



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Venista
Information Provider (IP):	
Service Type:	Telephonic Customer Support
Source of Complaints:	WASPA Monitor
Complaint Number:	# 6706
Code of Conduct version:	7.0
Advertising Rules version:	2.3

Complaint

As a result of a number of consumer complaints that had been received in relation to the Venista customer call centre, the WASPA Monitor carried out a series of tests of the call centre.

An abridged version of the Monitor's report, which forms the basis of this complaint, is set out below:

STARTING BALANCE: R275.23
SERVICE PROVIDER: VENISTA
CALL CENTRE NUMBER: 086 110 6514
WEBSITE: www.venista.com

Over the last few days I have tried over and over again to call Venistas customer call centre, and every time I received the conclusion.

On calling: 086 110 6514, a voice recording informed me:

The subscriber you wish to contact is not available at the moment

Then there were three beeps and call is ended. I tried this more than ten times from different numbers.

I then decided to go onto the Venista website (www.venista.com) to see if there were any other customer care numbers I could call. I noticed that there is only one U.K customer care number and no South African customer call centre number what so ever. I also noticed that there is no link to Waspa anywhere on the website, which is another breech of the code of conduct section: 4.1.10. Members' web sites must include a link to the WASPA web site and/or this Code of Conduct.

I decided to give the U.K customer call centre number a try, as I had no other option. +448706091795.

On calling the number a voice recording gave me an option to leave a message so that one of the staff would call me back within the next 24 hours. So I left a message with my name and contact number so that they could call me back

My new balance was R268.03 call was exactly one minute long, and cost me R7.20

It has been 25 hours and I still have not received a call back

On 3 June 2009 WASPA advised Venista that a complaint had been lodged against it.

A full copy of the Monitor's report was submitted to the member and a summary of the complaint was set forth as follows:

Date of breach: 2 June 2009

WASP or service: Venista

Clauses breached: 3.3.1. Members will not offer or promise services that they are unable to provide.

3.3.2. Services must not be unreasonably prolonged or delayed.

4.1.6. Customer support must be easily available, and must not be limited to a medium that the customer is unlikely to have access to (for example, support should not be limited to email if a significant number of customers do not have access to email).

4.1.7. Any telephonic support must be provided via a South African telephone number and must function effectively. Should the member be unable to provide immediate support, a customer should be provided with the ability to leave a message. Support numbers may not forward to full voice mailboxes.

4.1.8. Customer support may not be provided via premium rated numbers, and may only be provided via standard-rate or VAS-rate numbers.

4.1.9. Members undertake to inform their wireless application service customers that they are bound by this Code of Conduct. Members also undertake to make these customers aware of the WASPA complaints procedure and the mechanism for making a complaint, should any customer wish to do so.

4.1.10. Members' web sites must include a link to the WASPA web site and/or this Code of Conduct.

WASPA initially regarded the complaint as urgent but, for reasons that are not necessary to consider in this adjudication, the urgency of the complaint subsequently fell away.

SP Response

On 3 June 2009 at 2:53PM a first response to the complaint was received by WASPA from Sybase 365 as follows:

Dear Complaints

Call Centre Number Problems

Please note that we have been paying this line rental to Telkom on behalf of Venista. We recently changed our bank account from FNB and requested Telkom to update their postal details for the Invoices.

Unfortunately Telkom being Telkom has taken quite some time in processing this and a payments was not made on the line rental.

This has now been corrected and payment has been made but unfortunately this has resulted in some down time on the line.

Please could this be taken into light as this was an unintentional mistake and has now been resolved with Telkom.

Sybase 365 and Venista have also decided to change the line responsibility going forward to Venista directly.

Kind Regards

Riccardo Vallaro

Country Manager South Africa

Sybase | 365

Later that same afternoon, a further response was received directly from the member as follows:

Hi Lorraine

I'm so sorry about all this, the South African customer support line problem has been a nightmare and, unfortunately, beyond our control.

Venista's Managing Director, Oliver Wimmeroth, has been saddened by this recent course of events and has asked me to express his sincere wish to rectify any possible breakdown in good relationships between WASPA and Venista and will gladly fly over to South Africa from Germany to meet with you, if necessary.

As we are a European company and have no physical presence in South Africa, we engaged Sybase 365 to procure and maintain our customer support line. Unfortunately, due to administrative errors on Telkom's behalf, this most vital line was disconnected. I've been assured that this situation has now been rectified, and that Sybase have written to you offering an explanation.

