



## Report of the Adjudicator

Complaint number	# 60734
Cited WASPA members	T-MOB International (1936)
Notifiable WASPA members	Akinga Vertical Service Provider (Pty) Ltd (1944)
Source of the complaint	WASPA
Complaint short description	Unsubscribe request
Date complaint lodged	2024-09-18
Date of alleged breach	September 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	<p>The member is fined as follows:</p> <p>R5,000.00 for the breach of clause 5.14 of the Code.</p> <p>R5,000.00 for the breach of clause 7.5 of the Code.</p> <p>R5,000.00 for the breach of clause 24.24 of the Code.</p> <p>All fines are suspended for 6 months on condition that no further</p>

	breaches of these clauses occur 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.

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### Initial complaint

1. A formal complaint was lodged against the member for failing to adequately respond to 15 unsubscribe requests submitted by the complainant on behalf of 15 different customers.
2. The aggregator of the member was also informed of this formal complaint.

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### Member's response

3. The member responded that all the complaints lodged referred to Telkom customers. The member explained that they were connected to Telkom through the aggregator, which acted as their gateway.
4. The member stated that for them to respond to WASPA's unsubscribe requests on the WASPA portal, the aggregator needed to provide the necessary data, including the unsubscription of the number, proof of subscription or MT logs, the requested refund, and a confirmation SMS sent to the customer regarding the unsubscription.
5. The member noted that their failure to comply with the Code was due to the aggregator's inability to provide the required data in a timely manner. To support this, the member attached email threads exchanged with the aggregator, which clearly demonstrated that the aggregator either failed to provide the necessary data, or that the data provided was incomplete, despite various follow-up emails from their side.

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### Sections of the Code considered

6. The following sections 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”.

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## Decision

7. The member had a procedure allowing customers to lodge complaints, and the member had acknowledged receipt of the unsubscribe complaints expeditiously while also following up with the aggregator numerous times to ensure that they could respond to WASPA’s requests. 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.

8. 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 before and after it had been escalated by WASPA.

9. 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 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.

10. 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.

11. Therefore, the member is found in breach of clauses 5.14, 7.5, and 24.24 of the Code.
12. The member made real attempts to respond to the complaint and unsubscribe requests, and there have been no previous formal adjudications against the member relating to the cited breaches, which are considered as mitigating factors.
13. In conclusion, the complaint is upheld.

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## **Sanctions**

14. The member is fined as follows:
  - 14.1. R5,000.00 for the breach of clause 5.14 of the Code;
  - 14.2. R5,000.00 for the breach of clause 7.5 of the Code; and
  - 14.3. R5,000.00 for the breach of clause 24.24 of the Code.
15. All fines are suspended for 6 months on condition that no further breaches of these clauses occur within this period.
16. Any subscribed customers must be immediately unsubscribed from the member's service and refunded in full.
17. Proof of the service unsubscription and full refund to be provided to WASPA within 7 days of receipt of this adjudication report.

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## **Matters referred back to WASPA**

18. 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.
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