



REPORT OF THE ADJUDICATOR

Complaint reference number:	#7163
WASPA member(s):	MyBeat Interactive
Membership number(s):	0036
Complainant:	Public
Type of complaint:	Unlawful Lottery
Date complaint was lodged:	2009-07-28
Date of the alleged offence:	2009-07-27
Relevant version of the Code:	7.4
Clauses considered:	3.1.2, 13.1.6, 13.3.8
Relevant version of the Ad. Rules:	Not applicable
Clauses considered:	Not applicable
Related cases considered:	7103-7105

Complaint

1. On the 28 July 2009 a complaint was submitted to the WASPA secretariat by a journalist relating to short code 35800 which is operated by Mybeat Interactive in which the complainant indicated that the SP had contravened the Lotteries Act 57 of 1997 (hereinafter the "Lotteries Act") by running a "Michael Jackson" competition on Algoa FM.
-

SP Response

2. On the 01st August 2009 a representative of the SP replied in which it denied that the Lotteries Act had been contravened and attached an opinion from Pagdens Attorneys in support of the opinion that the Lotteries Act had not been contravened.
-

Complainant Response

3. The Complainant then responded to the SP's response above and indicated that he had forwarded his complaint to the Lotteries Board and that, in addition, it was clear that a WASPA directive had been contravened by the SP in the matter.
-

Request for Further Information

4. The adjudicator then on 15 February 2010 requested further information from the SP in question in order to obtain the original advertisement.
-

SP Response

5. The SP replied on by indicating that it requested a postponement of the complaint pending the Appeal decision in the matters of complaints 7103, 7104 and 7105 which was dealing with the exact same issue. In consultation with the WASPA secretariat this postponement was duly granted by the adjudicator.
-

Outcome of Appeal in complaints 7103, 7104 and 7105

6. The appeal in the above complaints was duly delivered on the 04 January 2011. Within the appeal it was duly found that WASPA adjudicators do not have the right to make a finding on the lawfulness or otherwise of WASPA members' conduct. As the merits of this argument were fully traversed within that adjudication which is easily available on the WASPA web site they are not repeated here.
-

Complainant Dies

7. Thereafter on the 09 June 2011 the WASPA secretariat was informed by the complainant's wife that the complainant had passed away and further that she wished to close all complaints lodged by her husband.
-

Portions of the Code of Conduct (version 7.4) considered:

8. **3.1.2.** Members are committed to lawful conduct at all times.
 9. **13.1.6.** The secretariat may initiate a complaint against a member on behalf of WASPA, should it become aware of an apparent breach of the Code.
 10. **13.3.8.** The adjudicator may ask the secretariat to request that the complainant, the member, or both, furnish additional information relating to the complaint. Specifically, the adjudicator may request that the member respond to any additional breaches of the Code of Conduct discovered during the investigation of the complaint, but which were not specified in the original complaint.
-

Decision

11. From the above facts it is clear that whether there has or has not been a breach of the Lotteries Act is irrelevant for the purposes of this adjudication as WASPA adjudicators do not have the jurisdiction to make a finding on this issue.
12. While the above conclusion essentially concludes this adjudication, three additional questions are of somewhat academic interest, which are:
 - 12.1. In the event that the complainant withdraws the complaint must the adjudicator abandon the complaint? and

