



Report of the Adjudicator

Complaint number	#60735
Cited WASPA Members	TT Mbha TV (1989)
Notifiable WASPA Members	Akinga (1944)
Source of the complaint	WASPA
Complaint short description	Unsubscribe requests
Date complaint lodged	2024-09-17
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, suspended for 6 months on condition that there is no further breach of the same clause within this period.</p>
Other sanctions	N/A

Is this report notable?	Not notable
Summary of notability	N/A

Initial complaint

1. This complaint was lodged by the WASPA Secretariat (“the Complainant”) and relates to a total of 5 (five) unsubscribe requests that were escalated as the requests had not been satisfactorily resolved by the Member and the reason given for the escalation was that the Member failed to respond to the unsubscribe query.
 2. The Member had also failed to provide the relevant records as requested.
 3. The aggregator of the Member was also informed of this formal complaint.
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Member’s response

4. The Member states that they understand the seriousness of the allegations and extended their sincerest apologies to the affected customers for any inconvenience, frustration, or financial burden caused by the issues outlined in the complaint.
5. The Member submitted that they thoroughly reviewed the complaint and conducted a detailed internal investigation. The Member submitted that it provided a comprehensive log of subscriptions and unsubscriptions for each customer named in the complaint and they submitted that this log provides a clear record of interactions with their services.
6. The Member submitted further that they value their customers and are committed to providing them with reliable and transparent services that comply with the WASPA Code of Conduct. To rectify the situation, the Member is willing to compensate each customer for any expenses they may have incurred in relation to their services. Furthermore, they are taking steps to prevent similar incidents from occurring in the future.
7. The Member states that they believe that their proposed actions demonstrate their commitment to resolving this matter fairly and regaining the trust of their customers and WASPA.

Sections of the Code considered

8. The following sections of the WASPA Code of Conduct (“the Code”) 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 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

9. At no point in their response did the Member deny or provide any argument against the breach of clauses 5.4 and 7.5 of the Code referred to above.
10. The Member has submitted that they have provided a comprehensive log of subscriptions and unsubscriptions for each customer named in the complaint and that this log provides a clear record of the customers’ interactions with their services.
11. In my view it remains the obligation and duty of the Member to comply with the provisions of the Code.
12. Based on the fact that the 5 (five) unsubscribe queries were escalated shows that the Member did not acknowledge receipt of complaints expeditiously or respond within a reasonable period of time.

13. I therefore find that the Member is in breach of clauses 5.14 and 7.5 of the Code due to their failure to manage the unsubscribe requests in a timely manner and for their failure to provide the complete records as required
 14. However, I do not find the Member to be in breach of clause 24.24 of the Code.
 15. The complaint is accordingly upheld for the breach of clauses 5.14 and 7.5 of the Code.
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Sanctions

16. No similar adjudications against the Member have been brought to my attention.
 17. The Member is fined as follows:
 - 17.1. R5 000.00 for the breach of clause 5.14 of the Code;
 - 17.2. 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;
 18. The Member is to pay the amount of R5 000.00 within the timeframe set out in clause 24.41 of the Code.
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General

19. All subscriber numbers mentioned in the complaint must be unsubscribed and must receive a full refund. If the Member cannot identify the specific services subscribed to, all services associated with these numbers must be unsubscribed and refunded. The refund should cover the period from the initial unconsented subscription to the date of the last billing. Should the Member or Akinga be unable to determine this period, the customer's Telkom bill reflecting these charges will serve as sufficient documentation.
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Matters referred back to WASPA

20. 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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