



**Wireless Application Service Providers' Association**

## Report of the Adjudicator

Complaint number	<b>#33107</b>
Cited WASPA members	<b>WEEBEE REWARDS (PTY) LTD (1517)</b>
Notifiable WASPA members	All
Source of the complaint	WASPA Media Monitor
Complaint short description	<ul style="list-style-type: none"> <li>• <b>Misleading Advertising</b></li> <li>• <b>Inconsistent Pricing</b></li> </ul>
Date complaint lodged	06 March 2017
Date of alleged breach	01 March 2017
Applicable version of the Code	14.7
Clauses of the Code cited	8.1, 8.3, 8.6, 8.7
Related complaints considered	None.
Fines imposed	<p><b>R 35 000,00 ( thirty five thousand rand) fine broken up into the following :</b></p> <ol style="list-style-type: none"> <li>1. R 5 000,00 for breach of clause 8.1</li> <li>2. R 10 000,00 for breach of clause 8.3</li> <li>3. R 10 000,00 for breach of clause 8.6</li> <li>4. R 10 000,00 for breach of clause 8.7</li> </ol>

Other sanctions	1. Updating of Campaigns / Advertising to ensure total price placement, within 7(seven) days of receipt of Adjudication Report.
Is this report notable?	Not Notable
Summary of notability	N/A

---

## Initial complaint

*The complaint was lodged with WASPA via the WASPA website and the below complaint was sent to respondent and aggregators on 2017-03-11.*

The WASPA tester tested a service called Jobstar.

Jobstar is a service that offers the ability to apply for very general employment positions.

The position are marketed towards a low-end unemployed market. Below we have detailed the problem areas with this service:

1. Advertisement displayed no costs on SMS entries or USSD code;
2. If the provider of the service knows it is going to ask 5 questions and 1 opt-in SMS, then the provider should display the TOTAL cost to the applicant. i.e. R18-00 (for SMS applications);
3. The questions asked, in the application process, is not enough questions to adequately apply for a position. Questions are:

Name, ID number, address, Do you have work experience, Reference of previous employer.

4. The cost to apply for a position seems very high: R18-00 on SMS and R1-66 for every 20 seconds on USSD.

5. The USSD strings never seems to work, but bills one R1-66 even if only there for 5 seconds. The service either says it is not working, or no surveys are available. The tester tested the service multiple times.

---

## Member's response

*The respondent provided a response to the complaint on 2017-03-15.*

Attention : Waspa complaints

Re : Response to complaint #33107

The USSD String \*120\*5327# has been out of commission, with "NO SURVEYS AT THIS TIME" displayed. I was unaware that the service was billing even though it was out of commission being updated.

The session of the number concerned [REDACTED] ran for under 10 seconds according to the logs (see below), the complainant aka Wapsa monitor says the "The tester tested this ussd service multiple times, however the number of the tester has not been submitted in the complaint, and falls outside of scope, as we cannot verify point 5. In your email. Only the Msisdn stipulated in the complaint #33107. Only a single session lasting for under 10 seconds according to the server logs from Intarget regarding [REDACTED]. In my opinion the ussd string cannot be brought into the complaints proceeding as it was decommissioned offline, and re-instated only on the 6th of March, with no marketing currently running. The user was billed for the short code 42654 at R3 per sms. The website jobstar.co.za was taken over by a company called Zedmedia (Pty) Ltd, from Weebie Rewards (Pty) Ltd. As from the 1st of January 2017, which run own and maintain jobstar.co.za I have noted that the short code advertising jobs had the price mentioned at the end, not immediate next to the shortcode on the top advert. , it is at the end of the wording and visible on a pc browser, not been checked on a feature phone such ad an alcatel Go, mentioned as the complainant's handset.