- 12.2. Should this complaint be referred to the Lotteries Board for further investigation?
- 12.3. Does a delay in the adjudication of a matter influence the outcome of the adjudication?
13. In answer to the first question it is clear from the Code of Conduct that the Adjudicator has the power to advise the SP of any additional potential breaches of the Code of Conduct that he/she may discover (in section 13.3.8) and, after putting these to the SP/IP in question has the power to make a finding on whether the identified portions of the code of conduct have been breached. In addition the WASPA secretariat itself has the power to (section 13.1.6) lodge a complaint against a member. As a result it is clear that the withdrawal of a complaint by the complainant may result in the complaint being withdrawn, but this need not invariably be the case and once the matter is before the adjudicator the matter may still continue notwithstanding the withdrawal of the complaint by the complainant (or in this case by his executor).
14. As the complainant has already referred the above complaint to the Lotteries Board this question is moot. However bearing in mind the fact that s54 of the Lotteries Act has, during the delay caused by the Appeal process in complaint 7103-7105, been repealed and replaced by s36 of the Consumer Protection Act no. 68 of 2008, and furthermore that the concept of promotional competitions is now (arguably) within the ambit of the National Consumer Commission, there would seem be little point to the referral of this complaint.
15. Finally the WASPA code of conduct is silent on the effect of time on a complaint. As such it is submitted that there is a certain amount of discretion that must be exercised by the adjudicator when dealing with these matters. Bearing in mind a great deal of the delay in this matter was caused by the WASPA appeal process which was not within the control of the SP in this matter it is not unreasonable to conclude that the SP may have been prejudiced by the significant delay in this matter (especially with regard to obtaining necessary evidence from the IP) and as a result this would be a factor to consider when deciding on whether a section of the Code of Conduct had been breached and/or an appropriate sanction.
16. For the above reasons the complaint is dismissed.
-

Mitigation/Aggravation

17. This is not relevant to this matter.

Sanction Imposed

18. No sanction is imposed.

Appeal

19. As the complaint was dismissed no appeal of the adjudication is possible as an appeal is only possible by a WASPA member as set out in clause 13.6. 1.

Annexures

**PLEASE NOTE THAT SOME IDENTIFYING PERSONAL INFORMATION
HAS BEEN REMOVED BY THE ADJUDICATOR DUE TO THE FACT
THAT THIS ADJUDICATION WILL BE PUBLICLY AVAILABLE.**

----- Original Message -----

From: "WASPA Complaints <PERSONAL INFORMATION REMOVED BY
ADJUDICATOR>

Sent: Tuesday, July 28, 2009 1:05 PM

Subject: [WASPA.complaints] [formal] WASPA Code of Conduct complaint

Ref:#7163

Dear WASPA member,

The attached complaint has been lodged with WASPA against Mybeat
Interactive.

This complaint is being processed according to the formal complaint
procedure described in section 13.3 of the Code of Conduct.

< template notice snipped by Bretton

--- A copy of the complaint follows below ---

Complaint #7163 (lodged via the WASPA website):

Full_Name: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Cellular: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Alternate_Contact_Number: <PERSONAL INFORMATION REMOVED BY
ADJUDICATOR>

Email: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

P<PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Affiliations: I am not employed by, or otherwise associated with one of WASPA's member companies

Affiliation_Information:

Name_WASP: MyBeat

OtherID: Short Code 35800 As used by Algo Fm Radio

Code_Breached: Advisory on Lotteries Act

Detailed_Description_Complaint: The IP ran a competition called the Michael Jackson competition which offered a Prize to a MJ show in London. See details attached.

The SP is contracted to ensure that the Lotteries Act is not contravened.

Tick_as_appropriate: I have not contacted the service provider and believe this matter requires WASPA's attention

Declaration_Good_Faith: Information provided is true and correct and provided in good faith

27/07 2009 14:43 FAX
Code of Conduct Complaint

001
Page 1 of 3

WASPA Wireless Application Service Providers' Association

Contact WASPA
info@waspas.org.za
+27.11.476.7710
Fax: 086.606.2016

home | about waspa | join waspa | list of members | code of conduct | documents | member login

Code of Conduct Complaint Form

If you don't wish to send an electronic complaint you can print the following and send to WASPA via fax: 086.606.2016 or at the following postal address:

WASPA
PO Box 3143
Parklands
2121

Please ensure that:

- You include the correct email address as we use this for communicating with you.
- You include the specific cellular number that is affected.
- You tick the Declaration by Complainant field in the form below. This is a requirement for accepting complaints.

Complainant's details:

Full Name: Johannes Renier Senekal

Cellular Number: 0834680805

Alternate Contact Number: 0413601669

Email Address: s3n3kal@iburst.co.za

WASPA will only use your e-mail address for communications relating to this complaint. Your address will not be shared with anyone else, except in process of resolving this complaint.

