

## Adjudicator's Report



**Wireless Application Service Providers' Association**

<b>Complaint number</b>	30730
<b>Cited WASPA members</b>	Interband Enterprises LLC (1315)
<b>Notifiable WASPA members</b>	Smartcall Technology Solutions (0090)
<b>Source of the complaint</b>	WASPA Media Monitor
<b>Complaint short description</b>	<b>Provision of a misleading adult subscription service coupled with a poorly implemented service suspension.</b>
<b>Date complaint lodged</b>	2016-06-10
<b>Date of alleged breach</b>	2016-06-09
<b>Applicable version of the Code</b>	14.4
<b>Clauses of the Code cited</b>	4.2, 4.5, 5.1, 5.4, 5.5, 8.8, 22.3
<b>Related complaints considered</b>	25341, 27729 Appeal Report
<b>Fines imposed</b>	1. A fine of R15 000 for the member's breach of clause 5.1;

	<ol style="list-style-type: none"> <li>2. A fine of R75 000 for the member’s breach of clauses 5.4 and 5.5; and</li> <li>3. R15 000 for the member’s breach of clause 22.3.</li> </ol>
<b>Is this report notable?</b>	No, there are earlier adjudications that deal with the major themes raised in this report and which were marked as notable.
<b>Summary of notability</b>	Not applicable.

## Initial complaint

This complaint was lodged by the WASPA Media Monitor (“Monitor”) regarding an adult content service offered by the member. The details of the complaint can be found in the Monitor’s attachment to the complaint itself, annexure “A” to this report.

Essentially, the member conducts a subscription service that grants access to adult content. The Monitor has raised concerns about various aspects of the service, beginning with the mobile landing page which is titled “WhatsApp Sex”.

Aside from the design of the landing page and the messaging from the member, the Monitor also raised concerns about the service’s functionality. The provisions of the Code that the Monitor cited address these aspects of the service.

## Member’s response

The member submitted a response to the complaint on 2016-06-27 and this response is also attached to this report as annexure “B”. The member explained its service as follows:

*Private Space is a subscription service offering premium adult content. Besides pictures and videos, we create categories with textual content, also chat and application adult content; dating category or other social interaction for user.*

*Within this service, we have a chat application called WhatsApp Sex, where we promote chat room with people who want to text via WhatsApp. We have a database with a certain number of users to whom this application is promoted. According to complaincy, this campaign has beed closed and we removed this category from the service.*

The member continued by explaining that it suspended all of its services “relating to WhatsApp” with effect from 20 April 2016. This seems to account for why the Monitor was unable to successfully login to the Private Space adult content portal (likely the reason the Monitor cited clause 5.1 of the Code).

Regarding clause 4.5 of the Code, the member stated that “the breach of this was not our intention as we were promoting adult service using WhatsApp directory for chat”. This was, according to the member, “done before the sanctions started on 20<sup>th</sup> April 2016”. It’s not clear to me –

- whether the member concedes that it breached clause 4.5 as alleged (I’ll assume the member has not made this concession in the interests of fairness) and
- why, given the service’s suspension in April 2016, the member failed to ensure that it was no longer accessible to the public.

This second question, in particular, raises another concern that I have. The member stated the following:

*Second, this is shown in “WhatsApp Sex” test report since user couldn’t enter the portal page. WhatsApp Sex was closed immediatelly after suspension af all WhatsApp related services was determined by Adjudicator, but according to numbers this campaign generated Affiliate did not stop pushing the traffic. This is the reason why campaign was online but user could not login to the service website.*

*Since there are a lot of different campaigns within this short code, but related to Privatespace service, optin happened and user was billed until cancellation. According to MSISDN, user can be detected and he can enter the portal page. If user lands from campaign we stopped, we do not give access for entering the website.*

As I understand the member’s statements, even though its affiliate failed to suspend its part of the service, the subscription and billing mechanism remained active and new subscribers would be

“billed until cancellation”. The Monitor demonstrated this in the Monitor’s test. I find this to be deeply problematic. The member has offered no explanation for this and it begs the question how many consumers subscribed to a service they couldn’t access and then continued to be billed at a rate of R7/day thinking their failure to access the service meant their subscription was not processed.

The member addressed clause 8.8 and argued, essentially, that because consumers couldn’t reach the Private Space content site, they could not find content other than what was advertised. Accordingly, the member argued, there couldn’t be a breach of clause 8.8.

The member then argued that the text “18+ only” was displayed on the landing page “just below the pricing” and was “prominent and visible to users”. It therefore failed to see how it had breached clause 22.3 of the Code, as the Monitor alleged.

## **Complainant’s response**

The Monitor submitted a response to the member’s submissions on 2016-06-28, annexed and marked “C”. The Monitor raised similar concerns to the one I raised about the continued operation of the subscription and billing mechanism despite the apparent suspension of the adult content service. To quote the Monitor:

*Blaming Affiliate Marketers for pushing this campaign is farfetched. The WhatsApp Sex service worked, as we received a DOI and Welcome message. The PRIVATESPACE portal did not work yes - this could have been due to technical issues. Even if this portal did work, it does not take away from the fact that the promotion of this service was live, DOI was live and Welcome message was live.*

and

*If this was true, then the consumer had paid for a subscription service prior to access being denied. Interband did not stop this campaign, but are using a non-working portal as an excuse or cover up for running a WhatsApp campaign and service.*

With respect to clause 22.3, the Monitor responded as follows:

