Report of the Adjudicator

Complaint number	#62693
Cited WASPA members	Digital Virgo ZA (Pty) Ltd (Membership no: 2044)
Notifiable WASPA members	n/a
Source of the complaint	WASPA Compliance Department
Complaint short description	Subscription service advertised on websites primarily aimed at children
Date complaint lodged	2026-09-18
Date of alleged breach	2026-09-10 and 2026-09-11
Applicable version of the Code	v17.14
Clauses of the Code cited	5.4; 22.4 (read with 22.1)
Related complaints considered	41520, 60824, 60886, 61079
Fines imposed	The Member is fined R35 000 for breach of clause 22.4 read with clause 22.1.

Other sanctions	The Member must, within ten (10) working days of receiving this report, provide WASPA with written confirmation of the steps it has taken to ensure that the PlayVOD service is not advertised on any website, application or other platform that is aimed at children or would reasonably be expected to be particularly attractive to children, together with proof that instructions to this effect have been given to its affiliates and advertising suppliers, and a description of the controls it applies to advertising placed through its affiliates.
Is this report notable?	n/a
Summary of notability	n/a

Initial complaint

1. The WASPA Compliance Department ("Complainant") lodged this complaint against the Member on 18 September 2026. The WASPA Secretariat sent the formal complaint to the Member on 21 September 2026.

2. The Complainant stated that whilst monitoring, testing services and conducting compliance checks of test results, it identified a service which does not comply with the requirements as set out in the WASPA Code of Conduct ("Code"). The Complainant provided an outline of the results of two tests conducted.

3. The Complainant stated that on 10 September 2026 a test was conducted on the Vodacom network. The tester was browsing on a website with the URL http://www.gamekidgame.com/ (screenshots provided), and found the following banner advertisement on the site:

   "PlayVod UNLIMITED STREAMING ACCESS WATCH NOW Access all your favorite movies and TV shows, Subscription R10/day. One day free trial"

4. The tester clicked on the advert and was directed to the Vodacom Network Hosted Confirmation Page for a subscription service called 'PlayVod', charged at R10.00 per day. The tester elected to stop the test at that point as there were breaches of the Code during the subscription acquisition flow for the 'PlayVod' subscription service.

5. The Complainant stated further that on 11 September 2026 a test was conducted on the Vodacom network. The tester was browsing on a website with the URL https://a05.4kzgame.com/ (screenshots provided), and found the following banner advertisement on the site:

   "Unlimited Streaming Available Watch Movies, Series & Exclusive Content Anytime. PlayVOD R10/day START Download PLAYVOD 24H FREE TRIAL T&C APPLY. R10/DAY. Safe and Fast access to PlayVOD R10/day. Top entertainment."

6. The tester clicked on the advert and was directed to the Vodacom Network Hosted Confirmation Page for a subscription service called 'PlayVod' charged at R10.00 per day. The tester elected to stop the test at this point as there were breaches of the Code during the subscription acquisition flow for the 'PlayVod' subscription service.

7. The Complainant submitted that in both cases the tester had engaged with a website that was designed for use by very young children, and when engaging with the content was directed to an advertisement for a subscription service.

8. The Complainant alleged that the Member was in breach of clauses 5.4 and 22.4 (read with clause 22.1).

Member's response

9. The Member did not respond to the complaint within the ten (10) working days provided for in clause 24.23 of the Code. However, it provided an email response on 7 October 2026, one working day late, which has been accepted.

10. In its response the Member stated that:

    10.1 it does not intentionally target children or children-focused placements in any of its campaigns;

    10.2 its advertisements may, however, appear on websites that have not been correctly categorised by Google Ads;

    10.3 it regularly monitors its placements and proactively excludes any children-related websites or placements that it identifies, and it reviews and excludes all placements reported to it, but it is not possible to guarantee 100% exclusion, as website categorisation depends on Google's classification and may not always be accurate; and

10.4 it remains committed to continuously monitoring its campaigns and taking the necessary steps to prevent its advertisements from appearing on inappropriate placements.

11. The Member did not provide any documents or other evidence in support of the statements made in its response.

Sections of the Code considered

12. The alleged breaches took place on 10 and 11 September 2026. Version 17.14 of the Code was in force from 22 July 2025 to 15 September 2026 and is the version that applies to this complaint.

13. The Complainant cited clauses 5.4 and 22.4 (read with 22.1) of the Code.

14. Clauses 2.2, 3.1, 3.6, 3.7 and 15.1 of the Code were also considered.

15. No other clauses were assigned by WASPA.

Decision

16. I have considered the complaint on the basis of the submissions and evidence provided by the Complainant, together with the Member's statement in response.

Alleged breach of clause 22.4 (read with clause 22.1)

17. Clause 22.4 of the WASPA Code provides that subscription services must not be intentionally targeted at children. A child is any natural person under 18 years of age (clause 22.1). A breach of clause 22.4 is established if three things are shown:

17.1 the service is a subscription service;

17.2 the service was targeted at children; and

17.3 the targeting was intentional.

