

Report of the Adjudicator



Wireless Application Service Providers' Association

Complaint number	#29654
Cited WASPA members	Mobimex Group (1061)
Notifiable WASPA members	N/A
Source of the complaint	WASPA
Complaint short description	In adherence with sanctions imposed
Date complaint lodged	2016-03-31
Date of alleged breach	On-Going
Applicable version of the Code	14.3
Clauses of the Code cited	4.2, 24.67
Related complaints considered	Appeal #6759
Fines imposed	R 20 000-00 and R 5 000-00
Other sanctions	Re-imbusement of customer
Is this report notable?	N/A
Summary of notability	N/A

Initial complaint

The Complainant in this matter indicated that the member in this matter has failed to adhere to a previous Appeal sanction imposed on it after receiving notification of such failure from an aggrieved customer.

Member's response

The Member in its initial response used some profane language in its description of another member and further insinuated fraudulent activities by WASPA whereby it alleged that certain members are given preferential treatment.

Insofar the refund is considered, the Member insisted that the responsibility of such refund lied with another member and that it was incumbent on such member to provide the refund, where after the Complainant indicated to the Member in this matter that it is welcome to lodge a complaint with WASPA against the other member.

Sections of the Code considered

4.2. Members must at all times conduct themselves in a professional manner in their dealings with the public, customers, other service providers and WASPA.

24.67. The failure of any member to comply with any sanction imposed upon it will itself amount to a breach of the Code and may result in further sanctions being imposed.

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her. The Adjudicator has taken note of the Complaint and the Member's subsequent replies.

The Adjudicator is of the opinion that the decision reached in Appeal #6759 is clear in its identification of the member who was sanctioned and subsequently had the responsibility to refund the complainant in that matter.

Whether the Member in this matter feels aggrieved by another member or not, the fact of the matter is that the Member failed to adhere to the sanction imposed on it.

This is regarded as a serious breach of the WASPA Code of Conduct. Failure to adhere to sanctions imposed undermines the authority of WASPA and its independent adjudicators. It further strips complainants from rights bestowed on them by decisions taken.

The Member is therefore found to be in breach of section 24.67.

Insofar it relates to the use of profane language towards other members and the making of unfounded insinuations against WASPA, the Adjudicator in this matter is of the opinion that

the Member might open itself up to serious legal repercussions and cautions the Member against such use.

In this regard the Member is further found to be in breach of section 4.2.

Sanctions

The Member is ordered to fulfil its obligation under Appeal #6759:

“The IP is required to compensate the complainant in full in respect of all charges arriving from the interaction of the complainant with the IP.”

The Member is further ordered to pay any interest accrued (bank related) on the charges referred to above from the date of the Appeal to the date of this Adjudication made available to the Member.

The Member is further fined R 20 000-00 for its breach of section 24.67, and a further fine of R 5 000-00 for its breach of section 4.2, both fines to be paid to WASPA within 5 working days after receiving notice hereof.

The Member is also placed on notice that any similar future breach of section 4.2, would lead to its suspension.