



Wireless Application Service Providers' Association

Report of the Adjudicator

Complaint number	#39136
Cited WASPA members	Hulk Mobile Limited (1689)
Notifiable WASPA members	Basebone (Pty) Ltd (1344)
Source of the complaint	WASPA Compliance Department
Complaint short description	Failure to adhere to WASPA fraud prevention guidelines
Date complaint lodged	2018-05-18
Date of alleged breach	2018-05-18
Applicable version of the Code	15.5
Clauses of the Code cited	4.11 (a)
Related complaints considered	N/a
Fines imposed	<ul style="list-style-type: none"> • R50 000 fine imposed for non-compliance with clause 4.11(a) • Additional R50 000 fine suspended on condition that Service Provider is not found guilty of breaching clause 4.11(a) within 365 calendar days of the date of this ruling
Other sanctions	<ul style="list-style-type: none"> • None
Is this report	Notable

notable?	
Summary of notability	Fraud is attacking the WASPA industry and the industry must be vigilant in resisting it. Sanctions for WASPA members who fail to comply with anti-fraud measures are likely to be harsher in the future.

Initial complaint

The WASPA Compliance Department lodged a complaint against the Member (Hulk Mobile Limited) based on the failure by the Member to implement anti-fraud measures.

Member's response

The Member responded on the 01st June 2018 admitting that it had not implemented the anti-fraud measures and asked for the following mitigating circumstances to be taken into account:

- 1) The Member had co-operated fully,
- 2) The error was human error as a result of the need to implement a 'fairly complicated technical measure',
- 3) Rectification of the error occurred immediately.

Sections of the Code considered

4.11. Members must take reasonable steps to prevent their networks and systems from being used in a fraudulent manner, including:

- (a) complying with WASPA's published best practices for fraud prevention;

Decision

It is clear both from the complaint by the Compliance Department and the response by the WASPA Member that the Member had failed to comply with the anti-fraud measures that had been agreed upon by WASPA members. As a result the Member is found guilty of breaching clause 4.11(a) of the WASPA Code of Conduct.

The only aspect that remains to be considered is the mitigating and aggravating factors.

Turning to the mitigating factors, the Member did admit that it made the mistake and fixed it quickly. However, technical complexity is not a mitigating factor in this particular instance as the implementation of three relatively simple additions to the source code cannot be said to be 'technically complex'.

With respect to aggravating factors, it is worth noting that the WASPA secretariat has sent well over 10 communiques to WASPA members informing them of the anti-fraud measures and conducted several workshops to ensure that all WASPA members have complied with all the anti-fraud measures. In addition – and as the Member is no doubt well aware – the scourge of fraud is particularly acute at the moment for the Value Added Service industry to the extent that the continued existence of the entire industry is threatened by criminal elements. WASPA Members have a duty to prevent their systems and solutions being used by criminal elements to commit fraudulent acts and sustained vigilance with regard to anti-fraud measures is essential. While the Member in this case did admit to failing to comply with the anti-fraud measures, the state of the industry and the lengthy time and assistance that the WASPA secretariat has provided for compliance must also be considered.

The sanctions set out below are the minimum fines that a WASPA member can expect for failing to comply with the anti-fraud measures. It is highly likely that adjudicators will progressively increase the amount of the fines and start suspending WASPA members for failing to implement anti-fraud measures in the future and as a result this adjudication should be a warning to the remaining WASPA Members to make sure that their systems comply with the anti-fraud measures as required by WASPA.

Sanctions

The Member is fined an amount of R50 000 to be paid with 7 calendar days of the Member receiving this adjudication.

The Member is fined a further R50 000 which is wholly suspended provided that the Member is not found guilty of breaching clause 4.11 within 365 calendar days of the date of this adjudication.

Matters referred back to WASPA

None

Appeal procedure

Should the Member wish to appeal this decision or the sanction or both, the Member must notify WASPA of its intention to appeal with 10 working days of receipt of adjudication.