 10GB of data is available to purchase for R99. The amount of data that the customer is able to use is not in dispute, but it is the way in which the Advertiser has allocated the data between anytime data and night data, which the complainant alleges has been done without proper communication in the advertisement, that is in dispute.

“The directorate accepts that with all advertisements space may be limited, and it may not be possible to include each and every detail of the product in the actual advertisement. To this end, the directorate agrees that terms and conditions have become a useful tool to provide further details of the product. However, as a general principle, advertisers cannot use the terms and conditions to fix a misleading impression which has already been created in an advertisement.”

MTN is required to remove the ads within the deadlines stipulated in Clause 15.3 of the Procedural Guide. According to an *ITWeb* [report](#), MTN has started removing the advertisements.

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