



Report of the Adjudicator

Complaint number	#60733
Cited WASPA members	THUMBTRIBE (Membership no: 1110)
Notifiable WASPA members	None
Source of the complaint	WASPA
Complaint short description	Unsubscribe Request
Date complaint lodged	2024-09-18
Date of alleged breach	July 2024
Applicable version of the Code	17.9
Clauses of the Code cited	5.14; 7.5; 24.24
Related complaints considered	60652; 60722; 60735
Fines imposed	For Breach of Clause 5.14 a fine imposed of R5 000.00 payable to WASPA within 7 days of receipt of this adjudication. For Breach of Clause 7.5 a fine imposed of R5 000.00 payable to WASPA within 7 days of receipt of this adjudication. For Breach of Clause 24.24 a fine imposed of R5 000.00 payable to WASPA within 7 days of receipt of this adjudication.
Other sanctions	n/a

Is this report notable?	Not notable
Summary of notability	n/a

Initial complaint

1. Escalation of 2 (two) unsubscribe queries The initial complaint is a result of 2 (two) unsubscribe queries for failure to respond and failure to provide logs as requested.
2. An informal complaint was logged by WASPA Complaints department whereafter the complaint was escalated to a formal Complaint as a result of the Member's lack and/or omittance of a response.
3. The following reason for escalation:
 - 3.1 The Member failed to respond to the unsubscribe query
 - 3.2 Member failed to provide logs as requested and required.
4. Details of complaint under unsubscribe requests #7232314

Mobile number : REDACTED
 Customer name : REDACTED
 Customer email : REDACTED
 And
 Mobile number : REDACTED
 Customer email : REDACTED

In both instances the following Actions requested :

 - Service Provider requested to unsubscribe customer
 - Service Provider requested to send an SMS confirming this unsubscribe request
 - Service Provider requested to provide proof of subscription
 - Service Provider requested to contact customer regarding a refund.
5. All unsubscribe requests attached as substantiation

6. As such, the Member is alleged to be in breach of clauses 5.14; 7.5 and 24.24 of the WASPA Code of Conduct.
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Member's response

7. Members response receipted on 18 September 2024.
8. The Member confirmed the details of the customers and responded that neither have any active subscriptions.
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Complainant's response

9. The complainant advised that information was provided and attached of both numbers being subscribed.
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Member's further response

10. The member perused the documentation and noted that not all services mentioned are the Member's services.
11. The Member addressed each customer subscription details and provided a subscription history with screen grabs included.
- 11.1 To note on even date of response neither customer was subscribed to one of the Member's services
- 11.2 A Subscription service history of each customer was provided.
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Sections of the Code considered

12. The Complainant cited the following clauses of the WASPA Code of Conduct as the basis for their complaint

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.

24. Complaints procedure

Formal complaint 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.

Decision

- 13. After carefully reviewing the complaint and the response from the Member, and on the basis of the evidence presented by the Complainant, I have made the following findings.
- 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. The Code places an obligation on members to ensure their systems and procedures are properly managed and up to date in order to receive complaints and address such complaints expeditiously. The member has access to the portal as well as all WASPA resources including but not limited to several advisories including but not limited to instructions on how to use the portal. However, the member did not sufficiently respond to the complaints within a reasonable period of time. Therefore, the member is found in breach of clause 5.14 of the Code.
- 16. The initial denial of subscriptions by the member resulting in closer investigation after the fact of escalation, as well as the incomplete provision of customer records, did not adhere to the procedural requirements as prescribed. 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, the member is found in breach of clause 7.5 of the Code.

17. The member was further required to provide clear copies of all relevant logs of these interactions with the customer, along with any associated marketing material. However, while the member did eventually provide a log in response to the formal complaint, it was submitted too late. As a result, the member is found in breach of clause 24.24 of the Code.
18. Therefore, Member is found to be in breach of clauses 5.14; 7.5; and 24.24 of the WASPA Code of Conduct, and the complaint therefore upheld.
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Sanctions

19. In determining appropriate sanctions against the Member, the following factors have been taken into consideration:
- any previous successful complaints made against the Member in the past three years;
 - any previous successful complaints of a similar nature;
 - the nature and severity of the breach; and
 - any efforts made by the Member to resolve the matter.
20. I have also taken account previous precedent set by WASPA adjudicators and appeal panels in previous complaints for the same or similar contraventions when determining appropriate sanctions.
21. No previous complaints of this nature have been made against the Member in the preceding 3 years and thus taken into consideration as a mitigating factor.
21. Based on the aforementioned, the following sanctions are imposed:
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| 21.1 | For Breach of Clause 5.14 | a fine imposed of R5 000.00
payable to WASPA within 7 days of receipt of this adjudication. |
| 21.2 | For Breach of Clause 7.5 | a fine imposed of R5 000.00
payable to WASPA within 7 days of receipt of this adjudication. |
| 21.3 | For Breach of Clause 24.24 | a fine imposed of R5 000.00
payable to WASPA within 7 days of receipt of this adjudication. |
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Matters referred back to WASPA

22. None noted.
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