



Report of the Adjudicator

Complaint number	56963 and 56964
Cited WASPA members	Absa Bank Limited
Notifiable WASPA members	N/A
Source of the complaint	Public
Complaint short description	Unsolicited marketing message
Date complaint lodged	2 March 2022
Date of alleged breach	
Applicable version of the Code	17.0 and 17.1
Clauses of the Code cited	5.14
Related complaints considered	56965
Fines imposed	The member is fined R5000 for each of cases 56963 and 56964 payable within 5 days of publication of this report.
Other sanctions	
Is this report notable?	Not notable
Summary of notability	

Initial complaint

This complaint is the escalation of an unsubscribe request to which the member failed to respond. The unsubscribe request was sent on 28 July 2021 and 8 September 2021 (for cases 56963 and 56964 respectively) and daily reminders were sent every weekday to no avail.

The formal complaint was sent to the member on 12 May 2022. The member responded on 24 May 2022, but this was regards to email and not unsolicited SMS's. The secretariat advised the member accordingly on 24 May 2022. The member confirmed receipt of this but only responded after the matter was sent to adjudication on 14 June 2022.

Member's response

The member responded to state that the unsolicited email message complaints had been dealt with already.

Complainant's response

The secretariat advised the member that the complaints related to SMS unsolicited communications and not email and as such had not been dealt with already.

Member's further response

The member's further response was as follows: Please note thought that we may be required to communicate regulatory or contractual information to customers from time to time.

Absa further performed a full investigation in relation to the complaints and acknowledge the disproportionate amount of informational messages sent to these complainants.

Informational communication is intended to inform and educate existing customers of the benefits and features of an existing product, while Operational communication is intended to inform existing customers of mandatory contractual, regulatory or compliance requirements of the Group's products or services.

Our investigation revealed the following:

Case 56963

- We concluded that no Marketing type campaigns were sent to XYZ during the period in question.
- However, 16 Informational and 20 Operational SMS type messages did go out to XYZ.

- With regard to Informational and Operational SMS Messaging type - No client related Opt-Out requests could be traced

Case 56964

- For the period in question, no Marketing type campaigns were sent to XYZ.
- Zero Informational, but 8 Operational SMS type messages were sent to the mention.
- With regard to Informational & Operational SMS Messaging type - No client related Opt-Out requests could be traced

As a result, we intend to take the following actions by 11 July to address this:

1. Review the frequency of contact for informational campaigns sent to customers; and
2. Review the classification of marketing and informational campaign types to ensure that there is no misinterpretation.

Sections of the Code considered

5.14. Members must have a procedure allowing customers 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.

Decision

As these cases are in respect of a breach of 5.14, notwithstanding the fact that the member set out why they felt the messages were not unsolicited, I will not be considering that as it falls outside of the ambit of these cases and the complaint.

The member was first informed of the unsubscribe request in respect of 56963 on 28 July 2021 and in respect of 56964 on 8 September 2021. Notwithstanding daily reminders sent by WASPA on all weekdays, no response was forthcoming for over 9 months.

I accordingly find the member to be in breach of 5.14.

Sanctions

The member is fined R5000 for each of cases 56963 and 56964 payable within 5 days of publication of this report.

Matters referred back to WASPA

15.29 and 16.5A