*When we followed the link in our SMS message, we were taken to the Privatespace portal.  
The Privatespace portal did not have an 18+.*

## **Member's further response**

The member responded to the Monitor's reply. I have attached the member's response as annexure "D". Regarding the continued operation of the subscription and billing mechanisms, the member appears to have argued as follows:

- The subscription activated automatically when the Monitor entered a mobile number (without explaining why this was possible in the first place);
- The URL that the Monitor tested was "not an active campaign" even though the "link was not disabled";
- The member doesn't promote the "WhatsApp Sex campaign" although it "did request from the [Affiliate] Marketer to stop pushing the campaign;
- The campaign was intended to promote "only WhatsApp directory for [chatting] and NOT as WhatsApp campaign specifically"; and
- The member "did not monitor [Affiliate] Monitor who continued to use our campaign for generating more traffic since sanctions too action" (presumably a reference to the April 2016 suspension order).

With respect to clause 22.3, the member stated that the Private Space portal pages contained "18+" in a disclaimer as well as in terms and conditions. The member then went on to argue that the "Privatespace portal is not considered as promotional material" and that the member is therefore not in breach of clause 22.3. The member concluded by stating that "[a]ll promotional material and advertisement for Privatespace includes the 18+".

The member's submissions are somewhat unclear and contradictory.

## **Sections of the Code considered**

### ***Professional conduct***

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.

...

### **Intellectual property**

4.5. Members must respect the intellectual property rights of their clients and other parties and must not knowingly infringe such rights.

...

### **Service levels**

5.1. Members must not offer or promise services that they are unable to provide.

...

### **Provision of information to customers**

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

5.5. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

...

### **Accuracy of content advertised**

8.8. Content that is promoted in advertising, must be the same content that is provided to the customer as part of the advertised service.

...

### **Required practices**

22.3. Any adult service must be clearly indicated as such in any promotional material and advertisement, and must contain the words "18+ only".

## Decision

### *Clause 4.2*

The challenge with clause 4.2 is that it isn't clear what sort of professional conduct the clause envisages and what the requisite standard is? An appeal panel dealt with this issue in the 27729 Appeal Report and provided guidance on this question which is instructive:

*We interpret clause 4.2 as saying that when members deal with members of the public, customers, WASPA and other service providers; they must conduct themselves ethically, courteously, conscientiously and in a "generally businesslike manner".*

*Put another way, clause 4.2 focuses on the members' behaviour, specifically, not on the members' services.*

*Where members' services breach the Code, they will have violated other, specific provisions of the Code and these infringements will be determined accordingly. In this particular matter, we find that the Appellants conducted themselves professionally even though their services infringed other aspects of the Code.*

*A finding of an infringement of clause 4.2 requires an adjudicator to establish the requisite degree of professionalism expected of WASPA members and to then demonstrate that the particular member fell short of that standard.*

In this complaint, there is no evidence before me that would substantiate a finding against the member on the basis of clause 4.2, bearing in mind the guidance in the 27729 Appeal Report.

### *Clause 4.5*

This clause is also somewhat challenging as an adjudicator.

Does the clause require adjudicators to be experts in intellectual property law and arrive at independent determinations of intellectual property infringement or apply the clause where presented with evidence of intellectual property infringements?

Erring on the side of caution, I believe adjudicators are expected to do the latter. In this case, the member clearly uses the WhatsApp logo and styling to promote its service but I don't believe there is sufficient evidence before me to find that the member infringed a 3<sup>rd</sup> party's intellectual property rights, specifically.

### *Clause 5.1*

The member has argued that it is not in breach of this clause because the underlying adult content service has been suspended. It has also argued that because consumers are unable to access the content service, they will be unable to compare offers made through the service's marketing materials and the content that would have been available had the service not been suspended. These two arguments form the basis of its contention that it has not breached clause 5.1.

These arguments belie the more fundamental issue: the member has permitted the marketing campaign promoting the service to continue to run. It has also permitted the subscription and billing mechanisms to operate even though access to the adult content service is no longer possible.

To aggravate matters, the marketing campaign is confusing. The landing page offers a "WhatsApp Sex" subscription service. The confirmation SMSes offer "iPhone 6s 7x from STS at R7.00 Daily"; "WhatsApp Directory from STS at R7.00 Daily" and a welcome to the "WhatsApp Fuck Service". On completion of the subscription process, the would-be subscriber receives a message stating that "[y]our Directory for WhatsApp is waiting" and including login details for the Private Space site. The Private Space site is, in turn, an adult content service.

In other words, the member has offered access to a service which has been described in various terms despite being aware that, ultimately, access to the Private Space service is impossible. This is a convoluted and misleading campaign. The member clearly "offer[s] or promise[s] services that they are unable to provide". I find the member in breach of clause 5.1.



