



## Report of the Appeals Panel

Complaint number	#60731
Cited WASPA members	PM Connect Africa (Pty) Ltd (1763)
Notifiable WASPA members	None.
Appeal lodged by	The Member
Type of appeal	Written appeal
Scope of appeal	<input checked="" type="checkbox"/> Review of the adjudicator's decision
Applicable version of the Code	17.9
Clauses considered by the panel	5.14, 7.5, 24.24
Related complaints considered	60652; 60722; 60735
Amended sanctions	<p>The fine of R5 000.00 for breach of clause 7.5 of the Code is not amended and remains payable to WASPA within 7 days of receiving the Appeal Report.</p> <p>The respective fines of R5 000.00 each for clauses 5.14 and 24.24 of the Code are dismissed.</p>
Appeal fee	50% of the appeal fee to be refunded.
Is this report notable?	Not notable.
Summary of notability	Not applicable.

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## Initial complaint

1. The complaint stemmed from the member's failure to respond to the customer's unsubscribe request, which led to the matter being escalated to WASPA. Additionally, the member failed to address WASPA's subsequent unsubscribe request and did not provide WASPA with the requested customer records, resulting in the submission of a formal complaint by WASPA.
2. The member received an unsubscribe request notification from the member on 12-07-2024.
3. The formal complaint was received by the member on 18-09-2024, and WASPA requested proof of customer records from the member on the same day.
4. The member provided WASPA with the customer records on 02-10-2024, after requesting and receiving them from OnePin which had the customer records in its possession.

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## Adjudicator's findings

5. The Adjudicator found that 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.
6. The Adjudicator stated that the WASPA Code of Conduct ("the Code") placed an obligation on members to ensure their systems and procedures were properly managed and up to date in order to receive complaints and address such complaints expeditiously. Accordingly, the Adjudicator found that the member did not sufficiently respond to the complaints within a reasonable period of time, and the member was found in breach of clause 5.14 of the Code.
7. The Adjudicator further found that the member failed to provide evidence of any steps taken to address the complaint after its escalation and submitted incomplete customer records, failing to comply with the prescribed procedural requirements. Additionally, the member did not provide complete customer records related to the service in question prior to the complaint's escalation. As a result, the member was found to be in breach of clause 7.5 of the Code.
8. The Adjudicator also stated that the member was required to provide clear copies of all relevant logs of its interactions with the customer, along with any associated marketing material. However, while the member eventually provided a log in response to the formal complaint, it was 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 was found in breach of clause 24.24 of the Code.

9. Therefore, the Adjudicator found the member in breach of clauses 5.14, 7.5, and 24.24 of the Code, and the complaint was upheld.
  10. The member was fined R5 000.00 for each breach of clauses 5.14, 7.5, and 24.24, totalling R15 000.00, payable to WASPA within 7 days of receiving the adjudication.
  11. When determining sanctions, factors considered included the member's past complaints, the nature and severity of the breach, efforts to resolve the matter, and WASPA precedents. The absence of similar complaints in the past three years was considered a mitigating factor.
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## Sections of the Code considered

12. The following sections of the Code are considered, and read as follows:

### “Customer support

- 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.

### Provision of information about services

- 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.

### Complaints procedure

- 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”.
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## Appeal submissions

### Customer support: clause 5.14 of the Code

13. The member denied breaching clause 5.14 of the Code, asserting that they had a process in place for customers to lodge complaints and that the complaint was submitted via WASPA.

14. The member claimed that they acknowledged the complaint on the same day it was received, as shown in the portal screenshot provided to the Appeal Panel.
15. The member stated that no follow-up requests were made by the complainant or WASPA, and the initial contact was responded to promptly on the same day. Additionally, the member asserted that WASPA did not define what constitutes a "reasonable period of time" and believed all responses were made in a reasonable and timely manner.
16. The member claimed that customers have a variety of routes to speak with Customer Service to lodge a complaint or query. For MTN ZA, in this case, customers can visit the customer portal <https://csteam.co.uk/service/nbalp-za/ZA>, they can call MTN directly from their handset on 135, and they can email [service.sa@sclients.co](mailto:service.sa@sclients.co) and WhatsApp on +27800800026.
17. The member alleged that they followed the same procedure as usual when receiving a notification from the 'WASPA Unsubscribe System Daily Reminder' which involved reviewing the subscriber's journey and determining the necessary actions to take.
18. In this specific case, the member updated the WASPA portal on the day notification was received, being 12-07-2024. The member also updated the WASPA portal to advise the customer was unsubscribed and the confirmation SMS had been triggered.
19. The member subsequently provided a timeline as follows:
  - 19.1 A screen notification from WASPA was received on 12-07-2024, and a response was provided via the WASPA portal on the same day.
  - 19.2 The formal complaint was received on 18-09-2024.
  - 19.3 All requested information within two weeks to WASPA.
  - 19.4 Member responses and updates were shared with WASPA on 18-09-2024, 25-09-2024, and 02-10-2024.
  - 19.5 The member noted that no further correspondence was received from WASPA or the customer after our response on 12-07-2024, leading the member to assume that their response had resolved the complaint.

Provision of information about services: clause 7.5 of the Code

20. The member believed there was no breach of clause 7.5 of the Code, arguing that the clause stated records should be provided "where available" and that the records were not directly available to them, as they did not own them. Any available records were obtained through OnePin. The member also claimed that WASPA did not request records following the initial

contact on 12-07-2024, and proof of subscription was only requested upon receiving the formal complaint on 18-09-2024. Additionally, the member alleged they did not have direct access to MTN's subscription logs, as marketing and subscriptions were managed by MTN and OnePin. This was communicated to WASPA on 18-09-2024, and the records were delayed until 02-10-2024, when they were shared with WASPA.

