



## REPORT OF THE ADJUDICATOR

<b>WASPA Member (SP)</b>	SMSNET-SA
<b>Service Type</b>	Content billing
<b>Source of Complaints</b>	Public
<b>Complaint Number</b>	4817
<b>Date lodged</b>	9 September 2008
<b>Code of Conduct version</b>	6.2

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### Complaint

The complainant in this matter stated that he had continued to be charged in respect of a service offered by the WASPA member notwithstanding the fact that he had phoned them to unsubscribe.

After notification of the complaint by the WASPA Secretariat the member effected an unsubscribe, confirming this to WASPA on 2 September 2008. The complainant, when contacted the next day, stated that he had not received the confirmation of this as was required and that he had received charges of R315 in August. The member then confirmed again on 10 September that it had unsubscribed the complainant.

No refund was offered and logs requested in order to provide proof of subscription were, after some delay, supplied.

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### SP Response

In response to the request for logs showing proof of subscription the member at first supplied a "subscription history" which appears to indicate a single charge of R15 and which is not of further relevance to this matter.

After further requests for the logs the member supplied a spreadsheet detailing the "downloads history" of the complainant for the period 3 November 2007 to 12 July 2008.

Yet another request for information and detailed logs indicating that content had been successfully downloaded was met with the same "logs" together with the following statement:

“As for the 2783 xxx xxxx the subscription was disabled as can be seen on the subscription model below(no.1) and no subscription billings have been going on, and further measures were taken to blacklist the number on the 28/08/08.

“On the single purchase model(no.2); it shows that there have been some single purchases until July and he was billed for the contents downloaded as depicted below(no.2)”

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### **Sections of the Code considered**

The following section of version 6.2 of the WASPA Code of Conduct was considered:

4.1.1. Members are committed to honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

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### **Decision**

The facts of this matter – such few of them as have been presented - are somewhat contradictory. The complainant states that he phoned the member in July 2008 to unsubscribe. Yet it appears that he was not subscribed to a service but rather downloading single content items. On the member's own version it could not have unsubscribed the member on 2 September 2009 as the member was not subscribed to any of its services at that time.

The “downloads history” provided by the member indicates a cessation of use of any content service offered by the member on 12 July 2008. Nothing is presented by the member with regard to the billing which the complainant states has been raised against his account since that date.

Given that the complainant, on the evidence presented to this Adjudicator, appears to be confused as to the nature of services he has been receiving, it would have been reasonable for the WASPA member to have taken steps to address this confusion. This has not been done: the member has not provided the detailed logs requested and the member has not provided any information relevant to the billing effected after 12 July 2008.

The Adjudicator regards the conduct of the member as being below the standard of fairness required by section 4.1.1. of the Code. It has not adduced the evidence necessary to allow the complainant and this adjudicator all the facts.

The complaint is upheld and the WASPA member found to have breached section 4.1.1 of the Code of Conduct.

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As regards the question of an appropriate sanction the Adjudicator is mindful of the relatively large number of complaints raised against the member in respect of its services over the past six months but does not believe that a punitive sanction is appropriate in this matter given the apparent confusion of the complainant.

The WASPA member is ordered to refund the complainant all charges to the MSISDN listed in the complaint incurred from 13 July 2008 to 3 September 2008. Proof of the refund having been made must be furnished to the WASPA Secretariat within ten (10) days of date of notification of this Adjudication.