



REPORT OF THE ADJUDICATOR

WASPA Member (SP):	Buongiorno UK
Information Provider (IP):	"Not applicable"
Service Type:	Subscription Service
Complainant:	"Public"
Complaint Number:	9922
Code Version:	9.0
Advertising Rules Version:	"Not applicable"

Complaint

Complaint 9922 is the escalation of unsubscribe request 50260 where complainant requests a full refund and compensation.

The formal complaint was sent to the WASP on 2010-07-13 and they replied on 2010-07-13.

The complainant refused resolution on 2010-07-15 and 2010-07-16.

The WASP provided a further response to the complainant's response on 2010-07-16.

The complainant provided a response on 2010-07-19. Complainant complained of subscription process in respect of a subscription service. Following on her sending of an unsubscribe message to the WASPA member, the complainant was unsubscribed from the service and all monies deducted repaid in full.

Notwithstanding the foregoing, the complainant held that his complaint had not been resolved to his satisfaction due to the fact that no compensation for his time in resolving this matter had been offered.

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 offer to refund all monies deducted.

The Complainant is not satisfied with the response on the basis that he spent an inordinate amount of time resolving this matter and as such is entitled to compensation from the WASP.

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 and section 4 dealing with the payment of a refund.

Although no specific complaint is alleged with regards to the Code and section 11, in my view it would appear that the WASP did comply section 11.

With regards to section 4 regarding the payment of a refund, the WASP has offered to refund all amounts deducted to the bank account specified by the Complainant. The Complainant is refusing resolution on the basis that the WASP is not compensating him for his wasted time.

The adjudicator must rule on the matter in terms of the information provided and in the light of compliance with the Code. The WASP complied with it's obligations in terms of the Code as the Code does not require that compensation as a form of damages for time wasted be paid to Complainants, in the same vein that WASPS are not compensated for their time in the case of complaints with no merit.

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 in compliance with the Code.

Further, I am satisfied that the SP has dealt with the unsubscribe request and that the complainant has been validly unsubscribed from the service and offered a full refund for all charges deducted.

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.

The rational for my decision is as follows:

1. The service provider follows and complies fully with the WASPA code in their processes for subscription services.
2. The service provider offered a full refund.
3. The Code does not provide for the awarding of compensatory damages for time spent by Complainants.

Sanctions

None.