#### Complaints procedure: clause 24.24 of the Code

21. The member argued that there was no breach here of clause 24.24 of the Code, as any records that could be obtained by them were supplied to WASPA via OnePin within 2 weeks of request. The member also argued that there was nothing in clause 24.24 to say how long it should take to obtain these records.
  22. The member reiterated that they did not have direct access to the subscription logs for MTN as the marketing and subscription are controlled by MTN and OnePin, and that the records were then shared with WASPA on 02-10-2024, as supplied by OnePin.
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## **Deliberations and findings**

#### Customer support: clause 5.14 of the Code

23. The member alleged that they responded to the unsubscribe request from WASPA on the same day they received it as per the WASPA portal log, being 12-07-2024. The member did acknowledge receipt of the complaint from WASPA timeously; however, the member did not respond to the customer's request to be unsubscribed from the service, hence the escalation from an unsubscribe request to a formal complaint by WASPA. That being said, clause 5.14 of the Code specifically refers to a complaint and not an unsubscribe request, which was made by WASPA. Therefore, the member complied with this part of the Code. Furthermore, the member responded to the WASPA via the WASPA Portal on the same day, which is deemed expeditious and reasonable. The member's response advised WASPA that the customer had been unsubscribed from their service and that a confirmation SMS had been triggered.
24. Furthermore, as illustrated by the member, the member had a procedure allowing customers to lodge complaints regarding the services provided. The member provided the following complaint channels: for MTN ZA, in this case, the customer could visit the customer portal <https://csteam.co.uk/service/nbalp-za/ZA>, they could call MTN directly from their handset on 135, and they could email [service.sa@sclients.co](mailto:service.sa@sclients.co) and WhatsApp on +27800800026.
25. Therefore, the Adjudicator erred in their findings, and the member is not found in breach of clause 5.14 of the Code.

Provision of information about services: clause 7.5 of the Code

26. Clause 7.5 of the Code reads as follows: “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”.
27. The member argued that there was no breach of clause 7.5 of the Code, stating that the clause identified customer records should be provided "where available," and that the records were not available to them as they did not own them. The member also alleged that customer records were obtained through OnePin or MTN.
28. Only clause 7(a) of the Code must be provided “when available”, being “a record of the marketing link that the customer followed prior to joining a service”. If "where that information is available" were meant to apply to the entire subsection list of clause 7 of the Code, it would have been placed before the colon that introduces the list or repeated in each subsection. As per the grammar and the use of the semicolons between subsections, the remainder of the subsections of clause 7 of the Code must be provided to WASPA, without exception.
29. WASPA requested the member’s subscription logs, which differ from the marketing material link referenced in clause 7(a) of the Code. Subscription logs are detailed records that document the customer’s subscription process, typically including timestamps of when the customer joined or left the service, messages exchanged during the subscription process, and records of any charges applied by the member. In contrast, marketing links refer to URLs or digital pathways accessed by a customer prior to subscribing to a service, originating from advertisements, promotional emails, or other marketing channels. Tracking the marketing link assists in identifying the source that directed the customer to the service. Therefore, subscription logs and marketing links serve distinct purposes and provide different insights into the subscription process.
30. While the marketing link provides insight into how the customer discovered the service, the subscription logs contain crucial evidence of the customer’s engagement with the service itself, including the process of subscribing, communications exchanged, and any associated charges. Therefore, the member’s obligation to provide the subscription logs was separate from any requirement to provide the marketing link.

31. It is further noted that the marketing link was not in the member's direct possession and had to be obtained from MTN and OnePin. As such, any delay in providing the marketing link may be attributable to the need to source the information from third parties. However, this does not extend to the subscription logs, which the member ought to have maintained and been able to access directly.
32. The delay of 14 days in producing the subscription logs to WASPA, records that should have been readily accessible to the member, constitutes a failure to promptly comply with the entirety of clause 7 of the Code. Given that subscription logs are part of the member's routine record-keeping and essential for monitoring customer activity and billing, it is unreasonable that such records were not immediately available upon request.
33. Therefore, the member is found in breach of clause 7.5 of the Code.

Complaints procedure: clause 24.24 of the Code

34. Clause 24.24 of the Code requires that where a complaint involves any interaction with a consumer, the respondent must provide clear copies of all relevant logs of that interaction and all relevant marketing material when requested to do so.
35. In this case, while the member did experience a delay in providing the subscription logs and marketing material, the member did provide them once available, despite the delay.
36. The logs were ultimately submitted, demonstrating an effort to comply with the requirements of clause 24.24 of the Code. While the time taken was not ideal, the member did respond to WASPA's request for all relevant logs of the interaction and marketing material once the necessary information was obtained.
37. Therefore, the member is not found in breach of clause 24.24 of the Code.
38. In conclusion, the member is found in breach of clause 7.5 of the Code and the appeal is partially upheld.

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**Amendment of sanctions**

39. The fine of R5 000.00 for breach of clause 7.5 of the Code is not amended and remains payable to WASPA within 7 days of receiving the Appeal Report.
  40. The respective fines of R5 000.00 each for clauses 5.14 and 24.24 of the Code are dismissed.
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## Appeal fee

41. 50 percent of the appeal fee must be refunded to the appellant.

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