



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Integrat
Information Provider (IP):	TIM we
Service Type:	Subscription Service
Complainant:	Karen Hohenstein
Complaint Number:	10284
Code Version:	10.0
Advertising Rules Version:	"Not applicable"

Complaint

Complaint 10284 is the escalation of unsubscribe request 389840 regarding a refund request.

The formal complaint was sent to the WASP on 2010-08-20 and they responded on 2010-08-20.

The WASP provided a further response on 2010-08-26.

The complainant responded on 2010-09-22 and informed that no refund was received.

The WASP responded on 2010-09-23 and 2010-09-27.

The complaint was closed due to no response from the complainant on 2010-10-26 but the complainant however responded on 2010-10-26 and the complaint was re-opened. Due to the fact the complaint was re-opened the WASP was given an opportunity to provide an additional response.

WASP responded on 2010-10-28.

Complainant provided further feedback on 2010-10-29.

Complainant complained of subscription process in respect of a subscription service. Following on her sending of an unsubscribe message to the WASPA member, the complainant was unsubscribed from the service and although no refund was initially offered, in the end a 50% refund was offered and paid as a sign of good faith.

Notwithstanding the foregoing, the complainant held that her complaint had not been resolved to her satisfaction due to the fact that she claims she never subscribed to the service but that this was done fraudulently.

Service provider's response

The service provider responded with details of how and when the subscription had occurred as well as details of how and when billing had occurred and details of removal from subscription to the service of the complainant and consequent refunding of 50% of monies deducted.

The service provider provided logs proving subscription as well as logs in terms of the WASPA Code for subscription services.

Sections of the Code considered

The service complained of falls within the ambit of the definition of a subscription service as set out in the Code of Conduct. The sections of the Code of Conduct applicable to this issue are sections 11 dealing with Subscriptions Services.

Decision

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her.

With reference to (i) the SP's response to the complaint, (ii) the complainant's reply, (iii) the logs accompanying the SP's response to the complaint, and (ii) the sections of the Code considered.

Prima facie it looks as if the mobile number in question did subscribe to the service and a PIN was entered. The Complainant however vehemently denies this being the case.

This case is almost identical to that of Case 9081 which I also adjudicated. In that case I similarly found the case troubling due to the clear frustration experienced by the Complainant. However, in that instance I was guided by the powers granted to me as Adjudicator namely that all I can do is decide the matter with reference to the Code and the facts at hand.

I once again wish to reiterate that if fraud or other nefarious criminal activities are being alleged, these will need to be taken up with the bodies having jurisdiction to decide these matters, namely the South Africa Police Services.

I am satisfied that the SP has dealt with the unsubscribe request and that the complainant has been validly unsubscribed from the service.

I am uncomfortable with the fact that it appears more than one Complainant is alleging fraudulent use of the mobile number with the same IP and SP. Accordingly I request that the situation be closely monitored.

It is therefore my decision after careful consideration of both the code and the intention behind the drafting thereof, and acting within the limitations of the authority granted to me, that the WASPA member/service provider has not fallen foul of the abovementioned sections.

Claim dismissed.

Sanctions

None