



REPORT OF THE ADJUDICATOR

Complaint reference number:	23958
WASPA member(s):	MTN Internal WASP Service (IWS)
Membership number(s):	0035
Complainant:	Public
Type of complaint:	Subscription service
Date complaint was lodged:	08/05/2014
Date of the alleged offence:	23/04/2014
Relevant version of the Code:	12.4
Clauses considered:	11.2; 11.10
Relevant version of the Ad. Rules:	Not applicable
Clauses considered:	Not applicable
Related cases considered:	None

Complaint

The complainant logged an unsubscribe request via the WASPA unsubscribe system on 23/04/2014. The complainant was unsubscribed, a refund was given but no proof of subscription was provided.

Service provider's response

The SP referred the complaint to its client, Welcome and Rachael (Pty) Limited, who is not a WASPA member. The SP's client responded by stating that they had made some changes to their information systems during the relevant time and certain data could not be recovered.

Sections of the Code considered

11.2. Subscription process

11.2.1. Customers may not be automatically subscribed to a subscription service as a result of a request for any non-subscription content or service. Customers may not automatically be subscribed to a subscription service without specifically opting in to that service.

11.2.2. Any request from a customer to join a subscription service must be an independent transaction, with the specific intention of subscribing to a service. A request from a subscriber to join a subscription service may not be a request for a specific content item and may not be an entry into a competition or quiz.

11.10. Subscription service directory and logs

11.10.2. When requested to do so by WASPA, a member must provide clear logs for any subscription service customer which include the following information:

- (a) proof that the customer has opted in to a service or services;
- (b) proof that all required reminder messages have been sent to that customer;
- (c) a detailed transaction history indicating all charges levied and the service or content item applicable for each charge; and
- (d) any record of successful or unsuccessful unsubscribe requests.

Decision

In the absence of any contrary proof from the SP (or its client), I find that the complainant was not validly subscribed to this service.

Therefore, there has been a contravention of section 11.2 of the WASPA Code.

The SP has also not provided clear logs as required by section 11.10 of the Code and I am not swayed by the cryptic response received from the SP's client in this regard.

I therefore find that there has also been a contravention of section 11.10 of the WASPA Code.

The complaint is accordingly upheld.

Sanction

I have been unable to find any previous complaints that have been lodged and/or upheld against the SP for complaints of a similar nature or at all.

As this is a first offence, the SP is issued with a formal warning to ensure that all of its clients comply with section 11 of the WASPA Code when providing subscription-based services.