Physical Address: 15 Carlington Place
Warbler Street
Port Elizabeth

Postal Address: P O Box 19226
Linton Grange

Post Code: 6015

Affiliations (please tick one):

☐ I am employed by, or otherwise associated with one of WASPA's member companies

☒ I am not employed by, or otherwise associated with one of WASPA's member companies

If you wish to provide additional information about your affiliation, please do so here:

<http://www.waspa.org.za/code/complaint.shtml>

7/27/2009

ALSO EMAILED

Details of Complaint	
Name of the service provider (if known):	MyBeat Interactive
WASPA can only process complaints lodged against members of WASPA. You can find a complete list of WASPA members here	
Other Identifying Information:	Short Code 35800 As used by Algo Fm Radio
Section of the Code of Conduct breached:	Advisory on Lotteries Act

If you are able to identify the section of the WASPA Code of Conduct that you believe has been breached by the service provider, this will greatly facilitate the handing of your complaint. You can find a copy of the WASPA Code of Conduct here.

Detailed Description of the Complaint:

Details: The IP ran a competition called the Michael Jackson competition which offered a Prize to a MJ show in London. See details attached. The SP is contracted to ensure that the Lotteries Act is not contravened.

Very Important: If your complaint involves a service provided to a specific mobile phone, you must include the phone number of that phone in your complaint. Please provide us with as much information about your complaint as possible in this section. This should include relevant dates wherever possible.

If you are complaining about a print, radio or television advertisement, please include the date of publication, or the date and time of broadcast. Without this information, WASPA may not be able to process your complaint.

If you wish to send additional supporting documents to WASPA to support your complaint please send them to the following email address after you have submitted your complaint:

complaints@waspa.org.za

Please Tick, as appropriate:

☐ I have already contacted the service provider concerned regarding this complaint, but the service provider has not resolved the complaint to my satisfaction.

☐ I am unable to determine who the service provider is

☐ I have not contacted the service provider concerned because I believe that this complaint cannot be resolved by the service provider, and instead needs WASPA's attention.

Declaration by Complainant

☐ I hereby declare that the information provided above is to my knowledge true and correct, and that I am submitting this complaint in good faith.

Where did you hear about WASPA? Internet

<http://www.waspa.org.za/code/complaint.shtml>

7/27/2009

<http://www.waspa.org.za/code/complaint.shtml>

7/27/2009

27/07 2009 14:44 FAX
Mybeat interactive004
Page 1 of 1

mybeatInteractive
Specialists in Mobile Marketing

login
password
forgot password?

Quick Links

- Mybeat - Mobile Music
<http://www.mybeat.net>
- Mybeat is Hiring
[Email: info@mybeat.net](mailto:info@mybeat.net)
- Mybeat - Mobile Dating
<http://www.firnet.co.za>

News from Mybeat

Cable firm has the latest press releases from Mybeat.

Click here to view the latest press releases from Mybeat.

Campaigns

MYBEAT IS HIRING

Are you a smart, free-thinking individual looking for a position in a company with good growth potential?

We're looking for talented candidates for the following positions:

- Senior development
- Creative design and web
- Sales and client service

If you find yourself in one of these categories, we suggest you email your CV to info@mybeat.net

Interactive Radio

What is Mybeat Mobile Music?

We often hear music on the radio that we like, but by the time we get to a music store to buy it, we have little idea where to begin our quest.

The Mybeat Music Service provides a simple solution to change the way you find and remember the music that you like.

Using a cellular phone, all you need to do is dial a simple number in order to "zap" music off the radio. Mybeat immediately responds with an SMS containing information about the song such as the name and artist of the song.

That is just the beginning. Mybeat is developing other new music services for consumers and is working with the radio stations to bring the benefits of interactivity to its listeners and advertisers. Watch this space for more exciting developments.

Go to <http://www.mybeat.net>

Interactive Advertising

Mybeat provides advertisers with an effective mechanism to enhance print, radio and television campaigns using SMS technology. Build and enhance customer databases, obtain quantifiable statistics and to create new exciting campaigns.