18. On the first issue, the test reports and screenshots provided by the Complainant show that both advertisements, which were found on the websites browsed by the tester, promote "PlayVOD" at "R10/day", and that both advertisements directed the tester to a landing page that states *"Subscription R10/day"*.

19. The PlayVOD service is clearly a service for which a customer is billed on a repeated, regular basis without confirming each individual transaction, and is therefore a "subscription service" as defined in clause 15.1 of the Code.

20. The Complainant identified the Member as the provider of the PlayVOD service. The Member does not dispute this in its response.

21. In the absence of any contradictory evidence, I find that PlayVOD is a subscription service, as defined in the Code, and is the Member's service.

22. On the second issue, the following is noted:

    22.1 the URL for the website found at URL http://www.gamekidgame.com/ includes the wording "*gamekidgame*";

    22.2 the menu on this website lists categories such as "*Dress Up Games*", "*Makeover Games*", "*Decorating Games*", "*Princess Games*" and "*Coloring Games*";

    22.3 the game tiles on the webpage for which a screenshot was provided include "*Games for Kids*", "*Paw Patrol Games*", "*Barbie Games*", "*MLP Games*", "*Mickey Mouse*", "*Hello Kitty*" and "*Dora*";

    22.4 the banner advert for the PlayVOD service appears in the body of the webpage, among the game tiles;

    22.5 the website found at the URL https://a05.4kzgame.com/ shows the name "4kz Game" in a brightly coloured cartoon logo;

    22.6 the screenshots provided show game tiles featuring cartoon animals and characters, colouring pictures, a toy piano, simple puzzles and similar games;

    22.7 the banner advert for PlayVOD appears on the site, under the 4kz Game logo, as a full-screen page with the words "START" and "Download" and an arrow button.

23. Based on the names and other visual elements used for both websites, and the content presented and promoted on both websites, I am satisfied that both websites are clearly aimed at children (natural persons under the age of 18), or would reasonably be expected to be particularly attractive to children. I agree with the Complainant that most of the content presented on both websites is clearly designed for young children.

24. The next issue to be considered is whether the banner adverts for the PlayVOD subscription service, which appeared on two different websites aimed at children, were targeted at children.

25. The Code does not define "*targeted*". However, in terms of clause 2.2 of the Code, this word must be given its ordinary meaning, which is to aim or direct something at a particular person or group.

26. Where an advertisement for a subscription service is placed on a website that is designed for young children as the primary audience who will access and use that website, I am satisfied that the advertisement has been aimed or directed at children.

27. Clause 22.4 also requires the targeting to be intentional. The appeals panel in complaint #41520 considered what "intention" means for the purposes of this clause. Relying on the South African law of delict, the panel held that intention is present not only where a member sets out to target children, but also where the member knows that its advertisements could be targeted at children and resigns itself to that possibility by carrying on with the advertising. In that matter the panel found intention established because the member knew that its advertising on YouTube might reach children, and it continued to advertise there anyway.

28. The same approach was followed in complaints #60886 and #61079, and the appeals panel in #61079 confirmed the adjudicator's finding of a breach of clause 22.4.

29. The Member denies that it intentionally targets children. That denial addresses only an intention to set out to target children. The question is whether the Member had intention in the wider sense described in complaint #41520. That turns on two things, namely whether the Member foresaw that its advertising for PlayVOD could appear on websites aimed at children, and whether it carried on advertising regardless. As the Member's state of mind cannot be observed directly, it must be inferred from the facts.

30. On the first question, I am satisfied that the Member foresaw this possibility for the following reasons.

    30.1 In complaint #60824 (decided and published on 24 January 2025), the Member was found to have breached clause 22.4 because an advertisement for one of its subscription services, placed through Google Ads, appeared in an application designed for very young children. In that complaint the Member confirmed that it had introduced stricter controls to avoid placing advertisements alongside

children's content. The Member therefore knew, at least from that time, that its advertising placed through Google and similar channels could appear on platforms aimed at children.

30.2 In its response to this complaint, the Member acknowledges that its advertisements may appear on websites that Google Ads has not categorised correctly, and that it cannot guarantee that they will be excluded from such websites.

31. On the second question, I am satisfied that the Member carried on regardless. With the knowledge described above, it continued to market PlayVOD through Google and through an affiliate. Its advertising appeared on two different websites aimed at children, on consecutive days and through two different routes. This was not a single, isolated placement. On the Member's own account, it relies on removing such placements after they have been identified or reported to it, rather than preventing them.

32. The Member's explanation does not assist it. It has not provided any evidence of the monitoring or exclusions it says it carries out, such as exclusion lists or placement reports. Its explanation also relates only to advertising placed through Google, and does not address the advertisement placed through an affiliate on gamekidgame.com on 10 September 2026. The argument that the placement or filtering of advertisements on a third-party platform cannot be fully controlled was also raised and rejected in complaints #41520, #60886 and #61079. If anything, the explanation confirms that the Member was aware of the risk and accepted it.