Nevertheless, we at Venista consider this occurrence intolerable, and have therefore put several resolutions in place immediately, to ensure this never happens again.

1. We have procured, and prominently displayed on the South African website, an international free-phone number that users can call, completely free of charge (we bear all the international call costs) to contact us. (please see attached screenshot)

2. This number - 00800 836 47820 (00800 V-E-N-I-S-T-A) - will be sent out on all our messages.

3. We have ordered a new South African customer support number which will be contracted to Venista directly, to ensure we are in complete control of all

aspects of maintenance of that line, so this recent situation can never be repeated.

4. We have immediately put in place a link to WASPA on our website.

Regarding the call to our UK Venista helpline:

As an international company we have customer support helplines specific to each country. Behind those support lines are teams of customer care operators, specifically trained to their country's services; the shortcodes, content details, services, prices, Terms and Conditions, Codes of Conduct (both for Regulators and Telephone Operators), etc, for that specific country. We do not expect someone from South Africa to go to our UK website and call the UK customer support number.

Therefore, in this instance, a UK customer care operator received a voicemail from a South African number and, knowing he is not expert in that region and may not be able to help the customer with their query, correctly forwarded it on to a regional-specific operator. The South African operator who received this forwarded message did call the number, but naturally due to the route it had taken in reaching her, the response was delayed and slightly outside our 24hour return call policy.

We do not advertise or promote any premium rate customer support numbers on our websites. Each customer support number is regional-specific to that country and that website.

We want our customers to be happy, and strive to obtain this in all ways. During this unfortunate debacle with Telkom we have been liaising closely with Vodacom (as the majority of our customers are their clients) to ensure our customers can reach us and have their query dealt with speedily. As usual, we refund in full any customer who has a query or complaint.

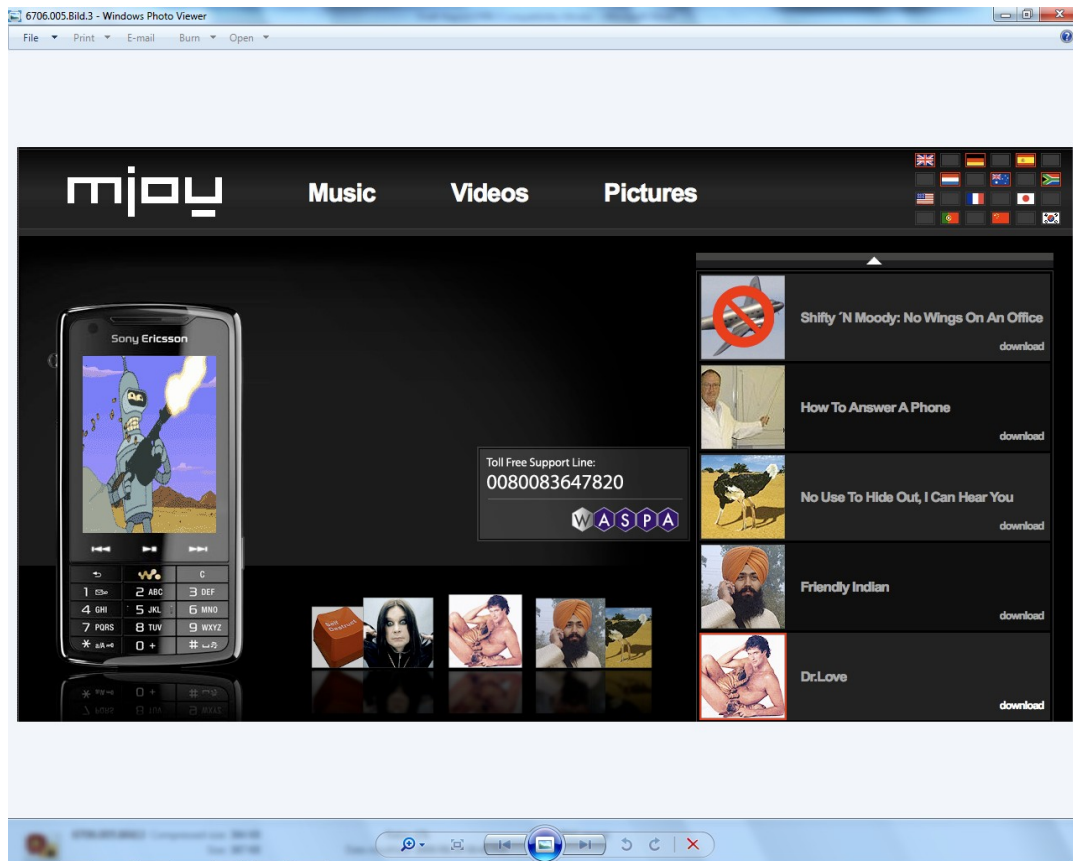
I do hope this response goes some way to answering your questions and allowing you to reconsider processing a formal complaint.

