



REPORT OF THE ADJUDICATOR

WASPA Member: MTN Internal WASP Service (IWS) (0035)

Service Type: Subscription

Complainant: Public

Complaint Number: 25771

Code Version: 13.0

Complaint

In essence, the complainant submitted that an unsubscribe request was not honoured timeously as required by the Code.

WASP response

The WASP stated that this service was terminated in December 2014 and was no longer active.

Sections of the Code considered

Clause 15.25 of the Code was identified, which states:

The processing of any service termination request must not be unreasonably delayed and must be honoured within two working days (48 hours).

Decision

The only issue currently before me is Clause 15.25, as cited above.

In an effort to better understand this matter, I requested logs from the WASP to show that the unsubscribe request was honoured within 48 hours in terms of Clause 15.25.

I received an email string and attachments. The logs appear *ex facie* to show that the last subscription message was received in December 2014. It does not, however, show what I was looking for: the receipt of an unsubscribe request, and a prompt unsubscribe action.

On reading the email chain, I saw the following mail on 29 January 2015:

Good day

I spoke to the vendor (ndzalama communications) telephonically to unsubscribe the customer.

They confirmed to me that they just did it. Apparently the first time it was raised with them the MSISDN given to them was too long.

Regards,
ishmael

So therefore, it appears that while the consumer may not have received any content after December 2014 (if I take the logs provided at face value), they were only unsubscribed on 29 January 2015 despite a previous request. This is particularly egregious given that the matter was lodged as an informal complaint on 20 January 2015. It also makes me somewhat doubt the veracity of the logs before me – given that the unsubscribe request was only successfully executed on 29 January, why were no messages received after 8 December 2014, when previously between 3 and 5 messages were sent a month?

I do not have to decide whether I accept the logs conclusively or not, as it is self-evident that the unsubscribe request was not executed in the required 48 hours, and that is the only issue before me.

The WASP is therefore in breach of Clause 15.25.

Sanctions

The consideration of sanctions is difficult in this matter. On the one hand, a breach of Clause 15.25 is not necessarily a serious one, and may occur as the result of any number of understandable and explainable situations. It is not a breach, in my opinion, that goes to the very core of WASPA ethics. In addition, if the logs are correct, the consumer stopped receiving messages in December, and no great harm was suffered from the delay to 29 January 2015.

However, the WASP has given no explanation for the delay. The WASP has rather shown a lackadaisical attitude to the complaint – apparently not even investigating it at the informal stage. The WASP has completely failed to address the clause raised, has failed to address my query head-on, has provided logs that are inconsistent with its submissions, appears *ex facie* to have misled WASPA in its initial submission that the unsubscribe request was honoured in December and has failed to take WASPA into its confidence in a manner that might mitigate this breach. I am unfortunately left with the impression that the WASP does not take either WASPA or the issue that underlies this complaint very seriously. It is my intention that the sanction act as a warning to the WASP that it needs to “get its house in order”.

My sanction is as follows:

- The WASP must review its processes and ensure that unsubscribe requests are honoured within 48 hours, and that informal complaints are properly followed up;
- A fine of R10 000 is imposed for the current breach;
- A suspended fine of R100 000 is imposed for 12 months. Should the WASP be found in breach of Clause 15.25 after the date of receipt of this ruling, or if the WASP is found to have ignored a complaint - whether formal or informal – from WASPA, this fine will be triggered.