



Report of the Appeals Panel

Complaint number	#61153
Cited WASPA members	YellowDot Mobile (1950)
Notifiable WASPA members	Not applicable.
Appeal lodged by	The Member
Type of appeal	Written appeal
Scope of appeal	<input checked="" type="checkbox"/> Review of the adjudicator's decision <input checked="" type="checkbox"/> Review of the sanctions imposed by the adjudicator
Applicable version of the Code	17.11
Clauses considered by the panel	24.40
Related complaints considered	#60142 and #60737
Amended sanctions	Not applicable.
Appeal fee	The appeal fee is forfeited by the Member.
Is this report notable?	Not notable.
Summary of notability	Not applicable.

Initial complaint

1. This formal complaint was lodged by WASPA (“the Complainant”) as a result of the Member’s non-compliance with the sanction imposed by the Adjudicator in complaint #60142, which was communicated to the Member on 2024-12-13.
 2. The Member was fined the following amounts in Adjudication Report #60142:
 - 2.1. R5 000.00 for breach of clause 5.1;
 - 2.2. R5 000.00 for breach of clause 5.4;
 - 2.3. R10 000.00 for breach of clause 5.5;
 - 2.4. R5 000.00 for breach of clause 8.8;
 - 2.5. R10 000.00 for breach of clause 21.3; and
 - 2.6. R10 000.00 for breach of clause 21.11.
 3. The Member was also strongly encouraged to terminate the services of the advertising agencies that had conducted the non-compliant promotional campaigns referred to in complaint #60142.
 4. The formal complaint was sent to the Member on 2025-03-14, and the Member responded on 2025-03-27, noting that it was under the impression that the matter had been resolved.
 5. The Member received an invoice from the WASPA Secretariat on 2025-03-31, and the WASPA Secretariat sent a payment reminder to the Member on 2025-04-11.
 6. On 2025-05-05, the WASPA Accounts Department confirmed that payment was still outstanding.
 7. The complaint was assigned to adjudication on 2025-05-05.
 8. The Adjudication Report was published on 2025-06-03.
 9. The Member requested to appeal and provided their appeal submission on 2025-07-14.
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Sections of the Code considered

10. The following section of the WASPA Code of Conduct (“the Code”) is considered herein and reads as follows:

“24.40. If no appeal is lodged, or if the adjudicator has specified certain sanctions as not being suspended pending an appeal, the failure of any member to comply with any sanction imposed upon it will itself amount to a breach of the Code and may result in further sanctions being imposed. WASPA itself may initiate a further complaint against a member for non-compliance with any sanctions”.

Adjudicator’s findings

11. The Adjudicator found the Member in breach of clause 24.40 of the Code.
 12. In determining the appropriate sanctions to be imposed on the Member, the Adjudicator considered the following factors:
 - 12.1. Any prior successful complaints against the Member within the past three years;
 - 12.2. Any previous successful complaints of a similar nature;
 - 12.3. The nature and severity of the breach; and
 - 12.4. Any actions undertaken by the Member to resolve the issue.
 13. The Adjudicator fined the Member R 15 000.00 for breaching clause 24.40, payable to WASPA within seven days of receipt of the Adjudication.
 14. Additionally, the Adjudicator directed the Member to comply with the sanction set out in Adjudication #60737 within seven days of receiving notification from WASPA.
 15. The Adjudicator indicated that if the Member did not comply with any of the aforementioned sanctions, its membership would be suspended until full compliance was met. "Suspension" referred specifically to the suspension of the Member’s WASPA membership, whereby all mobile network operators would be duly notified.
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Member’s Appeal submission

16. The Member acknowledged receipt of the enforcement notice from WASPA dated 2025-06-02, which outlined the alleged breaches of the Code and the associated financial penalties.
17. The Member stated that it had already settled the fines imposed by the Adjudicator that are now subject to dispute in this appeal.
18. The Member also stated that the breaches originated from circumstances beyond its control, but that it nevertheless complied and paid the fines before the Adjudicator’s Report was issued.

19. The Member qualified its statement by highlighting that the VAS industry in South Africa was facing serious headwinds and that margins had been eroded over the years due to high marketing costs, industry saturation, low billing success rates, and reduced revenue shares.
 20. The Member submitted that the imposition of further sanctions posed an existential viability threat to a small business such as its own, which had already struggled to cover the original set of hefty fines cited in the original adjudication.
 21. Accordingly, the Member requested a formal reconsideration of the findings and penalties imposed, as well as a suspension of the further fines, having already paid the original set of fines.
 22. The Member provided no documentary evidence to substantiate its claim that it had paid the fines at the heart of this dispute.
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Deliberations and findings

23. The Appeal Panel requested documentary evidence of any monies paid by the Member to WASPA in relation to this appeal.
24. The WASPA Secretariat confirmed that the R45 000.00 owing to WASPA for fines imposed under Adjudication Report #60142 was paid to WASPA on 2025-05-07.
25. The Member paid the outstanding fines two days after the complaint had been assigned to adjudication, and the Adjudication Report was later published on 2025-06-03.
26. Therefore, the Member's allegation that it paid the amount owing to WASPA prior to the publication of the Adjudication was factually correct.
27. However, the fines under Adjudication Report #60142 became due and owing 5 working days after WASPA had issued an invoice to the Member on 2025-03-31 under Adjudication Report #60142, as illustrated in clause 24.41 that reads as follows: "The respondent must provide WASPA with written confirmation of compliance with any applicable sanctions within ten (10) working days of receiving the adjudicator's report. The respondent must pay any applicable fines imposed by an adjudicator within five (5) working days of receipt of invoice. The respondent must provide proof of payment of any applicable fines if requested to do so by WASPA". The sanction remained outstanding, and the Member was in continuing breach of the Code. Therefore, the Adjudicator was correct to have found the Member in breach of 24.40 of the Code.

28. Furthermore, the Member lodged its appeal on 2025-07-14, which was approximately 30 working days after the publication of Adjudication Report #61153. As per clause 24.54: “Any member found to have breached the Code of Conduct by an adjudicator has the right to appeal for a review of the adjudicator's decision, and/or a review of the sanctions imposed by the adjudicator. The member must notify WASPA of its intention to appeal within ten (10) working days of receipt of the adjudication”. No reasons were provided by the Member as to this delay. Therefore, the Member’s appeal is subject to a procedural irregularity.
29. In addition, the Member failed to pay the R15 000.00 sanction that was imposed by the Adjudicator in Adjudication #61153, which was officially published on 2025-06-03. At the time the sanction was due, there was no appeal lodged by the Member that could have suspended the enforcement of the penalties. As a result, the Member did not comply with the requirements set forth in the adjudication ruling, and the sanction remained outstanding.
30. Given the late submission of the appeal and the Member’s continued non-compliance with the imposed sanctions, the Appeal Panel has determined that the appeal is dismissed on procedural grounds.
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Amendment of sanctions

31. The following sanctions under Adjudication Report #61153 remain in force:
- 31.1. A fine of R15 000.00 levied against the Member for its breach of clause 24.40 of the Code, to be paid within 7 days to WASPA after having received notice thereof.
 - 31.2. The Member’s suspension from WASPA until the fine is paid, and the relevant Mobile Network Operators are to be notified accordingly.
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Appeal fee

32. The appeal fee is forfeited by the Member.
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