## *Clauses 5.4 and 5.5*

For reasons I state below, I will consider these two clauses together. In complaint 25349, the member was found to have breached clause 5.5 by using a mobile service that gave the impression that it was operated by WhatsApp. In that report, the adjudicator found as follows:

*Clearly, the intention behind the service's landing pages' design and the domain name used was to give visitors to the website the impression that the websites belonged to WhatsApp Inc, the proprietor of the WhatsApp service. A close examination of the landing pages and the website address would reveal the use but not all consumers would conduct such a careful examination and, I suspect, that was the idea.*

*This sort of phenomenon has become common in a variety of fraudulent schemes and is known as "phishing". I found a few definitions of "phishing" or "phish" online and they share a common theme:*

- 1. "the fraudulent practice of sending emails purporting to be from reputable companies in order to induce individuals to reveal personal information, such as passwords and credit card numbers, online."*
- 2. "to try to obtain financial or other confidential information from Internet users, typically by sending an email that looks as if it is from a legitimate organization, usually a financial institution, but contains a link to a fake website that replicates the real one."*
- 3. "The act of sending email that falsely claims to be from a legitimate organization. This is usually combined with a threat or request for information: for example, that an account will close, a balance is due, or information is missing from an account. The email will ask the recipient to supply confidential information, such as bank account details, PINs or passwords; these details are then used by the owners of the website to conduct fraud."*

*Phishing is synonymous with "spoofing". The verb, "spoo" is defined as follows:*

*to fool by a hoax; play a trick on, especially one intended to deceive*

*What all of these definitions have in common is the practice of passing one thing off as another, typically legitimate, thing with the intention of deceiving people into believing the thing being presented is the authentic thing with the result that those people rely on that deceit.*

*Between sections 5.4 and 5.5 of the Code, I see section 5.5 as informing 5.4. The central questions are whether Mypengo “knowingly disseminate[d] information that is false or deceptive” or whether the manner in which the service is presented “is likely to mislead by inaccuracy, ambiguity, exaggeration or omission”.*

*The service is not affiliated with WhatsApp Inc, as far I can tell, and the sole purpose for the deception is to persuade consumers to click on the “Download” button on the misleading web page which then directs the consumers to another landing page which offers wallpapers for WhatsApp users as part of a subscription service. The wallpaper offer pages are not styled as WhatsApp Inc web pages and are accessible at a completely different domain.*

*The service is not only misleading, it is deceptive. It is virtually identical to common Internet frauds calculated to persuade unsuspecting consumers to part with money, personal information or both. In this case the purpose of the deceit seems to be to persuade consumers to subscribe to Mypengo’s content subscription service at R5 per day. The service only appears to have affected a dozen consumers, if Mypengo’s calculations are correct, but this doesn’t detract from my concern about how the service was designed and presented in the first place.*

...

*Misleading consumers through poorly designed landing pages or misconceived campaigns is certainly problematic but a service such as the Sonxxie service that is specifically designed to deceive consumers in order to increase a subscription base is even more objectionable. I have no difficulty finding that the service breached section 5.5 of the Code and, flowing from this finding, I also find that Mypengo has not maintained “honest and fair dealings” with its customers and has breached clause 5.4 of the Code.*

In this complaint, not only did the member present a campaign that made deceptive use of the WhatsApp brand, it also made numerous confusing offers of access to multiple services, none of which it could grant access to. Even if the Private Space content was accessible through the login details the member sent to the Monitor (and other subscribers), many of the offers communicated through the campaign messaging were, quite simply, misleading and confusing.

Another aspect of the member's failure to comply with clauses 5.4 and 5.5 is the fact that the service's subscription and billing mechanisms remained in operation even though the underlying service was suspended. This was negligent and the member's negligence likely resulted in consumers becoming paying subscribers despite being denied access to the service they may have thought they were subscribing to. This is particularly problematic and the member failed to give a reasonable explanation for this or steps it may have taken to ensure that consumers were not subscribed for a service no longer available to them.

I therefore find the member to be in breach of clauses 5.4 and 5.5.

### *Clause 8.8*

The member correctly argued that it is not possible to determine whether the “[c]ontent that is promoted in advertising ... [is] the same content that is provided to the customer as part of the advertised service”. Although the Private Space service appears to relate to “adult content”, I am unable to make a definitive determination whether that content corresponds with the various offers made, even if this appears to be unlikely. I am therefore unable to make a finding on clause 8.8.

### *Clause 22.3*

The member has contended that it has met the requirements of clause 22.3 by stating “18+” on the “WhatsApp Sex” landing page and because the Private Space landing page bears references to “18+” in some locations on the page.

The 27729 Appeal Report also considers this clause in a similar context:

*The purpose of this clause is to inform visitors to the site that the content is intended for adults only. Referring back to our discussion about clause 12.1, we remind you that the appeal panel that wrote the 15477 Appeal Report stated the following:*

*The purpose of the prominence of the subscription services is to alert the consumer to the potential cost in a manner that would not be easily overlooked. As a result the caveat subscriber rule is not an appropriate test. Rather, adjudicators should prefer the more recent approach of the Consumer Protection Act in ensuring that important or unusual terms are highlighted and drawn to a consumer's attention.*

*Given the importance of protecting children from sexually explicit materials, a statement that an adult content service is intended only for "18+" is an important statement that should similarly be prominent. This is not an application of clause 12.1 but, rather, is implicit in clause 22.3's requirements for the words to be stated and for them to be "clearly indicated":*

*Any adult service must be **clearly indicated** as such in any promotional material and advertisement, **and must contain the words "18+ only"**.*

Although the "WhatsApp Sex" landing page contains reference to "18+ only", the text is relatively small when considered alongside a larger call to action and promotional elements. The member also contended that the Private Space landing page also bears references to this age restriction. These references can be found in this paragraph of pale text in a relatively small font on a white background:

You are about to enter a website that contains content of an adult nature. This service and website requires you to be 18 years or older to enter. By proceeding you are confirming that you are 18 years or older.