Clients include: SP4, Steers, Coke, Tommy Hilfinger, Business Day, SABC...

Read our case studies...

STUDIOSMS

What is StudiosMS all about?

Mybeat's StudiosMS is a feature packed product that offers numerous benefits to broadcasters and advertisers. StudiosMS aims to extend the radio medium and directly complement, drive, the line advertising campaigns.

StudiosMS presents the following features and functionality: Voting, Competitions, SMS Messaging, Database Functionality, SMS Requests, Deductions, SMS Traffic, Statistics, real-time listenership analysis and that's just the beginning.

StudiosMS fits seamlessly into the broadcasting and advertising environments and provides unsurpassed value.

Go to <http://www.mybeat.net/studiosms>

Home | Products | Services | Company | Contact | Privacy | Sitemap

© 2004 Mybeat Interactive | TEL: +27 11 884-7695 | Johannesburg, South Africa

<http://www.mybeat.net/CompanyWebsite/index.asp>

7/27/2009

27/07 2009 14:45 FAX

008

- f) A transcript of the propagating of the competition by your announcers.
g) The rules of the Competition.
h) Due to the death of Michael Jackson, how are you going to proceed further?

Hannes Senekal
S3n3kal@iburst.co.za

27/07/2009 14:45 FAX
09/07/2009 22:50 FAX007
001*****
*** TX REPORT ***

TRANSMISSION COMPLETED

TX/RX NO.	0155	0415835555
DESTINATION NUMBER		
DESTINATION ID	Mr D Tiltman	
ST. TIME	09/07 22:50	
COMMUNICATION TIME	00'22	
PAGES SENT	2	
RESULT	OK	

27/07/2009 14:46 FAX

008

PAGDENS ATTORNEYS

Mr. Senekal
Via Email: s3n3kal@burst.co.za

Our Ref: Mr ME Nurse
E-mail: mikenurse@pagdens.co.za

Your Ref: Mr. Senekal

Date: 2 June 2009

Dear Mr. Senekal,

RE : MICHAEL JACKSON COMPETITION

1. We have been instructed by Algoa FM in relation to your email dated 20 May to which we respond as follows.
2. The section of the Lotteries Act (the Act) relevant to your enquiry is Section 54 which sets out the requirements with which a promotional competition must comply in order to be lawful.
3. The Michael Jackson Competition complies with all of the requirements contained in Section 54 and is lawful. There is no provision in the Act which requires Algoa FM to obtain the consent of the Lotteries Board in order to run the Michael Jackson Competition or any similar promotional competition.
4. Should you have any queries in this regard please contact me.

Yours faithfully,


M E NURSE

Pagdens Court, 18 Castle Hill, Central, Port Elizabeth, 6001 • PO Box 132, Port Elizabeth, 6000
Tel (041) 502 7300 • Fax (041) 506 0413 • Drexel 7 Port Elizabeth

Directors: M E NURSE • P B SHAW • W H DE KOCK • R H PARKER (Chairman) • S A WEDDELL • E ANTONIOU • P VIERINGS
Consultant: P CILLIERS Associates: L OOSTHUIZEN • J VANDENBRUGKE • A NIEHAN • C NANTO
H S VORSTER • P J DAVIS
Pagdens Incorporated Reg. No. 1989/001124/23

27/07/2009 14:46 FAX

009

Algoa FM House
The Boardwalk
Marine Drive
Summerstrand

PO Box 5973
Walmer
Port Elizabeth

T: (041) 505 9497
F: (041) 583 5555
E: info@algoafm.co.za
www.algoafm.co.za



22 May 2009

Dear Mr. H. Senekal

RE: MICHAEL JACKSON COMPETITION

1. We are in receipt of your email dated 20 May 2009 regarding the Michael Jackson Competition and the Lotteries Act.
2. We have consulted our attorneys in relation to your enquiry. Our attorneys will revert to you shortly.
3. We wish to record that we have no knowledge of any previous emails received from you in relation to this matter.

