



## Report of the Adjudicator

Complaint number	56965
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, 15.29 and 16.5A
Related complaints considered	56965
Fines imposed	The member is fined R5000 for the breach of 5.14, R10 000 for a breach of 15.29 and R5000 for a breach of 16.5A, all payable within 5 days of publication of this report.
Other sanctions	

Is this report notable?	Not notable
Summary of notability	

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### **Initial complaint**

This complaint is the escalation of an unsubscribe request to which the member failed to respond. The unsubscribe request was sent on 4 March 2022 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.

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### **Member's response**

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

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### **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.

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### **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:

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- We concluded that no Marketing SMS type campaigns were sent to XYZ, but 5 marketing related emails did in fact go to XYZ.
- 20 Informational and 20 Operational SMS type messages were also sent to XYZ during the said period.
- With regard to Informational and 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.

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### **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.

15.29 If a 'STOP' reply could pertain to multiple services, either all services must be terminated upon receipt of the termination request, or the customer must be given a clear choice of services to terminate.

16.5A Members must take reasonable steps to block only direct marketing messages to numbers listed in the WASPA Do Not Contact registry and must not automatically block all messages (e.g. transactional and commercial) to those numbers.

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### **Decision**

The member was first informed of the unsubscribe request in respect of 56965 on 4 March 2022. Notwithstanding daily reminders sent by WASPA on all weekdays, no response was forthcoming for over 3 months.

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

The complainant sent the words "stop" in response to the unsolicited SMS's and registered their number on the "do not contact" registry. Notwithstanding, they continued to receive unsolicited SMS's from the member.

Accordingly I find the member in breach of both 15.29 and 16.5A.

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**Sanctions**

The member is fined R5000 for the breach of 5.14, R10 000 for a breach of 15.29 and R5000 for a breach of 16.5A, all payable within 5 days of publication of this report.

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