



Report of the Adjudicator

Complaint number	#60811
Cited WASPA Members	YellowDot Mobile (1950)
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 15 (fifteen) 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 wished to assure WASPA that it conducts fair and honest business practices in the telecommunications industry in South Africa and will always endeavour to stick to all rules and regulations that govern the industry that they operate in.
5. Regarding the escalations from the Unsubscribe System which were not resolved on time resulting in the formal complaint being raised, the Member wished to highlight that post migration from the Old SDP to the new SDP at Telkom, the Member no longer had the same access to unsubscribe users on its own and process refund as used to be the case in the past where all queries of this nature were resolved on time.

6. Faced with the challenge of failing to unsubscribe user on the new SDP, the Member reached out to the Telkom aggregator on 29 August 2024 for help with the appropriate API keys in order to be able to unsubscribe user as logged by WASPA.
 7. The Member made several follow ups with the aggregator seeking assistance with the issue and the aggregator kept assuring them that they were working on the solution.
 8. The Member submitted that on the 4 September 2024 they wrote to WASPA to acknowledge receipt of the Unsubscribe Queries and highlighting the challenges that they were facing with the process on the new SDP and the communication that they had done with the aggregator.
 9. The Member submitted that on the 10 September 2024 they were eventually put in touch with the SDP technical team to assist with the same query of providing them with the Unsubscribe API. All this was well before receiving formal complaints.
 10. A series of back and forth e-mails and calls ensued with the SDP technical team to help with the Unsubscribe API until on the 19 September 2024 when the SDP technical team wrote to advise that all the MSISDNs that were from the Unsubscribe system had already been Unsubscribed from the system on the 30 August 2024.
 11. The Member submitted that it is against this background that they failed to resolve the Unsubscribe queries on time and submitted further that they will continue taking proactive steps to prevent such issues from happening in the future especially after resolving the technical issues that were impeding speedy resolutions.
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Sections of the Code considered

12. 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

- 13. 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.
 - 14. In my view it remains the obligation and duty of the Member to comply with the provisions of the Code.
 - 15. 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
 - 16. The complaint is accordingly upheld.
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Sanctions

- 17. Given the fact that the Member has already been fined R5 000.00 in Case #60737 for the breach of clause 5.14 of the Code, I will suspend all fines as set out in paragraph 18 below.
 - 18. The Member is fined as follows:
 - 18.1. 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;
 - 18.2. 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;
 - 18.3. 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

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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