Yours faithfully,

David Tiltmann
Managing Director

Umoya Communications (Proprietary) Limited t/a Algoa FM
Reg. No. 96/05708/07
A subsidiary of African Media Entertainment Limited
Reg. No. 1223/0027/06
Directors: Z.H.N. Nkosi (Chairperson), D. Tiltmann (Managing Director).

**YOUR MUSIC
YOUR WORLD**

27/07/2009 14:46 FAX

Algoa FM Competition Rules :: Algoa FM

010

Page 1 of 2

OR AIR NOW:
WAYNE AND LAUREN

UP NEXT:
BRITNEY SPARKS
BANDWAGON SCHEDULE
OUR SOCKS

Home Music News Jocks Events Photos Shopping Win! Interactive

Google

23 Jun 2009 1:00 PM

Win a Holiday for 2
Experience Wild Africa Like Never Before!
Enter Online Today.

Free competitions online
Sign up with promo code PLAT for 10
BONUS entries on any prize.

Win a Holiday for 2
Experience Wild Africa Like Never Before!
Enter Online Today.

Algoa FM Competition Rules

All competitions are conducted in accordance with the provisions of section 54 of the Lotteries Amendment Act, 2001, as amended.

By entering into this competition, entrants agree to the rules as stipulated below.

The competition is NOT open to the following people:

- a) The direct or indirect members, partners, agents, employees or consultants of Algoa FM or any associated partner of the aforementioned companies.
- b) The spouse, partner, parent, child, brother, sister, business partner or associate of any of the persons specified in a) above, and/or unless otherwise specified.
- c) Anyone outside of the broadcast footprint of Algoa FM or unless otherwise specified.

- Prizes are not transferable and cannot be deferred or exchanged for cash. The competition draw will take place on the date stipulated on the related competition page or on air promotion.
- Prizes will only be issued after the close of the competition.
- Winners may be required to appear on Algoa FM, its website or in printed publications, for which no fee will be payable.
- Entrants enter into the competition, and use prizes won, at their own risk.
- Algoa FM and/or any of its partners/sponsors/vendors cannot be held responsible for any accident, injury, harm or loss as a result of entry into the competition or use of a prize.
- Winners will be notified on air and/or by telephone.
- Algoa FM and its associate media partner/sponsor reserve the right to cancel the competition without any prior notice and at any time, if deemed necessary in their opinion, or if circumstances arise outside of their control.
- In the event of such cancellation, all participants agree to waive any rights that they may have in terms of this competition and acknowledge that they have no recourse against Algoa FM, their employees, agents, partners, sponsors or promoters.

The Judges' decision is final and no correspondence will be entered into.

Please note: Algoa FM will endeavour to contact prizewinners for seven days following their names having been drawn. If, however, that person cannot be reached, the prize will be forfeited and another winner selected.

Please ensure that you provide the correct contact and address details. For prize delivery - ensure that you provide an address at which someone will be available during office hours.

Algoa FM reserves the right to withdraw any prize granted to an entrant who has won on any other competition on the station within three months.

To enter any Algoa FM competition, you can: call the Algoa FM competition hotline on 083 123 9497 - fax us on 041-583 5555, hand deliver your entries to Algoa House at the Boardwalk, in Summerstrand, Port Elizabeth; Post them to PO Box 5973, Walmer, 6065; e-mail them to promotions@algoafm.co.za - or pop them into the Cleary Park Shopping Centre jukebox.

Weather Finances Contacts Polls

	1	2	3	4	5	6	7	8
Alfred North	6	11	This week					
Cape St. Francis	11	19	This week					
Gratwick	5	16	This week					
East London	13	23	This week					
Fouriesmith	7	11	This week					
Fort Beaufort	5	17	This week					
Grahamstown	8	18	This week					
Mthatha	9	20	This week					

Unvoted
Email Us
Google

Submissions
Leave It
del.icio.us

Results
Yahoo!
Facebook

Back to top | Previous page | Home

Shopping Your Music Frequency Finder

<http://www.algoafm.co.za/content.asp?PageID=217>

6/23/2009

27/07/2009 14:47 FAX

Algoa FM Competition Rules : Algoa FM

Page 2 of 2



We bring you what happens
on-air online.
Have some fun and get interactive
with our Radio
page features!