This text is not prominent at all and there are no "clearly indicated" references to the requisite "18+ only" on the Private Space site. The reference to "18+ only" in the "WhatsApp Sex" landing page could be more prominent. That said, I find the text on the Private Space site to be far more problematic and I therefore find the member in breach of clause 22.3.

On a related note I also wish to point out that the service does not appear to have complied with clause 22.5 of the Code either. The Monitor did not raise this clause in the complaint so I am unable to make a finding against the member on this point. I merely mention this for the sake of highlighting an equally important compliance requirement for adult content services.

## **Sanctions**

In summary, I find the member has breached clauses 5.1, 5.4, 5.5 and 22.3. I impose the following sanctions which are payable on demand by the WASPA Secretariat:

1. A fine of R15 000 for the member's breach of clause 5.1;
2. A fine of R75 000 for the member's breach of clauses 5.4 and 5.5; and
3. R15 000 for the member's breach of clause 22.3.

## **Matters referred back to WASPA**

I recommend that the Monitor consider whether the member's service has complied with the requirements of clause 22.5 of the Code.

Name: Privatespace

9 June 2016

SP: Smartcall Technology Solutions Pty Ltd

IP: Interband Enterprises

WASPA Member: Yes (affiliate)

SMS Code: 43443

URL: <http://5starapp.com/powerclick.php?kw=WPFUCK01&s=38>

**Please Note: All images have been resized to meet document requirements.  
Original screenshots available on request.**

## MTN

MSISDN: [REDACTED]

Handset: Z1 Compact



Whilst browsing the internet, the user was directed to a page promoting "WhatsApp Sex".

The user then proceeded to enter his MTN mobile number and clicked on the "Continue" call to action button.



This year



Reply YES or NO to confirm your request for Get your iPhone 6s 7x from STS at R7.00 Daily. SMS is free

11 February

Today



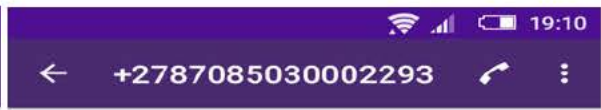
Reply YES or NO to confirm your request for Download WhatsApp Directory from STS at R7.00 Daily. SMS is free

Now

Yes  
Now



Write message



Welcome to WhatsApp Fuck Service!  
[www.privatespace.mobi](http://www.privatespace.mobi) R7/day, to optout txt stop, Support: 0115074630



Write message



Congrats, Your Directory for WhatsApp is waiting! For further info visit [www.privatespace.mobi](http://www.privatespace.mobi), your username is: [631837584](#), password: 7153

Now



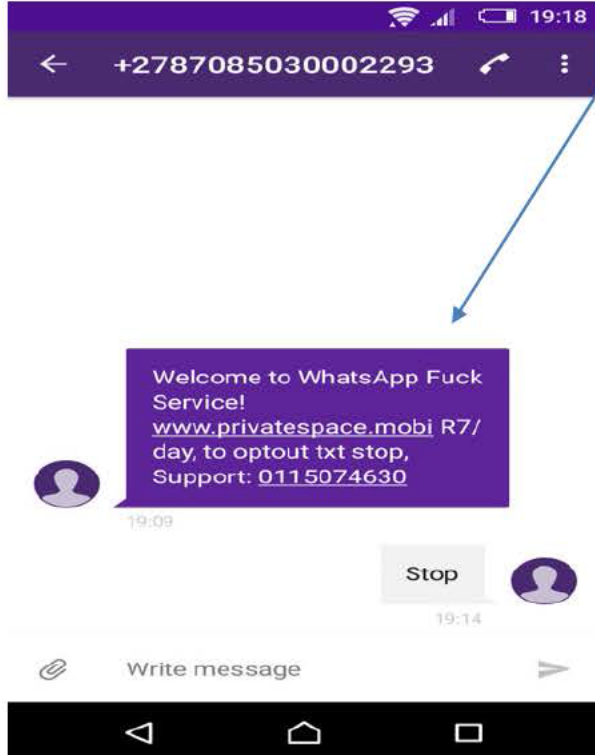
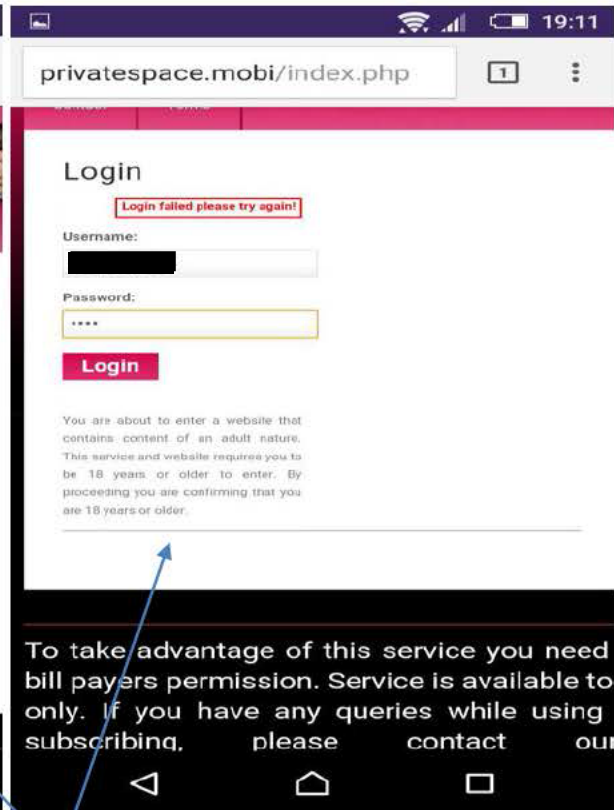
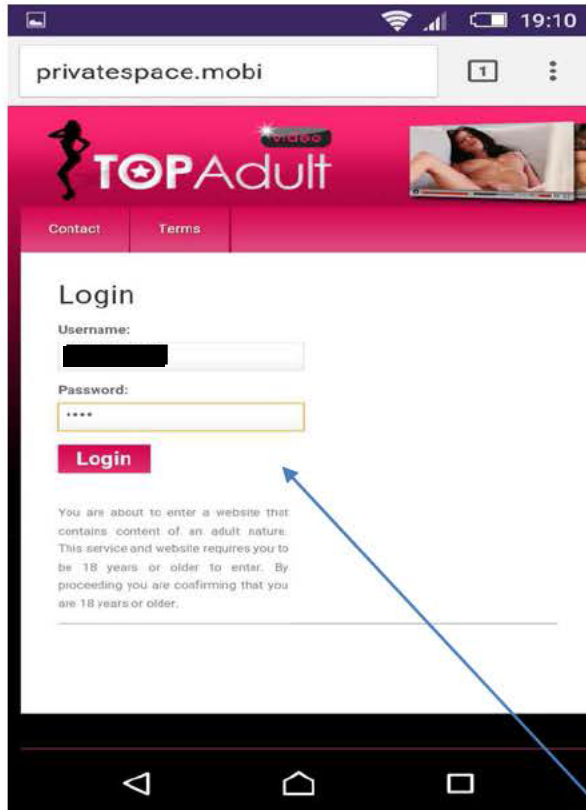
Write message



