



**Wireless Application Service Providers' Association**

Report of the Adjudicator

Complaint number	#39662
Cited WASPA members	Cell Candy B.V. (1653)
Notifiable WASPA members	Mira Networks (Pty) Ltd (0011)
Source of the complaint	Public
Complaint short description	Unsubscribe
Date complaint lodged	2018-07-12
Date of alleged breach	Unknown
Applicable version of the Code	15.9
Clauses of the Code cited	15.27

Related complaints considered	None.
Fines imposed	<b>R 10 000,00 for breach of clause 15.27</b> The respondent must immediately unsubscribe the complainant from all services subscribed to.
Other sanctions	None.
Is this report notable?	N/A
Summary of notability	N/A

---

### Initial complaint

Actions requested:

- SP requested to unsubscribe customer
- SP requested to send an SMS confirming this unsubscribe
- SP requested to provide proof of subscription
- SP requested to contact customer regarding a refund

---

### Member's response

None.

---

### Complainant's response

None.

---

### **Member's further response**

Respondent provided no response.

---

### **Sections of the Code considered**

The following sections of the WASPA Code of Conduct, version 15.9, were considered:

15.27. The processing of any service termination request must not be unreasonably delayed. termination requests submitted to the member in an automated fashion (including via SMS, USSD or the WASPA API) must be honored within 24 hours, and all other termination requests (including email requests) must be honored within two working days (48 hours).

---

### **Decision**

I find it imperative to begin my submission on my decision with the noting of the failure on the part of the Respondent to adhere to simple instructions provided in the inception of the notification which reads as follows;

***Dear WASPA member,***

***The attached complaint #37421 has been lodged with WASPA against Cell Candy B.V. WASPA has reviewed the complaint and determined that the formal complaints process set out in the WASPA Code of Conduct should be used to handle it.***

***Please note that:***

***- You have ten working days to respond to this complaint, and provide any information you deem to be relevant to the complaint.***

***- Your response should include any mitigating factors that you would like the independent adjudicator to take into account when reviewing the complaint.***

***- If the complaint involves an interaction with a customer, please provide clear copies of all relevant logs of that interaction.***

***- If you require longer than ten days to respond to this complaint, you are entitled to request an extension. Please include a motivation for the extension with any request.***

***- Once you have responded, your response will be provided to the complainant, and he or she will have an opportunity to provide a further submission in reply.***

***If the complainant chooses to do this, you will have a further opportunity to respond to that reply. The complaint and all associated correspondence will then be assigned to an independent adjudicator for review.***

***- If ten working days pass without any response from you, this complaint will be assigned to an independent adjudicator for review without the benefit of additional submissions from either parties.***

***- If you think that your company has been incorrectly identified as the target of this complaint, please do not ignore this message. Instead notify the WASPA Secretariat as soon as possible.***

***- Providing incorrect or fraudulent information in response to a complaint is itself a breach of the WASPA Code.***

***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 same address.***

***Yours sincerely, WASPA Secretariat***

The reasoning behind my reminder and / or provision of the first notification given to this (*and all Respondents*) is to highlight that there is an actual procedure which must be followed once a complaint has become formal and further to highlight the importance of ensuring familiarity with the Code of Conduct. I find it offensive that the Respondent failed to attempt to provide to the Adjudicator any records and or information at its disposal, neither did they attempt to ensure a cohesive response to the actual complaint.

The Respondent failed in that;

1. There was no information provided to the secretariat which would be relevant to the complainant at hand; and

2. This complaint involved an interaction with a customer and no provision of clear copies of all relevant logs of that interaction was provided.

With that said, I will therefore adjudicate on the facts before me.

The complainant, properly or improperly was subscribed to the service and the respondent failed to ensure that there is in fact an unsubscription of the service. In fact none of the actions requested by the complainant was adhered to and this shows blatant disregard for the code and what WASPA stands for as an organization.

I have noted with aversion that the respondent even ignored the informal complaint.

The contravention of the clause in its entirety is upheld.

---

### **Sanctions**

I therefore determine that there was in fact a breach of the code, therefore the cited clause contravention is upheld and I call for the following fine to be imposed on the Respondent, R10 000- 00 ( ten thousand rand) payable on demand of secretariat.

The respondent must immediately unsubscribe the complainant from all services subscribed to.

---

### **Matters referred back to WASPA**

None.

---