> EVENTS
Mark Sampson Feels Funny Tour
AlgoaFM and Nintendo Hitenabites
The Wild Coast 350km Open 'n' Wild
Festival and Country Fair

> SUBMISSIONS
Your 80's Favourites
Your Glory Days

Music Quiz >
Test your music knowledge and compete
against other Algoa FM listeners.
Rate our music >
Voice your opinion of the playlist by voting
on this week's song list.
Last 10 Songs Played >
Wondering what that song was? Here is a
list of the last 10 songs played.
Demo Bag >

> CORPORATE
Our vision
Corporate
Advertising
Footprint
Contact Details
Our News Releases
Access to Information
Intertown Transport
Careers
> INTERACT NOW
Competitions
Our Events
Your Events
Gig Guide
Your Blogs
Opinion Polls
Weather
Live Webcam
Mouse Browse
Classifieds
Coupon Plus
Other Links

Win Cool Prizes, 100% Free
Awesome Giveaways & No Hidden
Costs. Start Scoring With Adkiss
Today!
www.MMAussie.mobi

Defining Port Elizabeth
Compare How Compatible You Are
With Singles Near You in South
Africa!
www.955.co.za

Ads by Google

> TODAY'S LINE-UP
00:00 - 03:00
KeyCee Ressoaw
03:00 - 06:00
Sawyn Willie
06:00 - 09:00
Baron, Carol Ann and Charlton
09:00 - 12:00
Lance du Plessis
12:00 - 15:00
Chart Ladies (The Lunch Box)
15:00 - 18:00
Wayne and Lauren (The Fast
Lane)
18:00 - 21:00
Bridgety Snyg
21:00 - 00:00
Vic Snyg (Night Line - Open line
for dedications)

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Home | Disclaimer | Privacy Policy | Forums |
Blog | Sitemap | Contact Us
Website design and hosting by Online
Innovations

<http://www.algoafm.co.za/content.asp?PageID=217>

6/23/2009

----- Original Message -----

From: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

To: complaints@waspa.org.za

Sent: Saturday, August 01, 2009 1:35 PM

Subject: Re: [WASPA.complaints] MYBEAT ISSUE!: [formal] WASPA Code of Conduct
complaint Ref:# 7163

In response to complaint #7163...

=

As far as Mybeat is aware, the lotteries act has not been contravened (please see
response from Pagdens Attornies representing our client AlgoaFM on page = of the
attached document).

=

The complaint also states "The SP is contracted to ensure that the =otteries Act is not
contravened." We do whatever we can to educate =ur clients but in this case there
seems to be no issue relating to the code =s there is no mention of the Lotteries Act in
the Code of Conduct. The =omplainant's statement should be clarified as to who the
other contracting party is otherwise.

=

If there is any further dispute around the contravention of the Lotteries Act, it is =ur
view that the matter should be addressed with AlgoaFM =irectly.

=

Regards

<PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

----- Forwarded Message

From: "WASPA Complaints (<PERSONAL INFORMATION REMOVED BY ADJUDICATOR>)"

Organization: Wireless Access Providers' Association

Reply-To: <complaints@waspa.org.za>

Date: Tue, 28 Jul 2009 13:05:58 +0200

To: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Cc: Complaints <complaints@waspa.org.za>

Subject: [formal] WASPA Code of Conduct complaint Ref:# 7163

Dear WASPA member,

The attached complaint has been lodged with WASPA against Mybeat Interactive.

This complaint is being processed according to the formal complaint procedure described in section 13.3 of the Code of Conduct.

Accordingly:

- You have five working days to respond to the complaint, and to provide the WASPA secretariat with any information you deem to be relevant to this complaint.
- After five working days have passed, this complaint, together with your response (if any) will be assigned to an adjudicator for review, and if upheld, determination of appropriate sanctions.
- You do not have an obligation to respond to this complaint. Should the WASPA secretariat not receive any response from you within this time period, it will be assumed that you do not wish to respond.
- Your response, and any other correspondence relating to this complaint, must be sent to <complaints@waspa.org.za>. Correspondence sent to any other address may not be deemed to constitute a formal response.
- The WASPA Secretariat will confirm receipt of your response.