The user then received the MTN double opt-in SMS and subsequently replied with the keyword "Yes".

The user then received the Welcome SMS on his mobile and proceeded to open the URL provided.





To take advantage of this service you need bill payers permission. Service is available to only. If you have any queries while using subscribing, please contact our

The user was then directed to the login page for Top Adult and proceeded to enter his login information as provided in the Welcome SMS.

However, the user could not login into the subscription service.

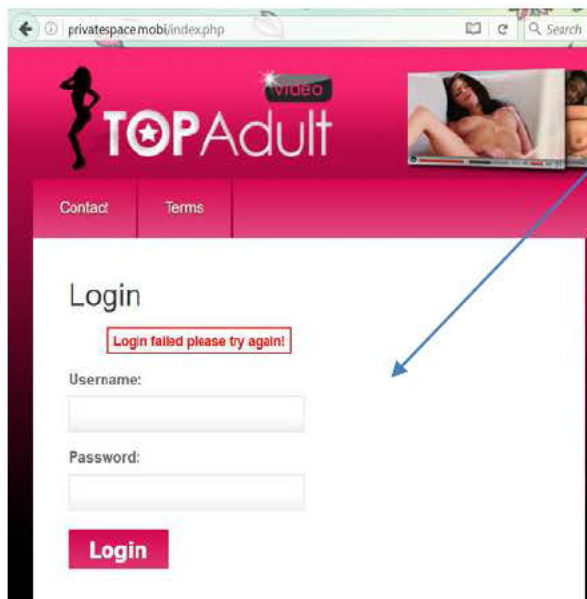
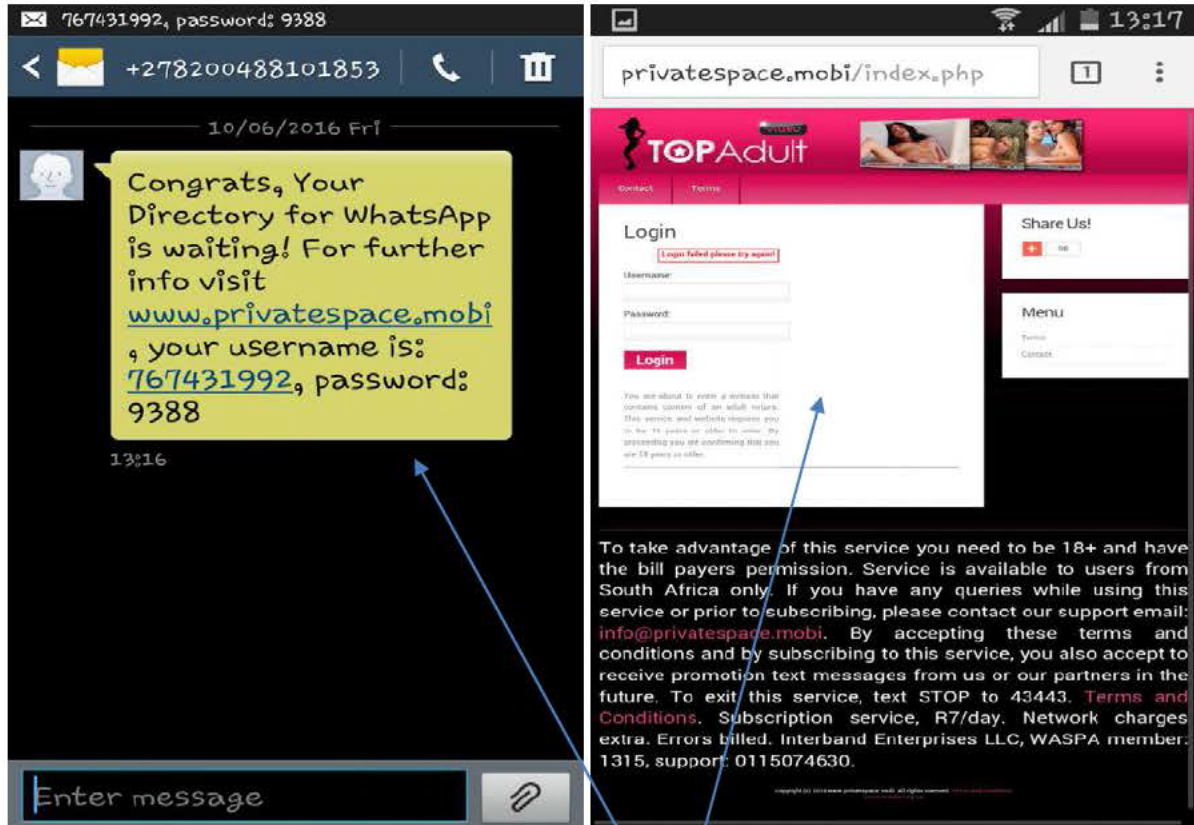
The user then elected to cancel the subscription by replying to the Welcome SMS and has received no feedback as yet.