If any further information is needed please do not hesitate to contact me.

Kind regards

Pauly

**Ms Pauly Persson
Customer Liaison Manager, Venista Group
<http://www.venista.co.uk>**



On 4 June 2009 a further email was received by WASPA from Sybase 365 as follows:

Dear Complaints

This email serves to confirm that Telkom have reactivated the line and all is in working order.

Telkom had problems reinstating the line but this has now been correct, tested and working correctly to Venista's call centre

Regards

Riccardo Vallaro

Country Manager South Africa

Sybase | 365

On 4 June 2009 the WASPA Monitor tested the claim made by the member that the call centre number it advertises was free and reported as follows:

WHEN TRYING OUT THE "FREE OF CHARGE" number listed above, this is what I found:

I dialed 0080083647820

I tried this twice, my first time balance was R175.20 and I went through different voice recorded options for 2 minutes and 25 seconds. When checking my balance after it was R168.36

So for 2 min 25 seconds it costed me: R6.84

I tried it a second time with the starting balance R168.36, once again selecting through different options of the voice recording for a duration of 3 minutes and 22 seconds.

When checking my balance after it was R158.76

So for 3 min and 22 seconds it costed me: R9.60

Therefore I was charged both calls and spent a total of R16.44!

Decision

No allegation has been made that any specific service provided by the member, other than its telephonic support service, has been inaccessible to customers at any time.

Section 3.3.2 of the WASPA Code of Conduct ("the Code") provides generally that ***"services must not be unreasonably prolonged or delayed"***. The meaning of the word ***"services"*** as it appears in section 3.3.2 is wide enough to include support services. When considering whether the telephonic support services were ***"unreasonably prolonged or delayed"*** it must be noted that there is no direct evidence as to how long the Telkom line had been inaccessible prior to the complaint being made. There is evidence that shows that the line was operational again within 24 hours of the complaint being received by the member. In the circumstances there is no evidence to uphold a complaint of unreasonably prolonged or delayed services under section 3.3.2 by virtue of the mere fact that the support line was inaccessible on 2 June 2009.

However, section 4.1.7 of the Code deals specifically with telephonic support and states as follows

4.1.7. Any telephonic support must be provided via a South African telephone number and must function effectively. Should the member be unable to provide immediate support, a customer should be provided with the ability to leave a message. Support numbers may not forward to full voice mailboxes.

There is clear evidence that, on 2 June 2009, the telephonic support line was not functioning effectively as is required by this section. The Monitor has reported that her attempts to contact the member via the advertised support number were met (on each of her several attempts to contact the member) with a voice recording informing her that the subscriber was not available whereafter the call simply terminated. This is clear evidence of a breach of section 4.1.7 and, in response, the member has conceded that the support number was not working. The complaint of a breach of section 4.1.7 is accordingly upheld. The reasonableness of the explanation for the failure ought to be taken into account in determining whether any sanction ought to be imposed for this breach and, if so, what the extent of any sanction should be.

The fact that a telephonic support line was made accessible within 24 hours of the complaint being received by Venista is a mitigating factor to be taken into account

when considering any sanction to be imposed. However, it is also relevant to note that the member appears to have known, even before the complaint was submitted, that its telephone support line was not functioning effectively. It is clear that the support line was in fact disconnected by Telkom due to non-payment. Sybase 365 explained that the disconnection of the telephone line was attributable to the fact that Telkom invoices for the line had not been paid as a result of Telkom not sending the invoices to Sybase 365's new postal address. The email from Sybase 365 of 3 June is clear in this regard and states as follows:

We recently changed our bank account from FNB and requested Telkom to update their postal details for the Invoices.

Unfortunately Telkom being Telkom has taken quite some time in processing this and a payments was not made on the line rental.

The email from Venista of 3 June 2009 also makes it clear that the problem with the support line was an identified problem prior to 3 June and states as follows:

During this unfortunate debacle with Telkom we have been liaising closely with Vodacom (as the majority of our customers are their clients) to ensure our customers can reach us and have their query dealt with speedily.