If you have any questions regarding the Code of Conduct or the complaints procedure, please address your queries to <complaints@waspa.org.za>.

Please confirm your receipt of this message.

Warm regards,
WASPA Secretariat

--- A copy of the complaint follows below ---

Complaint #7163 (lodged via the WASPA website):

Full_Name: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Affiliations: I am not employed by, or otherwise associated with one of WASPA's member companies

Affiliation_Information:

Name_WASP: MyBeat

OtherID: Short Code 35800 As used by Algo Fm Radio

Code_Breached: Advisory on Lotteries Act

Detailed_Description_Complaint: The IP ran a competition called the Michael Jackson competition which offered a Prize to a MJ show in London. See details attached.

The SP is contracted to ensure that the Lotteries Act is not contravened.

Tick_as_appropriate: I have not contacted the service provider and believe this matter requires WASPA's attention

Declaration_Good_Faith: Information provided is true and correct and provided in good faith

----- End of Forwarded Message

----- Original Message -----

From: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

To: <complaints@waspa.org.za>

Sent: Monday, August 03, 2009 3:17 PM

Subject: Re: [WASPA.complaints] Resolution of complaint Ref:#7163

Hello, I see the response from Mybeat.

They maintain that the lotteries act is not contravened because Pagdens Attorneys says so. Section 54 of the Lotteries Act clearly implies that they are contravening the Act as described in a Directive by Waspa!

According to a directive issued to all WASPA members they are explicitly warned to have and be aware of the implications should their clients contravene the Lotteries Act. According to WASPA ALL participants are bound by contracts The SP, the NP and the IP, thus all parties are to abide by the Lotteries Act. Although WASPA is not an adjudicator regarding the Lotteries Act they certainly have to ensure that their members do not transgress any law.

This complaint regards the fact that should Waspa deem Mybeat implicated should ANY act be transgressed they should still censure the SP. Should this censure be positive it will only indicate to the Lottery Board that WASPA is on the ball.

This complaint is already in the hands of the Lottery Board for adjudication which has nothing to do with the complaint that Mybeat may not be conforming to directives from WASPA whether they are mentioned in the code of conduct or not.

<PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Dear <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Regarding your complaint against MyBeat regarding competition on Algoa FM, we have received the following correspondence from the service provider:

[see below email response]

We would like to check that the service provider has resolved this complaint to your satisfaction. If so, we will close the complaint and notify the service provider that we have done so.

If you have any questions regarding the Code of Conduct or the complaints procedure, please address your queries to [<complaints@waspa.org.za>](mailto:complaints@waspa.org.za).

Warm regards,
WASPA Secretariat

----- Original Message -----

Subject: Re: [WASPA.complaints] MYBEAT ISSUE!: [formal] WASPA Code of Conduct complaint Ref:# 7163

Date: Sat, 1 Aug 2009 13:35:35 +0200

From: <PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

Reply-To: complaints@waspa.org.za <complaints@waspa.org.za>

To: <complaints@waspa.org.za>

References: <<PERSONAL INFORMATION REMOVED BY ADJUDICATOR>

In response to complaint #7163.

As far as Mybeat is aware, the lotteries act has not been contravened (please see response from Pagdens Attornies representing our client AlgoaFM on page 8 of the attached document).

The complaint also states "The SP is contracted to ensure that the Lotteries Act is not contravened." We do whatever we can to educate our clients but in this case there seems to be no issue relating to the code as there is no mention of the Lotteries Act in the Code of Conduct. The complainant's statement should be clarified as to who the other contracting party is otherwise.

If there is any further dispute around the contravention of the Lotteries Act, it is our view that the matter should be addressed with AlgoaFM directly.

Regards

<PERSONAL INFORMATION REMOVED BY ADJUDICATOR>