No jobs or employment is used for the survey on \*120\*5327#. The code was decommission with no content, until 6th March 2017. All their short codes were properly priced with terms and conditions being correct. I have notified zedmedia, and they have taken jobstar.co.za offline. I thank you for picking this up, as I was unaware, of this at the time. Any form of job seeking process involves a cost, whether photocopying a CV at postnet, or faxing c.v's or transportation costs to arrive at an interview. The service on the shortcode shortlists the process of sifting through loads of cvs, and saves on internet fees, transport costs, often interviews can be conducted telephonically, if the information is suffice, and it is cost saving to the job seeker in the entire process. Mass recruiters have been supplied with candidate lists, in the hopes of landing a perfect job, these have included APSO, the association of personal agencies, as well Smollan Group, who constantly draw merchandisers off the entries. In the past the Creative council who always are in need of promotional staff, have utilized our services. The points on affordability I feel is out of context as it is a broad based opinion. And was further backed up with a free route to submit info directly on website for those who have no airtime on jobstar.co.za

---

## Complainant's response

*The complainants' response was sent to complainant for a response on 2017-03-16 and on the 2017-03-31, the Complainant provided the below response:*

Dear Complaints team

Herewith our response submission to complaint 33107:

### USSD STRING:

1. The test number, which was part of the complaint, was clearly displayed in our original complaint. The member seems to contradict whether the number was displayed or not in their response to this complaint: "The tester tested this ussd service multiple times, however the number of the tester has not been submitted in the complaint, and falls outside of scope, as we cannot verify point 5. In your email. Only the Msisdn stipulated in the complaint #33107".
2. The member writes "In my opinion the ussd string cannot be brought into the complaints proceeding as it was decommissioned offline" If a member displays a USSD string on its website, and it does not work as it should, it very much forms part of a complaint. Particularly as the faulty USSD string continues to bill consumers.
3. The member writes: "Only a single session lasting for under 10 seconds according to the server logs from Intarget regarding [REDACTED] 1." The WASPA tester tested the USSD string 4 times. It seems obvious that due to the fact that this string is faulty, logs must be faulty too.

### SMS ENTRY:

4. Pricing display: The adjudicator will be able to confirm from our test result, that not ALL pricing was displayed. Furthermore, it is a requirement of the Code of Conduct that the FULL RETAIL PRICE must be displayed. Therefore the website should display THE FULL COST per job application, not only R3 / SMS. The member knows how many SMS's it takes for consumers to apply for a job - we find it very misleading withholding the TOTAL pricing information.

What happens to applicants who don't have to TOTAL required monies on their phones and have to stop a session before all the questions are answered? It is furthermore possible that applicants do not think that applying for a job will cost more than R3.

We hope this clarifies.

---

## Member's further response

*The respondent then made a further response on the 2017-03-31, as advised below:*

Hi the logs of the Aggregator are not faulty, Please can you supply all the testers MSISDNs. Is there only the one number used ( ) So that a report can be re-run, at root access level from the aggregator? As it 100 percent showed a single session on the billing logs re the ussd string. R3 per sms is not 100 percent misleading, over time the reply criteria have changed, sometimes it has been 1 sms, sometimes 3, sometimes 5 or 6, and we have corrected this going forward. Jobseekers are often contacted for the missing information on incomplete forms, sometimes it is done telephonically and sometimes with a free form pushed to them, and at times, with a sms notification asking the user to correct input of garbage or incomplete fields to the shortcode. . A user is always conscious of the costs of R3 per sms, But we understand your point should have been (R3/sms x4 entries or R3per sms 5smses required to complete) this has been fixed.

Regards

---

## Sections of the Code considered

The following sections of the WASPA Code of Conduct, version 14.7, were considered:

8.1. For an ad hoc transaction, the "pricing information" consists of the cost to the customer for that transaction. Examples of pricing information: "R5 once off", "R10".

8.3. For a notification service, the "pricing information" consists of the cost to the customer for the notification service, including any regular and incremental costs. Examples of pricing information: "R5/notification", "R10/month plus R1/notification".

8.6. For a service not covered above, which is billed on the basis of me or sessions of a particular length of me, the "pricing information" consists of the cost to the customer for using the service plus the me interval at which costs are incurred. Example of pricing information: "R1.80 per 30 seconds or part thereof". Accuracy of pricing information

8.7. Pricing information must not be misleading. The price must be the full retail price.

---

## Decision

I am satisfied of the below as submitted to each aggregator and will therefore not address my decision at all to them.

