



Report of the Adjudicator

Complaint number	#60713
Cited WASPA members	OleConnect (2013)
Notifiable WASPA members	N/a
Source of the complaint	Public/WASPA
Complaint short description	Unsubscribe notice ignored Request for proof of subscription and logs ignored
Date complaint lodged	2024-09-17
Date of alleged breach	Not provided.
Applicable version of the Code	V 17.7
Clauses of the Code cited	5.14, 7.5, 24.24
Related complaints considered	None
Fines imposed	R10,000 - 5.14 R10,000 - 7.5 and 24.24
Other sanctions	The Member is ordered to refund the member of the public as requested. Proof of the refund must be provided to the WASPA Secretariat within 14 days of publication of this report.
Is this report notable?	None

Summary of notability	N/a
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Initial complaint

1. A complain was lodged by a member of the public prior to 17 September 2024. The complaint was that the Member had failed to respond to an unsubscribe request. The member of the public also requested a refund. The Member is also alleged to have failed to provide logs as requested by the WASPA Secretariat.
 2. A standard notice of complaint was sent to the Member by email by the WASPA Secretariat on 18 September 2024 providing the Member with a ten-day period to respond to the formal complaint lodged by WASPA. By 10 October 2024 the Member had failed to respond to the complaint and it was assigned to adjudication.
 3. On 10 October 2024 the Member sent an email requesting for someone from the Secretariat to phone a Mr Brooks. The Secretariat tried to phone Mr Brooks but there was no answer and a voice message was left.
 4. No further correspondence was received from the Member.
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Member's response

Other than the email requesting a phone call from the Secretariat, there was no response to the complaint by the Member.

Sections of the Code considered

5. The relevant provisions of Version 17.7 and 17.9 of the Code of Conduct are identical. Due to the uncertainty of the date of the infringement, both versions of the Code were considered. The following sections of the Code of Conduct (17.7) were 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.

7.5. Members must provide WASPA with any customer records relating to any service that is the subject of a complaint, including, but not limited to:

- (a) where that information is available, a record of the marketing link that the customer followed prior to joining a service;
- (b) all communications sent by or to a customer in the process of joining a service;
- (c) all required reminder messages sent to a customer;
- (d) a detailed transaction history indicating all charges levied and the service or content item applicable for each charge; and
- (e) any record of successful or unsuccessful service termination requests.

24.24. Where a complaint involves any interaction with a consumer, when requested to do so, a respondent must provide clear copies of all relevant logs of that interaction and all relevant marketing material.

Decision

6. The facts of the case are uncontested as the Member failed to respond to the substance of the formal complaint lodged by WASPA. There is no doubt that the Member did receive the notice of complaint and the follow-up notice as it requested a telephonic interaction with the WASPA Secretariat. There was no response to the subsequent telephonic follow-up and voice message left.
7. The Member also failed to respond the Secretariats request for the proof of subscription and the refund request by the member of the public. No logs were provided as is required in terms of section 7.5 and 24.24.
8. The Member had a clear opportunity to respond to the substance of the complaint as required by the Code of Conduct, but has failed to do so.
9. In terms of section 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.
10. The Member has failed to provide any proof that it has such a procedure, or that it acknowledged receipt of the complaint by the member of the public in this case. It has also offered no proof that it responded to the complaint and the request for a refund within a reasonable period of time.
11. I accordingly hold that the Member has infringed sections 5.14, 7,5 and 24.24 of the Code of Conduct.

Sanctions

12. I have taken into account that there were no related past complaints against the Member. However, the Member's failure to respond to the complaint is taken as a serious and aggravating factor. The Member also failed to respond to the Secretariat's specific request for proof of subscription and the relevant logs. It is important that members respond to complaints and requests by the Secretariat to ensure public trust in the Code of Conduct and the complaints procedure under it.
13. I accordingly impose the following fines:
 - (a) For the infringement of section 5.14 R10,000;
 - (b) For the infringement of sections 7.5 and 24.24 a fine of R10,000
14. The Member is also ordered to refund the member of the public as requested. Proof of the refund must also be provided to the WASPA Secretariat within 14 days of publication of this report.

Matters referred back to WASPA

None