# Vodacom

MSISDN: [REDACTED]

Handset: Galaxy Note 2



The user then subscribed to the service via the Vodacom network, and was still unable to log into the service.

The same credential was used to login using a desktop computer, to which the user could still not login.

**Possible breaches of the Code:**

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.

4.5. **Members must respect the intellectual property rights of their clients and other parties and must not knowingly infringe such rights.**

5.1. Members must not offer or promise services that they are unable to provide.

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

5.5. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

8.8. Content that is promoted in advertising, must be the same content that is provided to the customer as part of the advertised service.

22.3. Any adult service must be clearly indicated as such in any promotional material and advertisement, and must contain the words "18+ only".

**RESPONSE TO FORMAL COMPLAINT #30730**

**Short service overview:**

Private Space is a subscription service offering premium adult content. Besides pictures and videos, we create categories with textual content, also chat and application adult content; dating category or other social interaction for user.

Within this service, we have a chat application called WhatsApp Sex, where we promote chat room with people who want to text via WhatsApp. We have a database with a certain number of users to whom this application is promoted. According to complaincy, this campaign has been closed and we removed this category from the service.

We found that competitors are doing the same kind of campaigns as this one in the complaint process.

**In response to possible breaches of the Code:**

In report to the #28310 all fines were directly imposed on Interband Enterprise LLC (1315) where sanction was related to immediate suspension of ALL services relating to WhatsApp.

This was applied to all Interband services since 20<sup>th</sup> April 2016.

First, we want to point out that this was an old campaign launched on 22<sup>nd</sup> December 2015 before sanctions from Adjudicator's report #28310 took place on 20<sup>th</sup> April 2016. Since this date, Interband does not promote WhatsApp services or campaigns.

Interband promotes mobile content downloadable on our portals where WhatsApp applications can be accessible.

Second, this is shown in "WhatsApp Sex" test report since user couldn't enter the portal page. WhatsApp Sex was closed immediately after suspension of all WhatsApp related services was determined by Adjudicator, but according to numbers this campaign generated Affiliate did not stop pushing the traffic. This is the reason why campaign was online but user could not login to the service website.

Since there are a lot of different campaigns within this short code, but related to Privatespace service, optin happened and user was billed until cancellation. According to MSISDN, user can be detected and he can enter the portal page. If user lands from campaign we stopped, we do not give access for entering the website.

According to the Clause 4.5. all members must respect intellectual property of other parties. Please note the breach of this was not our intention as we were promoting adult service using WhatsApp directory for chat. Again, this was done before the sanctions started on 20<sup>th</sup> April 2016.

We understand WASPA's concern for the breach of Clause 5.1. but from Interband's side this campaign was taken down for the purpose from decision in Adjudicator's report #28310. We will NOT let similar omissions to occur.

Regarding the Clause 8.8., WASPA Monitoring Team could not see the breach of this as they could not login to the website to find a different content unlike the one advertised. The reason why the number could not login on a website is explained above.

In response to Clause 22.3. it is stated that service must be clearly indicated as adult service, which is the case with Whatsapp Sex campaign. On a screenshot put in a complaint you can find on our landing page "18+ only" displayed just below the pricing. We are not sure what does WASPA Monitoring Team mean by "adult service must contain the words 18+ only" as this was prominent and visible to users and we do not see the breach of this Clause.

In conclusion, the entire campaign is removed in correspondence with our Affiliate.

Kind regards,

*Interband Enterprises LLC*



INTERBAND



**Subject:** Re: [WASPA.complaints] Opportunity to respond to member's submission for complaint #30730

**From:** "Ilonka Gray \ (WASPA\)" <[REDACTED]@waspa.org.za>

**Date:** 2016-06-28 11:32 AM

**To:** <complaints@waspa.org.za>

**CC:** "Ilonka Gray \ (WASPA\)" <[REDACTED]@waspa.org.za>, [REDACTED]@waspa.org.za

Dear Complaints

Please find below my response to comment made labelled MEDIA MONITOR:

Interband:

First, we want to point out that this was an old campaign launched on 22nd December 2015 before sanctions from Adjudicator's report #28310 took place on 20th April 2016. Since this date, Interband does not promote WhatsApp services or campaigns.

