



REPORT OF THE ADJUDICATOR

Complaint reference number:	14669
WASPA member(s):	mobiJOBS (IP) and Integrat (SP)
Membership number(s):	IP 1189 / SP 0030
Complainant:	WASPA Secretariat
Type of complaint:	Subscription Services
Date complaint was lodged:	2011-09-01
Date of the alleged offence:	
Relevant version of the Code:	11.0
Clauses considered:	Clause 3.1.1, 11.2.1, 11.5, 11.6 and 11.10.2.
Relevant version of the Ad. Rules:	Not applicable
Clauses considered:	
Related cases considered:	Previously adjudicated cases 10279

Complaint

Formal complaint number 14669 is the escalation of unsubscribe request number 1206558 for failure to respond to this unsubscribe request.

The formal complaint was sent to the IP on 2011-09-06 and they responded on 2011-09-06.

The SP was also notified of this complaint on 2011-09-06 and responded on 2011-09-06 advising that the IP as no affiliation with them anymore.

Notwithstanding clarification by the Secretariat of the Code and the complaint procedure and requests to respond to the complaint in question the IP made no effort to update any unsubscribe request.

On the day this complaint was prepped (2011-09-27) for formal adjudication, the IP-still had 1336 unsubscribe requests that had not been attended to dating back to March 2011.

Service provider's response

The SP responded to the notification of the complaint to state that they are no longer affiliated with the IP and the IP does not use their infrastructure any more.

The IP failed to provide a response to the complaint or the unsubscribe request.

Sections of the Code considered

Section 3.1.1: Members will at all times conduct themselves in a professional manner in their dealings with the public, customers, other wireless application service providers and WASPA.

Section 11.9.14: If a consumer lodges a request with WASPA to be unsubscribed from a subscription service, the WASPA member concerned must honour that request within two working days (48 hours) of that request being passed on by WASPA.

Sections of the Advertising Rules considered

N/A

Decision

The SP is not in breach.

I find the IP to be in breach of the sections of Code as set out above due to their failure to respond to the Code as follows:

1. In re 3.1.1 – I feel that their failure to address the WASPA Secretariat's requests to be unprofessional.
2. In re 11.9.14 – they failed to action the unsubscribe request lodged with WASPA at all.

It also worth noting that at the time of prepping this case for formal complaint, the IP had 1336 unsubscribe requests outstanding.

I also looked at case 10279 wherein the IP was sanctioned and fined for automatically subscribing customers to his service. In that adjudication, the adjudicator set out that the IP had been moving from aggregator to aggregator due to his non-compliance. The SP at that time was also sanctioned. The IP has subsequently moved to at least one other SP who has also stopped providing them with services due to non-compliance with the WASPA Code.

Sanctions

The SP is not in breach and thus not sanctioned.

The IP is fined R25 000.

R10 000 of which is payable with 14 (fourteen) days of this adjudication being made available to it.

R15 000 of that is suspended pending response by the IP (in line with the Code of Conduct's requirements) within 1 month to all outstanding unsubscribe requests.