

REPORT OF THE ADJUDICATOR

WASPA Member:	TMobileSA
Information Provider (IP): (if applicable)	N/A
Service Type:	Subscription
Complainant:	Public
Complaint Number:	9564
Code version:	Code v9.0 and Ad Rules v2.3
Date of Report:	17 August 2010

Complaint

1. This complaint is the escalation of an unsubscribe request where the Complainant was not satisfied with the response given by the Member.
2. The unsubscribe request was logged on WASPA's system on the 4th of May 2010. The name or nature of the service involved does not appear from the record.
3. The Member at first advised that the Complainant's MSISDN was not listed on its system, and consequently it could not unsubscribe it from the service. The WASPA Secretariat advised the member that Vodacom had identified the Member as the WASP, and that both Vodacom and the Complainant had advised that the amount of R30 had been charged against the Complainant's account. Nonetheless, the Member continued to deny that the Complainant's MSISDN was to be found on its database.
4. Cointel was playing the SP role in this case, and the complaint was at first directed against Cointel, which is a WASP intimately connected with Vodacom.
5. On the 19th of May the matter was escalated to a formal complaint due to inaction in unsubscribing the Complainant from the service. The WASPA Secretariat notified Cointel of the escalation on the same day.
6. The escalation elicited an email from Cointel / Vodacom requesting that the service be terminated for the MSISDN in question. The email was sent to several recipients and not addressed to a particular person or organisation; amongst the recipients was the Member. A rather lengthy correspondence involving Cointel, the Member and the WASPA Secretariat ensued. The Member established that the MSISDN was in fact to be found on their system; however according to their records it had never been billed.

7. The Member agreed to unsubscribe the Complainant, but was unwilling to give a refund, as its records showed no billing had taken place.
8. On the 3rd of June the complaint was redirected against the Member, it having been established that the Member offered the service in question. No subsequent response was ever received from the Member in respect of the formal complaint.
9. The Member disputes that any amount was billed to the Complainant. I asked the WASPA Secretariat to contact the Complainant and request that he furnish his itemised billing for the period concerned, but unfortunately this was not possible as the contact details on hand for the Complainant turned out to be invalid. It also emerged that the Complainant used his account on a prepaid basis, and that he received no itemised billing account as a result.
10. Fortunately, the WASPA Monitor obtained a readout from Vodacom WASP Enquiries, which shows that six debits were made against the Complainant's account of R5 each, for a total of R30.
11. I ascertained in my handling of complaint 9553, against the same Member, that erroneous subscriptions were an issue recently, but that they have been dealt with satisfactorily. According to the WASPA Secretariat in answer to an enquiry I put in respect of that complaint:

TMobileSA acknowledged the error, and informed/refunded everyone affected. They also suspended services to ensure the problem wouldn't continue.

12. I thus proceed on the basis that the present complaint is merely in respect of the disputed billing, and the alleged inaccuracy of the Member's accounting system.

Portion of the Code Considered

13. The following clause of the WASPA Code of Conduct is of relevance to this adjudication:

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.

Decision

14. The Member has made no response to the complaint, despite a reminder from the WASPA Secretariat to do so; consequently I have only the information provided by the WASPA Secretariat to guide me.
15. I hence accept that the total amount billed to the Complainant's account was the amount of R30. Given that the Member could find no record of such transactions on its systems when asked leads me to find that the Member's accounting systems are not accurate.
16. While there is no provision of the WASPA Code of Conduct dealing specifically with the accounting systems of Members, for any company to engage in business

where another entity (in this case Vodacom) knows more about its business than it does, is unprofessional conduct as contemplated in clause 3.1.1 of the Code of Conduct. The Member is consequently found to have infringed that clause.

Sanction

17. As it is common cause that Member should not have billed the Complainant, and given that I have found that it caused R30 to be debited from the Complainant's account, the Member is ordered to refund the Complainant the amount of R30 forthwith.

18. On the breach of clause 3.1.1, I understand that this took place in the context of a wider problem with the Member's systems, which led the Complainant to be unintentionally subscribed to the service in question in the first place. As this issue has been resolved, there is little point in delving into that wider issue here. The sanction applied here is merely in respect of the apparently sorry state of the Member's accounting system. Consequently :

18.1. the Member is issued with a formal reprimand; and

18.2. The WASPA Monitor is requested to test the Member's systems to ensure that billing is accurately reflected thereon, unless this issue has already been dealt with between the Member and WASPA, as I suspect it may have been.

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