MEDIA MONITOR:

This is simply untrue. If Interband was NOT promoting a WhatsApp campaign, then it begs the question: Why was a DOI and Welcome message received on a service that is supposedly not working.

Interband:

Second, this is shown in "WhatsApp Sex" test report since user couldn't enter the portal page.

WhatsApp Sex was closed immediately after suspension of all WhatsApp related services was

determined by Adjudicator, but according to numbers this campaign generated

Affiliate did not stop

pushing the traffic. This is the reason why campaign was online but user could not login to the service

website.

MEDIA MONITOR:

Blaming Affiliate Marketers for pushing this campaign is farfetched. The WhatsApp Sex service worked, as we received a DOI and Welcome message. The PRIVATESPACE portal did not work yes - this could have been due to technical issues. Even if this portal did work, it does not take away from the fact that the promotion of this service was live, DOI was live and Welcome message was live.

Interband:

If user lands from campaign we stopped, we do not give access for entering the website.

MEDIA MONITOR:

If this was true, then the consumer had paid for a subscription service prior to access being denied. Interband did not stop this campaign, but are using a non-working portal as an excuse or cover up for running a WhatsApp campaign and service.

Interband:

In response to Clause 22.3. it is stated that service must be clearly indicated as adult service, which is

the case with Whatsapp Sex campaign. On a screenshot put in a complaint you can find on our

landing page "18+ only" displayed just below the pricing.

MEDIA MONITOR:

When we followed the link in our SMS message, we were taken to the Privatespace portal. The Privatespace portal did not have an 18+.

Kind Regards

WASPA MEDIA MONITOR

-----Original Message-----

From: WASPA Complaints (Lorraine Hartzler) [<mailto:complaints@waspa.org.za>]

Sent: Tuesday, June 28, 2016 10:04 AM

To: WASPA Monitor <[REDACTED]@waspa.org.za>

Subject: Opportunity to respond to member's submission for complaint #30730

Dear Media Monitor,

Attached is a copy of the WASPA's members response to complaint #30730, which you lodged with WASPA. You now have five working days to provide WASPA with a further submission regarding this complaint.

Please note that:

- Providing a further submission is entirely voluntary. If you believe that your original complaint stands on its own merits, and you do not wish to respond to the WASPA member's submission, please let us know and we will assign your complaint to an adjudicator for review.
- If you do wish to provide a further submission, you have five working days to do so. If you need more time to reply, you are welcome to request an extension to this deadline, but you must make that request before the deadline expires.
- Your reply should be a response to the WASPA member's submission. If you wish to dispute any claims made by the member, you may do so in your reply. You should not introduce allegations of additional breaches of the Code at this stage. (If you believe that there are further breaches of the WASPA Code beyond those identified in your initial complaint, you are welcome to lodge a separate complaint with WASPA.)
- The WASPA member concerned will have a final opportunity to respond to your further submission. The entire case file for this complaint will then be assigned to an independent adjudicator for review.

If you have any questions regarding the WASPA Code of Conduct or the complaints procedure, please address your queries to [complaints@waspa.org.za](mailto:complaints@waspa.org.za) and we will endeavour to assist you further.

Yours sincerely,  
WASPA Secretariat

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This email has been checked for viruses by Avast antivirus software.

<http://www.avast.com>

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This list is intended for the use of WASPA members only. All communication is confidential and may not be distributed.

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complaints mailing list

[complaints@waspa.org.za](mailto:complaints@waspa.org.za)

<http://lists.waspa.org.za/mailman/listinfo/complaints>

**Subject:** Re: [WASPA.complaints] Opportunity to respond to complainant's further submission for complaint #30730  
**From:** Interband Enterprises <interband.e@gmail.com>  
**Date:** 2016-07-05 04:59 PM  
**To:** "complaints@waspa.org.za" <complaints@waspa.org.za>

Dear Waspa,

Please find our further submission to the formal complaint #30730 below:

**MEDIA MONITOR:**

**This is simply untrue. If Interband was NOT promoting a WhatsApp campaign, then it begs the question: Why was a DOI and Welcome message received on a service that is supposedly not working.**

**INTERBAND:**

Welcome and DOI message work automatically when the customer enters the number on our landing page. The URL tested is not an active campaign and unfortunately the link was not disabled. Waspa monitoring team did not provide the information on where they obtained the URL of our landing page considering Interband does not promote WhatsApp Sex campaign and did request from the Affiliate Marketer to stop pushing the campaign. This was old adult campaign using only WhatsApp directory for chatting and NOT as WhatsApp campaign specifically. Therefore Interband did not monitor Affiliate Marketer who continued to use our campaign for generating more traffic since sanctions took action.

**MEDIA MONITOR:**

**When we followed the link in our SMS message, we were taken to the Privatespace portal. The Privatespace portal did not have an 18+.**

**INTERBAND:**

Privatespace portal contains 18+ in disclaimer as well as in Terms & Conditions.

Please read the Clause as follows:

22.3. Any adult service must be clearly indicated as such in any promotional material and advertisement, and must contain the words "18+ only".

This Clause refers only to promotional material and advertisement. Privatespace portal is not considered as promotional material. Therefore we do not find us to be in a breach of Clause 22.3.

All promotional material and advertisement for Privatespace includes the 18+.



