



## REPORT OF THE ADJUDICATOR

<b>WASPA Member</b>	Blinck Mobile
<b>Service Type</b>	Subscription
<b>Source of Complaints</b>	Public
<b>Complaint Number</b>	7336
<b>Date lodged</b>	12 August 2009
<b>Code of Conduct version</b>	7.4

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### Complaint

This complaint is essentially about a refund promised, delayed and eventually made.

The events leading up to the lodging of the initial complaint are not clear to the Adjudicator and it is sufficient to note that the WASPA member, after an initial exchange of correspondence, agreed to refund the complainant without any admission of wrongdoing on its part. The Adjudicator has reviewed the materials available and not found any evidence of non-compliance with the Code.

After the WASPA member had agreed to refund the complainant there were some initial delays, followed by a cheque marked "return to sender" and an EFT transfer which does not appear to have transpired notwithstanding the provision to the member of the complainant's bank details.

The following is the timeline of events:

- 12 August 2009: complaint is lodged with WASPA
- 13 August 2009: member files initial response
- 2 September 2009: complainant notifies WASPA that no refund has been received
- 1 October 2009: complainant notifies WASPA of receipt of refund cheque & the complaint is closed
- 9 November 2009: complainant notifies WASPA that the cheque has been returned unpaid and the complaint is reopened

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- 13 November 2009: member files further response requesting the complainant's bank details for purpose of affecting refund by EFT
  - 1 December 2009: complainant confirms that requested details had been provided but that no refund payment had been received.

The matter was then referred to formal adjudication and the adjudicator requested the WASPA Secretariat to check with both the complainant and the member whether the refund had been affected in the interim. Both parties confirmed that it had, and that a further amount of R1 000 had been paid to the complainant in order to compensate him for the inconvenience he had been put to.

The following is an excerpt from an email sent by the member to the complainant on 12 March 2010:

“As per our recent conversation, we are sorry to learn that our previous attempt to refund you via cheque was not successful. We are therefore happy to announce that a full refund of the subscription fees incurred, in the amount of 220.00 ZAR will be transferred to your account within 5 working days.

Along with this, we would also like to confirm that your matter has been given further consideration. To this effect and as a show of good consumer relations, we are once again happy to announce that an additional 1,000.00 ZAR has been approved by our financial department, and will also be transferred into your account within 5 working days.”

On 14 March the complainant wrote to WASPA in the following terms:

“I have received the correspondence with regards my complaint currently under review by your office. Please notify me at your earliest that this is acceptable to WASPA as a settlement, in order that the matter may be finalised.”

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

The following section of version 7.4 of the WASPA Code of Conduct was considered:

#### **3.1. Professional and lawful conduct**

3.1.1. Members will at all times conduct themselves in a professional manner in their dealings with the public, customers, other wireless application service providers and WASPA.

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### **Decision**

1. The Adjudicator makes no findings in respect of the underlying subscription service which gave rise to the initial complaint. The issue at hand is the evaluation of the conduct

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of the member in providing the refund it had offered as against the standards set by the Code.

2. The Adjudicator is of the view that the member has not acted professionally vis-à-vis the complainant insofar as the delays in affecting the refund and the returned cheque are concerned. A delay of over seven months in finalising the refund is not an acceptable standard of conduct. The member is accordingly found to have breached section 3.1 of the WASPA Code of Conduct.
  
3. In the light of the attitude of the complainant to the resolution of the matter subsequent to receipt of the refund and the compensation paid, the Adjudicator does not regard any punitive sanction as being appropriate. The member is issued with a formal reprimand.

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