



Wireless Application Service Providers' Association

Adjudicator's Report

Complaint number	29820
Cited WASPA members	Infobip Africa (0143)
Notifiable WASPA members	<i>na</i>
Source of the complaint	Public
Complaint short description	Auto subscription / charge error
Date complaint lodged	14 March 2016
Date of alleged breach	
Applicable version of the Code	14.3
Clauses of the Code cited	4.2, 5.4, 5.10, 5.14, 7.3, 7.4, 7.5 (a,b,c,d, e), 15.26, 15.27, 15.31
Related complaints considered	
Fines imposed	Infobip Africa – R 5000,00

Is this report notable?	<i>Not notable.</i>
Summary of notability	

Initial complaint

In essence, the complainant submitted that he was automatically subscribed to a service.

The complainant wanted a refund.

Member's response

The WASP submitted that this charge was the result of an overcharge error it had on its platform that it was in the process of resolving with Vodacom.

Clauses

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.

5.4. Members must have honest and fair dealings with their customers.

5.10 Whenever a customer is asked to consent to the terms and conditions of a service, it must not be assumed that the customer consents by default; a customer must take a specific action to confirm consent. (Example: A consent tick-box must be empty when presented to the customer, and the customer must click on the tick-box to indicate consent.)

5.14. Members must have a procedure allowing consumers to lodge complaints regarding the services provided. Members must acknowledge receipt of complaints expeditiously, and must respond to any complaints within a reasonable period of time.

7.3. Members must provide WASPA, on request, with a list of all short codes, long codes and alphanumeric identifiers assigned for use with that member's services or the services of any of the member's customers.

7.4. Members must not refuse a reasonable request from WASPA for information about the services they operate, for the purpose of testing those services or for the purposes of resolving a complaint.

7.5. Members must provide WASPA with any customer records relating to any service which is the subject of a complaint, including, but not limited to:

(a) where that information is available, a record of the marketing link that the customer followed prior to joining a service;

(b) all communications sent by or to a customer in the process of joining a service;

(c) all required reminder messages sent to a customer;

(d) a detailed transaction history indicating all charges levied and the service or content item applicable for each charge; and

15.26. If a member is unable to immediately act on a service termination request received from a customer, the customer must be informed. (Example: "This may take up to 24 hours to be processed.")

15.27. The processing of any service termination request must not be unreasonably delayed and must be honored within two working days (48 hours).

15.31. Once a customer has terminated a service, a message confirming this must be sent to that customer. This message must specify the service the customer has terminated, and the customer must not be charged for this message.

Decision

It is common cause that the complainant did not subscribe to a service and the charge was the result of an error. It also appears *ex facie* that the complainant has not been refunded although the last communication is now over a month ago so that may have changed.

However, that is all that is before me. I have no knowledge of what the error involved or how wide it reached, as the Member has not responded to the clauses put to it in the complaint.

The bulk of the clauses cited fall away in the face of the admission that this was an overcharge error. While I am somewhat disturbed by the lack of explanation as to how a non-subscriber came to be over-charged, I consider myself bound by the reach of the complaint before me. The complainant appears to have accepted the error and simply seeks a refund which is not forthcoming.

I consider this failure to timeously pay the refund a breach of Clause 4.2, which states:

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.

Having admitted to owing a refund, the Member should have followed up on its application conscientiously until such time as it was paid. This does not appear to have happened. This is unprofessional.

I also consider the Member's responses to WASPA to be somewhat lackadaisical, with the final emails from the complainant, which were cc'd to the Member, not even eliciting a reaction. Members are expected to respond to WASPA complaints in detail, and are expected to provide requested information or an explanation. In this regard, I draw attention to the citation of Clause 7.5. I consider the bare-boned response to WASPA and the failure to explain a somewhat suspicious situation, followed up more seriously with a failure to in fact honour its response, to be unprofessional on the part of the Member in its dealings with WASPA and therefore in breach of Clause 4.2.

Sanction

I order as follows:

- The Member is to immediately pay the refund to the complainant;
- A suggestion that the Member conduct an audit of the affected refunds;
- The Member is to pay WASPA a fine of R5000,00 in respect of the breach of Clause 4.2.