



Wireless Application Service Providers' Association

Adjudicator's Report

Complaint number	28442
Cited WASPA members	US Cellcom LLC (1046)
Notifiable WASPA members	All – suspension of membership
Source of the complaint	WASPA
Complaint short description	Failure to pay fines imposed by previous adjudications
Date complaint lodged	<i>25 November 2015</i>
Date of alleged breach	Na
Applicable version of the Code	<i>14.1</i>
Clauses of the Code cited	24.66, 24.67
Related complaints considered	<i>22466/22635</i>

Fines imposed	Suspension from WASPA membership until such time as previous fine is paid in full.
Is this report notable?	<i>Not notable</i>
Summary of notability	<i>na</i>

Complaint

This complaint relates to a failure by the WASP to comply with the sanctions imposed in matter 22466/22635.

In that matter, which was complex, there were two separate rulings.

In the first ruling, a number of fines were imposed, totalling R380 000.

In the second ruling, the adjudicator imposed a further fine of R125 000 for immediate payment and a suspended fine of R250 000 for 12 months. The WASP's service had been suspended, and the adjudicator specified that this suspension would be lifted on payment of the fine / lodging of an appeal.

Member's response

The WASP failed to respond to the matter.

Clauses

24.66. WASPA will provide a copy of this report to the relevant member and to the complainant. The member must, within five (5) working days, comply with any sanction imposed. The member must pay any applicable fines imposed by the panel within five (5) working days of receipt of invoice.

24.67. The failure of any member to comply with any sanction imposed upon it will itself amount to a breach of the Code and may result in further sanctions being imposed.

Decision

I start by noting that the WASP was given ample opportunity to respond to this matter, It is clear from the record that the WASP received the complaint and queried the procedure (on 5 January 2016). WASPA responded the next day and there is no further communication from the WASP to date.

I also note for clarity that the merits of the original matter are not germane to my consideration. A fine (or several) were imposed on the WASP, and the WASPA has failed to pay and has failed to account in any way for that failure to pay. The original rulings have not been appealed.

I am also aware that this matter is somewhat confusing – involving an Emergency Panel hearing as well as two adjudications. It is possible that the WASP was not clear on how much they had to pay and by when. However, a simple query to WASPA could have clarified this. In addition, WASPA's mail of 6 January 2016 sets out the total fine payable succinctly. I also acknowledge that the fine is a large one. However, the WASP was entitled to appeal the matter, a right which the adjudicator specifically drew attention to in the adjudication.

More than a month has elapsed since WASPA clarified the situation to the WASP and there is no further response.

I have therefore no option but to conclude that the WASP not only has not paid the fine, but has no intention of paying same. This is a serious breach of the WASPA Code, and warrants a serious sanction that the WASP cannot ignore.

The WASP's membership to WASPA is therefore entirely suspended until such time as the fine is paid in full.