



## REPORT OF THE ADJUDICATOR

<b>WASPA Member (SP):</b>	TIMwe
<b>Information Provider (IP):</b>	“Not applicable”
<b>Service Type:</b>	Subscription Service
<b>Complainant:</b>	David Knight
<b>Complaint Number:</b>	9081 (escalation of 36956)
<b>Code Version:</b>	9.0
<b>Advertising Rules Version:</b>	“Not applicable”

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### Complaint

Complainant complained of subscription process in respect of a subscription service. Following on his sending of an unsubscribe message to the WASPA member, the complainant was unsubscribed from the service and although no refund was initially offered, in the end all monies deducted were offered to be repaid in full as a sign of good faith.

Notwithstanding the foregoing, the complainant held that his complaint had not been resolved to his satisfaction due to the fact that he claims he did not enter any PIN or subscribe to any service but that this was done fraudulently.

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### Service provider's response

The service provider responded with details of how and when the subscription had occurred as well as details of how and when billing had occurred and details of removal from subscription to the service of the complainant and consequent refunding of monies deducted.

The service provider's response was as follows:

“The user subscribed to the music club - which is a web service offered by Total Tim. The service works in the following way: the user enters his/her number on a website to request music sent to his/her phone. The system issues a PIN to the user's cell phone - see attached red entries. The subscription will only be initiated if the pin is entered into the website again. Form the entries I can see that the use also entered his/her number on a games web spot, but never re-entered the pin and was consequently never subscribed. Though we often have users responding that they never entered their numbers - this is truly not possible. A system cannot subscribe a user without having his/her number and a system cannot have the number if

the user did not enter it. We have offered this user a refund in good faith because we value the satisfaction of subscribers. The user may contact me directly on my cell phone should he have any further queries in this regard.

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

The service complained of falls within the ambit of the definition of a subscription service as set out in the Code of Conduct. The sections of the Code of Conduct applicable to this issue are sections 11 dealing with Subscriptions Services.

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### **Decision**

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her.

With reference to (i) the SP's response to the complaint, (ii) the complainant's reply, (iii) the logs accompanying the SP's response to the complaint, and (ii) the sections of the Code considered. It appears from the information contained in the SP's log that the mobile number in question did subscribe to the service and a PIN was entered which emanated from the IP address attaching to the Complainant.

The Adjudicator found this case troubling due to the clear frustration experienced by the Complainant. However, all the Adjudicator can do is decide the matter with reference to the Code and the facts at hand. If fraud or other nefarious criminal activities are being alleged, these will need to be taken up with the bodies having jurisdiction to decide these matters, namely the South Africa Police Services.

I am satisfied that the SP has dealt with the unsubscribe request and that the complainant has been validly unsubscribed from the service.

It is therefore my decision after careful consideration of both the code and the intention behind the drafting thereof that the WASPA member/service provider has not fallen foul of the abovementioned sections either partially or in whole.

Claim dismissed.

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### **Sanctions**

None