The fact that the member knew of the problem but failed to take adequate steps in the circumstances to notify customers is an aggravating factor to be considered in the imposition of a sanction. This is particularly so in respect of customers who were not Vodacom subscribers. The member could have easily placed an appropriate notice on its website at some stage prior to 3 June 2009 but failed to do so despite its knowledge of that the advertised support line had been disconnected.

Furthermore, it is common cause that the member only placed a link to the WASPA website or Code of Conduct onto its own website on 3 June 2009. A breach of section 4.1.10 of the Code has therefore also been established.

The solution put in place by the member following receipt of the complaint was to introduce a new international support line number 0080083647820. The member advised further that the international costs associated with this number are paid by the member.

I have not deemed it necessary for the purposes of this Adjudication to decide whether an international number that may be accessed from within South Africa without the calling bearing any international call charges falls within the ambit of section 4.1.7 of version 7.0 of the Code and the requirement that support must be provided via "a South African number".

However, the member advertised the 00800- number as being a "**toll free**" number on its website. The evidence put forward by the Monitor is that she was billed R6.84 for a call lasting 2 minutes and 25 seconds (approximately R2.83 per minute) and R9.60 for a call lasting R3 minutes and 22 seconds (approximately R2.85 per minute).

Although there is no obligation on a member to provide "free" or "toll free" telephone numbers for support lines, section 4.1.8 of the Code provides that Customer support may not be provided via premium rated numbers, and may only be provided via standard-rate or VAS-rate numbers.

The Code does not provide express definitions of the terms **“standard rates”** or **“VAS-rates”**, however it is useful to have regard for the definitions contained in the Advertising Rules that are incorporated by reference into the Code.

The Advertising Rules define a **“Standard Rate”** to mean **“any rate that is part of an in-bundle tariff which a user would ordinarily pay for domestic person to person communication pursuant to the specific terms and conditions of their service agreement with a mobile network operator”**.

“Value Added Services” are defined in the Advertising Rules to mean **“any Content Services or similar which may incur usage charges that may be higher than the Standard Rate set by the network operator for any particular Access Channel.”**

There is no evidence before me as to whether the average rate of approximately R2,84 per minute charged to the Monitor in respect of her calls to the support line exceed ordinary rates that are capable of falling within the definition of **“Standard Rates”**.

However, the advertising of this telephone line as being **“toll free”** is misleading. 00800-numbers are in fact only “free” to callers from landline numbers, but not to callers from mobile phones and, given the nature of the member’s business as a mobile application service provider, it ought reasonably anticipate that a large number of customers might make use of mobile phones when trying to access the support line.

Section 4.1.1 of the Code requires that members be **“committed to honest and fair dealings with their customers”**. Furthermore, the section requires **“in particular [that] pricing information for services must be clearly and accurately conveyed to customers and potential customers.”** Furthermore, section 4.1.2 provides that **“members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.”**

The describing of the support line as **“toll free”** is inaccurate and likely to mislead customers in that the number is not actually free to callers from mobile phones. Accordingly, the member has breached sections 4.1.1 and 4.1.2 of the Code by advertising this number as a **“toll free”** number without any qualification regarding the charges to callers from mobile phones.

Sanctions

1. In respect of the failure to maintain an effectively functioning support line and the resultant breach of section 4.1.7 of the Code, the member is directed to pay to WASPA a fine of R20 000 within 10 days of the delivery of this adjudication report.
2. In respect of the failure to include a link to the WASPA website or Code of Conduct on its website and the resultant breach of section 4.1.10 of the Code, the member is directed to pay a fine of R20 000 within 10 days of the delivery of this adjudication report.
3. In respect of the misleading description of the support line as **“toll free”** without any qualification regarding the charges applicable to callers from

mobile phones and the resultant breach of section 4.1.1 and 4.1.2 of the Code, the member is directed to pay a fine of R25 000 within 10 days of the delivery of this adjudication report.

4. The member is directed to insert into any relevant publication advertising any 00800- support line, including its website, a description of any charges that may apply in respect of callers to any such line from mobile phones and to advise WASPA of the proposed description of the charges that it intends to insert and to comply with any requirements of WASPA in this regard.
5. In the event that the member fails to comply with the above sanctions, its membership of WASPA shall be suspended until such time as it does so comply.
6. The Secretariat is requested to forward a copy of this adjudication report to the WASPA Code Committee for it to consider the application of section 4.1.8 of the current version 9 of the Code to international 00800- support numbers generally.