



Report of the Adjudicator

Complaint number	#58633
Cited WASPA members	Ndoto Media (PTY) LTD (1948)
Notifiable WASPA members	N/A
Source of the complaint	Public and WASPA
Complaint short description	Unsubscribe request
Date complaint lodged	2023-04-18
Date of alleged breach	Unknown
Applicable version of the Code	17.4
Clauses of the Code cited	5.14
Related complaints considered	58631; 58632; 58634 and 58635
Fines imposed	A R5 000.00 fine for the breach of Clause 5.14 of the Code, payable to WASPA within 7 days of publication of this adjudication.
Other sanctions	The Member must reimburse the customer, within 7 days of publication of this adjudication, for any outstanding balance resulting from the Member's failure to fulfil the unsubscribe request and terminate the provision of the service.

Is this report notable?	Not notable
Summary of notability	N/A

Initial complaint

1. The complaint related to an escalation of an unsubscribe request by the Complainant (“the complaint”).
 2. The unsubscribe request was logged against the Member on 2023-01-30.
 3. The Member was sent numerous automated reminders from WASPA’s Unsubscribe Query System to respond to the complaint, and the Member repeatedly failed to respond thereto.
 4. The WASPA Secretariat phoned the Member regarding the complaint on 2023-04-11 and sent the Member an email reminder on 2023-04-13. The WASPA Secretariat also provided the Member with an advisory on how the WASPA Unsubscribe Query System worked, and the Member still failed to respond to the complaint.
 5. To date, the Member has not responded to the complaint.
 6. A formal complaint was therefore sent to the Member on 2023-04-18.
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Member’s response

7. The Member failed to respond to the formal complaint.
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Sections of the Code considered

8. Clause 5.14 of the WASPA Code of Conduct (“the Code”) is considered herein and states the following:

“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

9. In terms of Clause 5.14 of the Code, the Member must acknowledge receipt of complaints expeditiously, and must respond to any complaints within a reasonable period.
 10. The Member never acknowledged receipt of the unsubscribe request logged on 2023-01-13.
 11. Despite numerous reminders regarding the complaint, which were sent to the Member during a period spanning almost three months, the Member neglected to address the unsubscribe request.
 12. A consumer's access to an efficient complaints handling system is fundamental to the good standing of the WASP industry.
 13. The failure of the Member to acknowledge the complaint raises concern. When a customer expresses their desire to unsubscribe from a service, it implies that they no longer wish to receive or be charged for that particular service. By disregarding the unsubscribe request and neglecting to acknowledge its receipt, the Member has not only violated the explicit requirement set forth in the Code, but has also disregarded the rights and preferences of the customer.
 14. As a result, the Member has breached Clause 5.14 of the Code.
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Sanctions

15. The prolonged period, during which the Member was sent multiple reminders regarding the complaint, further exacerbates the issue. Throughout this duration, the Member had ample opportunity to address the unsubscribe request and rectify the situation. Furthermore, there are four near-identical complaints reported to WASPA against the Member, being complaint numbers 58631; 58632; 58634 and 58635.
16. Therefore, it is recommended that the Member review its complaints process and ensure that unsubscribe requests are honoured within 48 hours of receipt.
17. The Member must reimburse the customer, within 7 days of publication of this adjudication, for any outstanding balance resulting from the Member's failure to fulfil the unsubscribe request and terminate the provision of the service.
18. The Member is also fined R5 000.00 for the breach of Clause 5.14 of the Code, payable to WASPA within 7 days of publication of this adjudication.

19. It is noteworthy that each complaint against the Member attracts an individual fine of R5 000.00. All five complaints were lodged by WASPA against the Member individually, and independently from each other, which means the Adjudicator should treat each complainant's case as a distinct instance of the offense. However, each complaint relating to the Member involved a different complainant who could not unsubscribe from the Member's service and suffered prejudice as a result. Therefore, each complaint and its effect on the complainant is distinct, even though the underlying offense is the same. In conclusion, the imposition of separate fines on the Member does not constitute double jeopardy.

Matters referred back to WASPA

20. N/A.