*Kind regards.*

*Support In.E.*



On Wed, Jun 29, 2016 at 9:32 AM, WASPA Complaints (Lorraine Hartzler) <[complaints@waspa.org.za](mailto:complaints@waspa.org.za)> wrote:

Dear WASPA member,

You have previously provided a response to WASPA for complaint #30730. As required by clause 24.27 of the WASPA Code, that response was provided to the complainant, and he or she was given an opportunity to respond.

A copy of the complainant's further submission is attached.

Please note:

- You have five working days to provide a final response to this complaint. You are not obliged to provide a further reply. If you do not wish to do so, please let the WASPA complaints team know.
- If you require longer than five days to respond, you are entitled to request an extension. Please include a motivation for the extension with any request.
- If five working days pass without any response from you, this complaint will be assigned to an independent adjudicator for review without the benefit of a further submission.

Please submit your response, and any other correspondence

relating to this complaint to [complaints@waspa.org.za](mailto:complaints@waspa.org.za). The WASPA Secretariat will confirm receipt of your response.

Should you have any questions regarding the formal complaints procedure, or the WASPA Code of Conduct, please contact the complaints team using the [complaints@waspa.org.za](mailto:complaints@waspa.org.za) address.

Yours sincerely,  
WASPA Secretariat

----- Forwarded Message -----

Subject: Re: [WASPA.complaints] Opportunity to respond to member's submission for complaint #30730

Date: Tue, 28 Jun 2016 11:32:01 +0200

From: Ilonka Gray (WASPA) <[REDACTED]@waspa.org.za>

Reply-To: [complaints@waspa.org.za](mailto:complaints@waspa.org.za) <[complaints@waspa.org.za](mailto:complaints@waspa.org.za)>

To: [complaints@waspa.org.za](mailto:complaints@waspa.org.za)

CC: 'Ilonka Gray (WASPA)' <[REDACTED]@waspa.org.za>, [REDACTED]@waspa.org.za

Dear Complaints

Please find below my response to comment made labelled MEDIA MONITOR:

Interband:

First, we want to point out that this was an old campaign launched on 22nd December 2015 before sanctions from Adjudicator's report #28310 took place on 20th April 2016. Since this date, Interband does not promote WhatsApp services or campaigns.

MEDIA MONITOR:

This is simply untrue. If Interband was NOT promoting a WhatsApp campaign, then it begs the question: Why was a DOI and Welcome message received on a service that is supposedly not working.

Interband:

Second, this is shown in "WhatsApp Sex" test report since user couldn't enter the portal page. WhatsApp Sex was closed immediately after suspension of all WhatsApp related services was determined by Adjudicator, but according to numbers this campaign generated Affiliate did not stop pushing the traffic. This is the reason why campaign was online but user could not login to the service website.

MEDIA MONITOR:

Blaming Affiliate Marketers for pushing this campaign is farfetched. The WhatsApp Sex service worked, as we received a DOI and Welcome message. The PRIVATESPACE portal did not work yes - this could have been due to technical issues. Even if this portal did work, it does not take away from the fact that the promotion of this service was live, DOI was live and Welcome message was live.

Interband:

If user lands from campaign we stopped, we do not give access for entering the website.

MEDIA MONITOR:

If this was true, then the consumer had paid for a subscription service prior to access being denied. Interband did not stop this campaign, but are using a non-working portal as an excuse or cover up for

running a WhatsApp campaign and service.

Interband:

In response to Clause 22.3. it is stated that service must be clearly indicated as adult service, which is the case with Whatsapp Sex campaign. On a screenshot put in a complaint you can find on our landing page "18+ only" displayed just below the pricing.

MEDIA MONITOR:

When we followed the link in our SMS message, we were taken to the Privatespace portal. The Privatespace portal did not have an 18+.

Kind Regards

WASPA MEDIA MONITOR

-----Original Message-----

From: WASPA Complaints (Lorraine Hartzler) [mailto:[complaints@waspa.org.za](mailto:complaints@waspa.org.za)]

Sent: Tuesday, June 28, 2016 10:04 AM

To: WASPA Monitor <[REDACTED]@waspa.org.za>

Subject: Opportunity to respond to member's submission for complaint #30730

Dear Media Monitor,

Attached is a copy of the WASPA's members response to complaint #30730, which you lodged with WASPA. You now have five working days to provide WASPA with a further submission regarding this complaint.

Please note that:

- Providing a further submission is entirely voluntary. If you believe that your original complaint stands on its own merits, and you do not wish to respond to the WASPA member's submission, please let us know and we will assign your complaint to an adjudicator for review.
- If you do wish to provide a further submission, you have five working days to do so. If you need more time to reply, you are welcome to request an extension to this deadline, but you must make that request before the deadline expires.
- Your reply should be a response to the WASPA member's submission. If you wish to dispute any claims made by the member, you may do so in your reply. You should not introduce allegations of additional breaches of the Code at this stage. (If you believe that there are further breaches of the WASPA Code beyond those identified in your initial complaint, you are welcome to lodge a separate complaint with WASPA.)
- The WASPA member concerned will have a final opportunity to respond to your further submission. The entire case file for this complaint will then be assigned to an independent adjudicator for review.

If you have any questions regarding the WASPA Code of Conduct or the complaints procedure, please address your queries to [complaints@waspa.org.za](mailto:complaints@waspa.org.za) and we will endeavour to assist you further.

Yours sincerely,  
WASPA Secretariat

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<http://www.avast.com>

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