

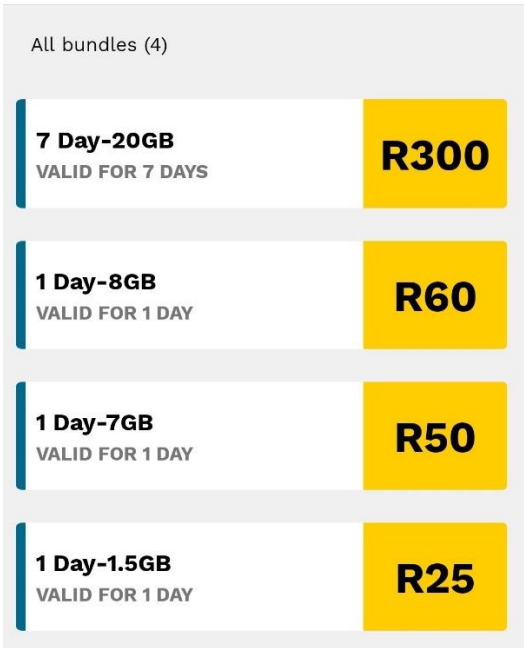
Decision of the ADVERTISING REGULATORY BOARD

Complainant	Christo Boshoff
Advertiser	Mobile Telephone Network (Pty) Ltd
Consumer/Competitor	Consumer
File reference	2128 – MTN – Boshoff
Outcome	Upheld
Date	23 September 2022

The Directorate of the Advertising Regulatory Board has been called upon to consider a consumer complaint against advertising by MTN.

Description of the advertising

The advertising depicted below appears in the MTN mobile app:



< **MyDataOffers**

All bundles (4)

7 Day-20GB VALID FOR 7 DAYS	R300
1 Day-8GB VALID FOR 1 DAY	R60
1 Day-7GB VALID FOR 1 DAY	R50
1 Day-1.5GB VALID FOR 1 DAY	R25

Complaint

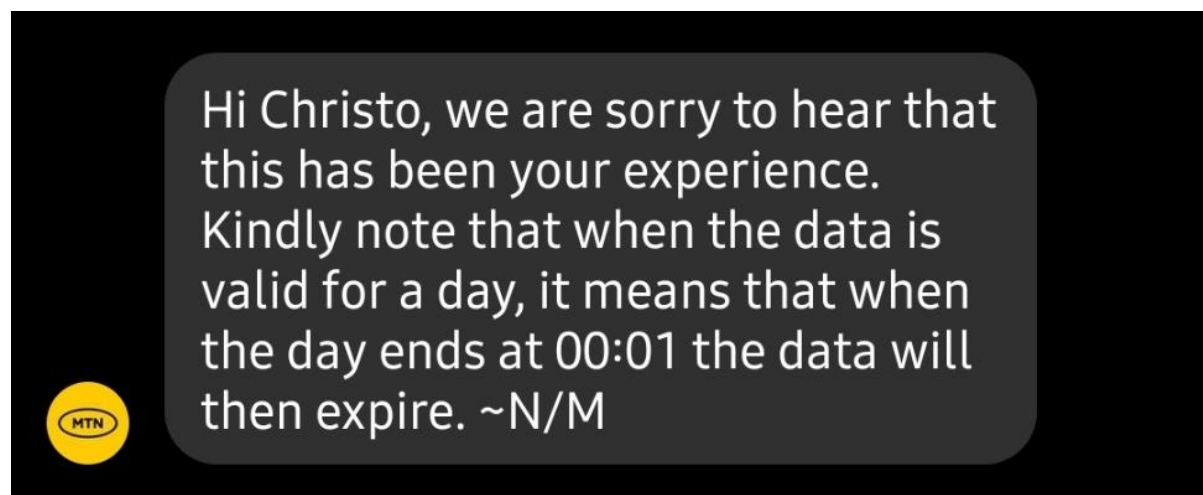
The complaint is as follows:

"I'm hereby submitting my written complaint about MTN 1 Day & 7 Day data bundles being sold and advertised on their MTN App. They advertise Data bundles valid for 1 day, where this infact is only valid for the date that you purchased the bundle on. Example: If you purchase a 1GB bundle valid for one day, you would expect that the bundle only expires after 24 hrs, however MTN resets the data bundle at midnight.

Yesterday I bought a 2.5GB data bundle valid for 1 day (this is per the app) . I purchased it at around 12:51 pm yesterday. I did not use all the data so I expected the remaining data to be valid until 12:50pm the following day, as 1 Day = 24hrs However, this morning the data had disappeared. I then contacted MTN to complain and they told me that the data is only valid for the date you purchased it on, not for 24hrs as advertised.

This is blatant THEFT of paid for data. Nowhere on the app does it stipulate the true validity of the data bundle, but is advertised as valid for 1 Day. The uses would thus assume 1 day = 24hrs, which is not the case. So if you bought a 1G data bundle for 1 day at say 23:45pm, you think you would be able to use it for 24hrs, yet at 00:01am the data would reset and they would have taken your data and basically profit from not honouring the deal for 1 day! The same is true for 7 day bundles as at midnight the bundle reset."

The Complainant submitted the following screenshot of the response he received after he complained to MTN support on Facebook:



Response

The Advertiser was given the opportunity to respond, but failed to do so.

Application of the Code of Advertising Practice

The following clause was considered in this matter:

- Misleading advertising – 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 in-app advertising offers 7 day and 1 day data bundles. The principles apply to both, but the ruling will focus on the 1 day bundle, as this is what the complaint focuses on. The wording in the advertising is clear: “Valid for 1 day” or “Valid for 7 days”. What, then, would a hypothetical reasonable person expect a “day” to mean?

More specifically, would a consumer who purchases the bundle in, for example, the middle of the day expect:

- That the bundle will expire at midnight, or
- That the bundle will expire after 24 hours.

The Advertiser’s message to the Complainant when they exchanged messages on Facebook states that a day ends at midnight, regardless of the time of purchase of the data. A day, then, could be as short as a few minutes if data is only purchased at 11:45pm.

The Directorate is of the opinion that either interpretation is reasonably possible – some consumers might understand that the time will expire at midnight, and others might understand it to last 24 hours from purchase. What is important is that the latter group of consumers, while being wrong, would not be unreasonable in that belief. In other words, the advertising is ambiguous.

The advertising does not appear to carry any information that might alert the consumer or clarify the position. There is no link, based on what is before the Directorate, to what the definition of a “day” is, and there is no asterisk and clarifying disclaimer. The wording itself

simply uses the word “day”, without any clarifying limitation like “valid until the end of the day”. In summary, no effort is made to clarify the ambiguity.

Clause 4.2.1 of Section II states:

“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.” (Our emphasis)

The Directorate therefore concludes that the claims made by the Advertiser in its in-app offers are ambiguous and therefore misleading and in breach of Clause 4.2.1 of Section II of the Code.

Sanction

The Advertiser is ordered to withdraw or amend the claims in the in-app advertising and wherever else they appear, in accordance with Clause 15.3 of the Procedural Guide, which in the case of internet advertising requires an immediate withdrawal as deadlines permit.