*We note that you are NOT considered a respondent to this complaint, and we draw your attention to clause 24.22A of the Code:*

*24.22A. A member will not be considered to be a respondent to a complaint unless specifically identified as such by WASPA. For the avoidance of doubt, a courtesy notice sent to an aggregator regarding a complaint targeted at the aggregator's customer, supplier, affiliate or sub-contractor does not make the aggregator a respondent to the complaint unless specifically identified by WASPA as such.*

*Because you are not a respondent in this matter, you do not have an opportunity to provide a submission to the independent adjudicator.*

My submission is that the Respondent was negligent and negligence in law is a breach of care which results in damage. The respondents upon transferal of the short code failed to determine if in fact the short code was completely decommissioned, this lead to the tester having found the USSD string still in circulation as well as having the costs of the service deducted from their airtime.

The service is mobile and the respondent in his initial response states the following *"I have noted that the short code advertising jobs had the price mentioned at the end, not immediate next to the shortcode on the top advert., it is at the end of the wording and visible on a pc browser, not been checked on a feature phone such as an alcatel Go, mentioned as the complainant's handset: I will not submit and imply that this was deliberate, hence my conclusion on negligence, the respondent could have reasonably deduced that the job seeker would most likely have made use of a feature phone and should have ensured adequate testing measures were in place.*

I concur with the Media Monitor in her response to the respondent in that ... *"if a member displays a USSD string on its website, and it does not work as it should, it very much forms part of a complaint. Particularly as the faulty USSD string continues to bill consumers"*.

Transferal of a short code in my view is not impossible neither is it against the WASPA code of conduct, it is well within the best practices of marketing, however whether shared or dedicated, short codes are able to identity traffic adequately. The test number, which was part of the complaint, was clearly displayed in the original complaint and the respondent should have been in a position to draw accurate data.

The Media Monitor further stated in her response, *"Furthermore, it is a requirement of the Code of Conduct that the FULL RETAIL PRICE must be displayed. Therefore the website should display THE FULL COST per job application, not only R3 / SMS. The member knows how many SMS's it takes for consumers to apply for a job - we find it very misleading withholding the TOTAL pricing information"* and to which the respondent answered, *"R3 per sms is not 100 percent misleading, over time the reply criteria have changed, sometimes it has been 1 sms, sometimes 3, sometimes 5 or 6, and we have corrected this going forward"*, indicating that he is well aware of what the potential full cost should be as well as having corrected same.

In my further and final submission, in mitigation, the respondent advises that there was no marketing running at the time of the breach, further with regards to the pricing, in the respondents response of the 31<sup>st</sup> of the March 2017, he indicated that it was corrected going forward. It is suffice to conclude that the breach is not substantial and I concur with the Respondents submission that “*Any form of job seeking process involves a cost*”.

---

## Sanctions

Even though it is my submission that the Respondents breach was not substantial, I still believe that it was negligent and should therefore be sanctioned (“*I was unaware that the service was billing even though it was out of commission being updated*”) in that it failed to ensure that there was in fact correct pricing and advertising information available to the “job seeker” (*regardless of no active marketing*) as well as failed to ensure that the decommissioned USSD string would not bill any potential “jobseekers”.

I therefore determine that there was in fact a breach of the code and call for the following fines to be imposed on the Respondent, such fines are therefore payable within 7(seven) days of receipt of the adjudication report.

All fines and further sanctions are directly imposed on Weebie Rewards (Pty) Ltd (1517).

### ***R 35 000, 00 (thirty five thousand rand) fine broken up into the following:***

1. R 5 000,00 for breach of clause 8.1
2. R 10 000,00 for breach of clause 8.3
3. R 10 000,00 for breach of clause 8.6
4. R 10 000,00 for breach of clause 8.7

### ***Further sanctions:***

Updating of Campaigns / Advertising to ensure total price placement, within 7(seven) days of receipt of Adjudication Report.

---

## Matters referred back to WASPA

NONE.

---