



Report of the Adjudicator

Complaint number	#59657
Cited WASPA members	Dynamic Mobile Billing South Africa (Pty) Ltd
Notifiable WASPA members	N/A
Source of the complaint	WASPA Compliance Department
Complaint short description	Various Irregularities
Date complaint lodged	2023-11-06
Date of alleged breach	2023-10-17
Applicable version of the Code	17.6
Clauses of the Code cited	5.1, 5.2, 5.4, 5.5, 5.6A, 15.11(c), 18.2, 18.3, 18.4 (d)(e)(f)(g)(h), 18.6, 18.9 (a)(b)(c)
Related complaints considered	N/A
Fines imposed	R 30 000-00 for the false claim of WASPA membership by Monty Videos. For breaches of sections 5.1, 5.2, 5.4, 5.5, 5.6A, 15.11(c), 18.2, 18.3, 18.4 (d)(e)(f)(g)(h), 18.6, 18.9 (a)(b)(c), R 25 000-00.
Other sanctions	
Is this report notable?	Not notable

Summary of notability	N/A
-----------------------	-----

Initial complaint

The Complainant in this matter is of the opinion that a particular service of the Member breached various clauses of the WASPA Code of Conduct. In particular, the Complainant alleged that the Member's service applied misleading methods to lure users into subscribing to its services which on face value was a prima facie breach of the Code. An Emergency Procedure was evoked by WASPA but subsequently withdrawn and filed as a formal complaint upon mitigating steps immediately by the Member.

In the formal complaint the Complainant provided a detailed test of the Member's service in dispute with an in-depth analysis of what it thought to be breaches of the Code. For the sake of brevity, the whole complaint will not be replicated here, as both parties are in possession of the same.

The following abstract however, which was provided as a summary by the Complainant in its conclusion, is provided in full below:

"A tester from the Compliance Department entered a quizify.fun URL in a browser and a competition advert loaded.

The words used on the advert is deliberate and created an impression of entering a competition, visible words used such as "Enter to Win", "Monthly Jackpot", "Questions for daily players to win iPhone, iWatch, Cash Prizes and Much More", "Gift Voucher \$800 value", "Play & Win", "Answer 5 questions everyday to win prizes".

The advertisement page was misleadingly and deceitfully designed to obscure information that it was in fact a subscription service charged at R30.00 per week. The tester could have easily clicked on the "PLAY & WIN" button without noticing the subscription costs at the bottom half of the page. If this is a promotional competition, then various requirements and terms and conditions have not been met.

The promotional competition is not ancillary to the subscription service.

Monty Mobile claims to be a WASPA member in the Terms and Conditions, we could not find the company name when searching on the member lookup list.

The customer support number is not displayed as part of the confirmation step of the service.

After a successful acquisition of the service, the tester did not know how to access the service. In addition, the link from one of the welcome messages redirected the tester to an information gathering page which led to a blank white screen.

The tester never received any 5 questions to answer nor access to the service as advertised for four days of running the test at a cost of R30.00 per week”

Member’s response

The Member indicated that the WASPA Affiliate Membership application for Monty Mobile is still pending but should be finalized soon.

In addressing the functioning of its services, Monty Mobile by way of the Member in its responses merely indicated that the Complainant, by way of its tester, entered his / her mobile number in an incorrect format during testing and therefore failed to gain access to the service, meaning the 5 questions as advertised.

Complainant’s response

In its response, the Complainant stated the following:

- “We dispute the Respondent’s submission that the tester was using an incorrect number while registering. In fact, if you look at the original test result video (00:06:29), it clearly shows the tester using the 27XX XXX XXXX number format. The tester accepted the Terms of Use and never received any questions to answer from the service.
 - We respectfully submit the Respondent’s service was in breach of several clauses of the Code of Conduct on the date of testing the service, and that our original complaint sufficiently sets this out. The Respondent should be held liable for their non-compliant service.”
-

Member’s further response

In its further response the Member once again iterated that the wrong format was used and that the service is fact functioning.

Sections of the Code considered

5.1. Members must not offer or promise or charge for services that they are unable to provide.

5.2. Services must not be unreasonably prolonged or delayed.

Provision of information to customers

5.4. Members must have honest and fair dealings with their customers.

5.5. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

5.6A. Members must ensure that customers have ready access to information on how to access and use services.

15.11. A confirmation page must contain the following information:

(c) a customer support number

Cost of entry

18.2. The cost for a single entry into a promotional competition must not exceed R1.50.

18.3. All valid and correct entries must have the same chance of winning.

Provision of information

18.4. An offer to participate in a promotional competition must clearly state:

(d) the basis on which the results of the competition will be determined;

(e) the closing date for the competition;

(f) how the results of the competition will be made known;

(g) how a person can obtain a copy of the competition rules; and

(h) how the successful participant can obtain the prize.

Closing date

18.6. Competition services must have a specific closing date, except where there are instant prize- winners. An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes. Once the closing date for a competition is reached, the advertised prizes must be awarded, if there are any valid entries.

Prohibited practices

18.9. Promotional competitions must not:

- (a) use words such as “win” or “prize” to describe items intended to be offered to all or a substantial majority of the participants;
- (b) exaggerate the chance of winning a prize;
- (c) suggest that winning a prize is a certainty;
- (d) suggest that the party has already won a prize and that by contacting the promoter of the competition, that the entrant will have definitely secured that prize.

Decision

In reaching a decision the Adjudicator relies on all the information provided by both the Complainant and Member in this matter.

It is regrettable that Monty Mobile through the Member in its responses failed to directly address a majority of the concerns raised by the Complainant in this matter. It is also apparent to the Adjudicator in this matter that Monty Mobile failed to study the Complaint in detail as its responses failed to take the Complainant’s detailed account of events into account, especially the references (written and by way of video) of the various number formats used.

The Adjudicator further views the actions by both Monty Video and the Member, whereby the former is referenced as a WASPA member, knowing it to be false, as an erogenous and utterly misleading act, which has the possibility of denting WASPA’s reputation and eroding customers’ trust in the industry. Whether Monty Video’s application is pending or not, is irrelevant.

Without having recourse to a proper response by the Monty Videos and / or the Member rebutting or acknowledging allegations raised by the Complainant in its Complaint, the Adjudicator has no hesitation in finding the Member in breach of all sections of the WASPA Code raised by the Complainant.

No sufficient provision of information to customers were provided as is required by parts of sections 5 and 15.

The cost of entry into the promotional competition exceeded the requirements of section 18.2, and the provision of information related to promotional competitions as stipulated under section 18.4, was absent or incomplete.

Further to this, no closing date was offered, and prohibited practices as detailed under section 18.9, were ignored.

The Complaint is upheld in full.

Sanctions

The Member is fined R 30 000-00 for the false claim of WASPA membership by Monty Videos.

For the various other breaches of the WASPA Code by its partner, Monty Videos, the Member is fined R 25 000-00.

Both fines are to be paid to the WASPA Secretariat within 7 (seven) days after having received notice hereof.

Matters referred back to WASPA

None
