



Report of the Adjudicator

Complaint number	#60809
Cited WASPA Members	Ndoto Media (1948)
Notifiable WASPA Members	Akinga (1944)
Source of the complaint	WASPA
Complaint short description	Unsubscribe requests
Date complaint lodged	2024-10-01
Date of alleged breach	September / October 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, suspended for 6 months on condition that there is no further breach of the same clause within this period.</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>

	R5 000.00 for the breach of clause 24.24 of the Code, suspended for 6 months on condition that there is no further breach of the same clause within this period.
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 11 (eleven) 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 and to provide proof of subscription.
2. The Member had also failed to provide the relevant records and/or logs as requested.
3. The aggregator of the Member was also informed of this formal complaint.

Member’s response

4. The Member confirmed that the numbers have been unsubscribed via Akinga and attached the relevant spreadsheet along with a screenshot of a confirmation email from Akinga.
5. The Member submitted that previously they were able to unsubscribe and process refunds manually using the dashboard provided by Akinga. This dashboard had allowed the Member to access logs that could be shared with customers as supporting evidence. The Member submitted that, unfortunately, this dashboard is no longer available to them.
6. Currently the Member sends the unsubscription request list directly to Akinga, who in turn handles the cancellations. In some cases, Akinga receives alerts from WASPA, checks the relevant ticket numbers and MSISDN using the Timwe CC tool, confirms the cancellations, and updates the WASPA query before passing it on. However, the

Member submitted that Akinga no longer has access to the historical logs needed to substantiate refunds.

7. The only confirmation the Member had was an email from Akinga stating that the subscriptions had been cancelled but, without the detailed logs, the Member was unable to provide sufficient evidence for the refunds.
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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 any of the clauses of the Code referred to above.
10. In my view it remains the obligation and duty of the Member to comply with the provisions of the Code.

11. I therefore find that the Member is in breach of clauses 5.14, 7.5, and 24.24 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 and/or logs as required
 12. The complaint is accordingly upheld.
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Sanctions

13. Given the fact that the Member has already been fined R5 000.00 in Case #60735 for the breach of clause 5.14 of the Code, I will suspend all fines as set out in paragraph 14 below.
 14. The Member is fined as follows:
 - 14.1. R5 000.00 for the breach of clause 5.14 of the Code, suspended for 6 months on condition that there is no further breach of the same clause within this period;
 - 14.2. 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;
 - 14.3. R5 000.00 for the breach of clause 24.24 of the Code, suspended for 6 months on condition that there is no further breach of the same clause within this period.
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General

15. 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

16. 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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