33. The fact that the advertisements were placed by an affiliate and through Google does not change this conclusion. Clause 3.1 of the Code makes services marketed by a member's affiliate or supplier subject to the Code as if that party were a member. Clause 3.6 requires the Member to ensure that its affiliates and suppliers market its services in a manner consistent with the Code, and clause 3.7 makes the Member liable for breaches resulting from services those parties market. A member cannot avoid its obligations under clause 22.4 by placing its advertising through third parties.

34. On the record before me, I find that the Member foresaw the real possibility that advertising for PlayVOD would be placed on websites aimed at children, and that it continued to advertise through the same channels, thereby accepting that possibility.

Intention, in the sense described by the appeals panel in complaint #41520, has therefore been established.

35. The Member is in breach of clause 22.4 (read with clause 22.1), and the complaint is upheld in this regard.

Alleged breach of clause 5.4

36. Clause 5.4 of the Code provides that Members must have honest and fair dealings with their customers. The allegations of breach of clause 5.4 flow from the same conduct by the Member, namely the advertising of the PlayVOD service on websites aimed at children.

37. In complaint #61079, the appeals panel held that clause 5.4 is a general clause, intended for conduct that is clearly unfair or dishonest but is not addressed by a more specific clause of the Code. Where a specific clause directly covers the member's conduct, and there is no additional conduct that would justify a separate finding, a finding under clause 5.4 as well would amount to a double penalty for the same conduct. On that basis the appeals panel set aside the adjudicator's finding under clause 5.4 in a complaint that, like this one, concerned the advertising of a subscription service on a platform aimed at children.

38. Clause 22.4 of the Code directly covers the Member's conduct and the Complainant has not identified any other act or omission by the Member in its complaint that it alleges was dishonest or unfair.

39. The complaint under clause 5.4 is therefore not upheld.

Sanctions

40. In terms of clause 24.34 of the Code, when determining appropriate sanctions I must take into consideration:

    40.1 any previous successful complaints made against the Member in the past three years;

    40.2 any previous successful complaints of a similar nature;

    40.3 the nature and severity of the breach;

    40.4 the loss suffered by the Complainant;

40.5 any efforts made by the Member to resolve the matter; and

40.6 any other factors that I consider material.

41. Complaint #60824 was upheld against the Member, and the adjudicator's report was published on 24 January 2025, within the past three years. That complaint was of exactly the same nature and the Member was found to have breached clause 22.4 and was fined R25 000.

42. Complaint #62570, lodged against the Member on 18 August 2026 and citing the same clauses, was still pending at the date of this report. As no finding has been made in that complaint, I have not taken it into account.

43. In complaint #60824, the Member stated that it had introduced stricter controls to prevent its advertising appearing alongside children's content. In its response to this complaint, the Member again stated that it regularly monitors its placements, excludes children's websites that it identifies, and reviews and excludes placements reported to it.

44. However, these statements were not supported by any evidence. They also say nothing about the controls applied to advertising placed through the Member's affiliates.

45. The present breach has occurred some 20 months after the report in complaint #60824 was published and it appears that the earlier sanction has not secured compliance by the Member.

46. I am therefore not satisfied that the Member has shown that it took reasonable steps, as contemplated in clause 3.7, to ensure that its affiliates and suppliers market its services in compliance with the Code, and I give these statements little weight.

47. The advertising of subscription services to children is expressly prohibited by the Code and must be viewed in a serious light. Children are less able than adults to understand that they are entering into an ongoing paid commitment when subscribing to a service like the one advertised in this complaint.

48. These are all significant aggravating factors.

49. I have taken into account that the Member has again undertaken to continue monitoring its campaigns. However, based on the previous unmet assurances given by the Member, this carries limited weight.

50. No other mitigating factors have been placed before me or appear from the record.

51. Fines previously imposed for breaches of clause 22.4 have included R10 000 (complaint #61079, a first breach), R25 000 (the Member's own first breach in complaint #60824) and R50 000 (complaint #41520, where the member had other upheld complaints against it).

52. This is the Member's second breach of clause 22.4 within two years and a higher fine than the one imposed in complaint #60824 is therefore warranted.

53. In light of the above, the following sanctions are imposed:

    53.1 The Member is fined R35 000 for its breach of clause 22.4 (read with clause 22.1) of the Code.

    53.2 In terms of clause 24.43(a) of the Code, the Member must, within ten (10) working days of receiving this report, provide WASPA with written confirmation of the steps it has taken to ensure that the PlayVOD service is not advertised on any website, application or other platform that is aimed at children or would reasonably be expected to be particularly attractive to children. This confirmation must include proof that instructions of this nature have been given by the Member to its affiliates and advertising suppliers. The confirmation must also describe the controls the Member applies to advertising placed through its affiliates, and not only through Google.
