



REPORT OF THE ADJUDICATOR

Complaint reference number:	19833
WASPA member(s):	Cellfind (0019)
Membership number(s):	See above
Complainant:	Competitor
Type of complaint:	Breach of Code of Conduct
Date complaint was lodged:	2013-03-07
Date of the alleged offence:	2013-03-07
Relevant version of the Code:	12.0
Clauses considered:	1.5
Relevant version of the Ad. Rules:	N/A
Related cases considered:	N/A

Complaint

Complaint 19833 was logged by a competitor alleging that the WASP had breached a contract which the WASP had entered into with a Network Operator, namely Vodacom.

The complaint progressed as follows:

- Complaint 19833 was logged by a competitor regarding Section 1.5 of the code.
 - The formal complaint was sent to the WASP on 2013-03-13 and they responded on 2013-03-18.
 - The WASP requested on 2013-03-05 that the complaint be expedited for adjudication.
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WASP response

The WASP responded that they were not in breach of their contract with Vodacom. Furthermore that their contract with Vodacom had nothing to do with the Complainant and that they had furthermore not breached the Code of Conduct.

Due to the fact that all parties involved are privy to the formal response I am not going to repeat every element thereof here.

Sections of the Code considered

1.5 Existing agreements with operators

As well as complying with this Code, WASPA members must also comply with any existing contracts and agreements they have with network operators.

Decision

I agree with the WASP in that there has not been a breach of this clause or the Code of Conduct. It is up to Vodacom to allege a breach of their contract with the WASP and for WASPA to then follow up on that basis. Due to the principle of privity of contract, the Complainant has no legal basis on which to call a breach of contract.

Sanctions

I am going to dismiss the claim.