



## Report of the Adjudicator

Complaint number	<b>#60740</b>	
Cited WASPA members	<b>PM CONNECT AFRICA (Membership no: 1763)</b>	
Notifiable WASPA members	<b>None</b>	
Source of the complaint	<b>WASPA</b>	
Complaint short description	<b>Unsubscribe Request</b>	
Date complaint lodged	<b>2024-09-17</b>	
Date of alleged breach	<b>July 2024</b>	
Applicable version of the Code	<b>17.9</b>	
Clauses of the Code cited	<b>4.12; 5.14; 5.17; 7.5; 24.24</b>	
Related complaints considered	<b>60652; 60722; 60735; 60061</b>	
Fines imposed	<b>For Breach of Clause 5.14 a fine imposed of</b> payable to WASPA within 7 days of receipt of this adjudication. <b>For Breach of Clause 5.17 a fine imposed of</b> payable to WASPA within 7 days of receipt of this adjudication. <b>For Breach of Clause 7.5 a fine imposed of</b> payable to WASPA within 7 days of receipt of this adjudication. <b>For Breach of Clause 24.24 a fine imposed of</b> payable to WASPA within 7 days of receipt of this adjudication.	<b>R 5 000.00</b>  <b>R10 000.00</b>  <b>R 5 000.00</b>  <b>R 5 000.00</b>

Other sanctions	<b>The Member is further Sanctioned in terms of Clause 24.43 (a) of the code to refund the customer within 7 days of receipt of this adjudication</b>
Is this report notable?	<b>Not notable</b>
Summary of notability	<b>n/a</b>

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### Initial complaint

1. This complaint was dealt with using the informal complaint process and this adjudication is the result of escalation to a formal complaint process.
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 was cited:
  - 3.1 The Member failed to respond to the unsubscribe query.
  - 3.2 The Customer refund has been unreasonably delayed.
  - 3.3 Member failed to provide logs as requested and required.
4. Details of complaint under unsubscribe requests #7232090.
 

Mobile number : REDACTED

Customer name : REDACTED

Customer email : REDACTED

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 4.12; 5.14; 5.17; 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 responded that this is an MTN Customer and MTN is responsible for the marketing and do not have visibility to provide logs for proof of subscription and reached out to MTN to gather logs to action the complaint.
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### **Complainant's response**

9. No further response noted.
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### **Member's further response**

10. The Member responded on 25 September 2024 advising the complainant they are still awaiting feedback from MTN and requested MTN to provide the information directly to the Complainant.
  11. On 2 October logs were provided by OnePin for the customer confirmed.
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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:

#### Fraud prevention

4.12. If a member becomes aware that one or more customers have been billed and/or joined a service as a result of fraudulent activity (e.g. malware installed on mobile handsets), the member must remove all affected customers from the service and refund those customers any resulting charges.

#### 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.

#### Refunds

5.17. Any refunds provided by members to customers must be provided either in South African Rands, air-time or any other form acceptable to the customer. Refunds must not cause the customer to incur any bank charges, or alternatively must compensate the customer for any bank charges incurred. Refunds must not be unreasonably delayed.

#### 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.

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## **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. No submissions were made in substantiation of any fraudulent activity (e.g. malware installed on mobile handsets) resulting in a loss to the customer. Therefore, the Member is not found to be in breach of clause 4.12 of the Code.
15. The member did not adhere to the positive obligation placed on Members to acknowledge receipt of the unsubscribe complaints and to ensure their systems are equipped to deal with such complaints and resolutions thereof expeditiously. The member opted to only address the complaint after the fact and therefore does not fall within the ambit of *within a reasonable period of time*. Therefore, the member is found in breach of clause 5.14 of the Code.

16. The Member made acknowledgements of the processing of a refund during their first communication but in the latter any communication referring to the same subject matter is omitted and the client referred to MTN for a refund, unreasonably delaying the refund process and therefore found in breach of clause 5.17 of the Code.
  17. 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.
  18. 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 and was non-compliant to the requirements a set out. As a result, the member is found in breach of clause 24.24 of the Code.
  19. The Member is therefore found to be in breach of clauses 5.14; 5.17; 7.5 and 24.24 of the WASPA Code of Conduct, and the complaint in terms thereof upheld.
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## Sanctions

20. 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.
21. 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.
22. 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.
23. Based on the aforementioned, the following sanctions are imposed:

23.1	For Breach of Clause 5.14	a fine imposed of R5 000.00 payable to WASPA within 7 days of receipt of this adjudication.
23.2	For Breach of Clause 5.17	a fine imposed of R10 000.00

- 24.3 For Breach of Clause 7.5 *payable to WASPA within 7 days of receipt of this adjudication.*  
a fine imposed of R5 000.00  
payable to WASPA within 7 days of receipt of this adjudication.
- 24.4 For Breach of Clause 24.24 a fine imposed of R5 000.00  
payable to WASPA within 7 days of receipt of this adjudication.
24. The Member is further Sanctioned in terms of Clause 24.43 (a) of the code to refund the customer within 7 days of receipt of this adjudication.
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### **Matters referred back to WASPA**

25. None noted.
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