Report of the Adjudicator

Complaint number	#60722
Cited WASPA members	Delta Investments (2074)
Notifiable WASPA members	Akinga Vertical Service Provider (Pty) Ltd (1944)
Source of the complaint	WASPA
Complaint short description	Unsubscribe request
Date complaint lodged	2024-09-17
Date of alleged breach	August 2024
Applicable version of the Code	17.9
Clauses of the Code cited	5.14, 7.5, 24.24
Related complaints considered	Not applicable.
Fines imposed	The member is fined as follows: R5,000.00 for the breach of clause 5.14 of the Code, payable to WASPA within 7 days of receipt of this adjudication. R5,000.00 for the breach of clause 7.5 of the Code, suspended for 6 months on condition that there is no further breach of the same clause within this period.

	R5,000.00 for the breach of clause 24.24 of the Code, suspended for 6 months on condition that there is no further breach of the same clause within this period.
Other sanctions	All subscribed customers must be immediately unsubscribed from the member's service and refunded in full. Proof of the service unsubscription and full refund must be provided to WASPA within 7 days of receipt of this adjudication report.
Is this report notable?	Not notable.
Summary of notability	Not applicable.

Initial complaint

1. A formal complaint was lodged against the member for failing to adequately respond to 8 unsubscribe requests submitted by the complainant on behalf of 8 different customers.

2. The aggregator of the member was also informed of this formal complaint.

Member's response

3. The member explained that initial inquiries were missed by them due to an assumption that they had been assigned to a former staff member. A later investigation by the member revealed the inquiries had been classified as "unassigned" in the system. The member also noted that, in some cases, auto-reminders were sent to content partners but not to their team, which contributed to the oversight.

4. The member stated they had since been added to the system and promptly addressed the issue by contacting the affected customers, cancelling their subscriptions, and offering them refunds.

Complainant's response

5. In response to the issue of system reminders, the complainant emphasised that it is the responsibility of the member to ensure that their information remains up to date.

6. The complainant noted that auto-reminders had been sent to the member, as well as other members.

7. It was further stated that members can adjust the frequency of these reminders through the "preferences" section on the WASPA portal ("the portal").

8. The complainant explained that if a matter is marked as unassigned, it indicates that the member's management had not allocated the issue to a specific employee and that members can only access queries specifically logged against them.

9. The complainant also highlighted that the WASPA library contains several advisories, including one that provides instructions on how to use the portal.

10. Lastly, the complainant requested that proof of subscription for the 8 customers' numbers associated with the complaint be provided.

Member's further response

11. The member provided logs of proof of subscription for the 8 customers and associated numbers.

12. The member stated that the issue was that Telkom hosted the entire flow, so they could not provide everything requested. However, they shared what they were able to find on their side.

Sections of the Code considered

13. The following clauses of the WASPA Code of Conduct ("the Code") are considered, and read as follows:

"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 which 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

14. The member did not acknowledge receipt of the unsubscribe complaints expeditiously and did not respond to the complaints until the complaints were escalated and made formal.

15. Furthermore, the Code places an obligation on members to ensure that their systems and procedures are properly managed and up to date in order to receive complaints and reminders from WASPA. The member had access to the portal as well as the WASPA library, which contained several advisories, including one that provided instructions on how to use the portal.

16. Therefore, the member cannot escape liability by stating that they did not receive the complaints and the reminders, and the member is found in breach of clause 5.14 of the Code.

17. While the member did take steps to address the complaint after it was escalated, their initial non-compliance, as well as the incomplete provision of customer records, did not adhere to the procedural requirements expected of them. The member also did not provide full details of customer records relating to the service, which is the subject of the complaint, before the complaint was escalated, and therefore the member is found in breach of clause 7.5 of the Code.

18. The complaint also involved interactions with consumers, and the member was required to provide clear copies of all relevant logs of these interactions, along with any associated marketing material. However, while the member did eventually provide a log in response to the formal complaint, it was both submitted too late and deemed insufficient. The log lacked a complete record of customer interactions and did not include all relevant marketing material. As a result, the member is found in breach of clause 24.24 of the Code.

19. Therefore, the member is found in breach of clauses 5.14, 7.5, and 24.24 of the Code due to their failure to manage unsubscribe requests in a timely manner, assign a relevant staff member to handle such requests and reminders, and provide the complete records as required.

20. It is noteworthy that the aggregator, who acts as the gateway for the member, could not provide the member with the relevant information it needed to efficiently respond to the complaint after it had been escalated.

21. The member offered to provide refunds and unsubscribe customers on their own accord, and there have been no previous formal adjudications against the member, which are considered as mitigating factors.

22. In conclusion, the complaint is upheld.

Sanctions

23. The member is fined as follows:

23.1. R5,000.00 for the breach of clause 5.14 of the Code, payable to WASPA within 7 days of receipt of this adjudication.

23.2. R5,000.00 for the breach of clause 7.5 of the Code, suspended for 6 months on condition that there is no further breach of the same clause within this period.

23.3. R5,000.00 for the breach of clause 24.24 of the Code, suspended for 6 months on condition that there is no further breach of the same clause within this period.

24. All subscribed customers must be immediately unsubscribed from the member's service and refunded in full.

25. Proof of the service unsubscription and full refund to be provided to WASPA within 7 days of receipt of this adjudication report.

Matters referred back to WASPA

26. The matter is referred back to WASPA to further investigate the aggregator's role in the complaint, and to use its discretion to lodge a separate complaint against the aggregator if necessary.