

Dear WASPA Members,

RE: 3 STRIKE RULE FOR AFHU – BANNER TO NETWORK HOSTED CONFIRMATION PAGE

INTERNAL AFFILIATE MARKETING PROCEDURE:

During November 2015 WASPA, in collaboration with its members, implemented the Internal Affiliate Marketing Procedure as an interim solution to address the problems being experienced in the market associated with third party marketing suppliers.

In summary, the procedure entails the following:

- The Media Monitoring Team will lodge an Affiliate Marketing Heads-Up Complaint (AFHU) against the member where potential non-compliant third party marketing has been identified.
- The member must immediately take the following action:
 - Acknowledge receipt of the AFHU in writing;
 - Request the third party marketing supplier to remove the non-compliant marketing material with immediate effect and to refrain from linking the specific service or any other service associated with the member, with the non-compliant marketing material. This request and the acknowledgement of receipt and execution of the request must be in writing and the member must keep a copy thereof for record purposes;
 - Inform the third party marketing supplier that payment will be withheld for any traffic that was directed to the member's landing page/site/network hosted confirmation page via the non-compliant marketing material. This notification must be in writing and the member must keep a copy thereof for record purposes;
 - Inform WASPA in writing of the steps taken and confirm that the non-compliant marketing material has been removed, accompanied by the relevant supporting emails.
- This procedure only applies to the marketing portion of the service acquisition flow. In the event that there is a breach of the WASPA Code of Conduct relating to the landing page, network hosted confirmation step, or any requirement relating, but not limited to, the welcome message, unsubscribe mechanism, unsubscribe message, billing, terms and conditions or content, will be dealt with using the Heads-Up, Formal or Emergency Complaint procedures.
- In the event of non-resolution of an AFHU, the AFHU will be closed and a complaint will be lodged in accordance with the provisions of the WASPA Code of Conduct.

PROBLEM AREAS IDENTIFIED:

25 August 2016 CodeCom meeting:

The Internal Affiliate Marketing Procedure was reviewed and specific problem areas were identified and analysed. In summary:

- Repeat offenders: certain members receive multiple AFHU complaints, however the pattern or behaviour does not change and the procedure only serves as a mechanism to hide behind, instead of reaching the intended corrective measures it was designed to achieve;
- Banners directing straight to network hosted confirmation pages – no member responsibility: as the banner is 'controlled' by the third party marketing supplier, and the network hosted confirmation page is 'controlled' by the MNO, the member does not explicitly take control or responsibility for any step in the procedure;
- Banners directing straight to network hosted confirmation pages – single opt-in: in the event that the banner is non-compliant and does not contain the required pricing information

(subscription, cost and frequency of billing), the consumer is only informed of the pricing information on the network hosted confirmation page, which does not comply with the industry double opt-in requirement.

Possible solutions were discussed, but no official decision was made and it was agreed to hold an additional CodeCom meeting to review the matter.

13 October 2016 CodeCom meeting:

The following solutions were discussed at length:

1. Retain the Internal Affiliate Marketing Procedure as is, with no changes to the procedure.
2. Remove the Internal Affiliate Marketing Procedure, and use the Heads-Up, Formal or Emergency Panel Complaint Procedures as set out in the WASPA Code of Conduct, as the case requires.
3. Amend the Internal Affiliate Marketing Procedure:
 - a) Limit the scope of the AFHU procedure:
 - Only to apply to a situation where there is a landing page (controlled by the member): 'banner > landing page > NHCP'.
 - If there is no landing page, then the normal procedures as set out in the WASPA Code of Conduct should apply: 'banner > NHCP'.
 - Therefore, the AFHU procedure excludes 'banner > NHCP' from the scope of its application.
 - b) 3 strike rule for all AFHU:
 - Use the AFHU procedure for all affiliate marketing, including 'banner > landing page > NHCP' and 'banner > NHCP' flows.
 - A 3-strike rule to be implemented for all AFHUs.
 - 3 AFHU's to be sent, the 4th AFHU will automatically be escalated to a complaint dealt with in accordance with the provisions set out in the WASPA Code of Conduct.
 - 3-strike rule: Per member calculated in a calendar month.
 - c) 3 strike rule for AFHU 'banner > NHCP' flows:
 - Use the AFHU procedure for all affiliate marketing relating to the 'banner > landing page > NHCP' flow.
 - No 3-strike rule for the 'banner > landing page > NHCP' flow.
 - Use the AFHU procedure for all affiliate marketing relating to the 'banner > NHCP' flow.
 - A 3-strike rule to be implemented for AFHUs relating to 'banner > NHCP' flow.
 - 3 'banner > NHCP' AFHU's to be sent, the 4th 'banner > NHCP' AFHU will automatically be escalated to a complaint dealt with in accordance with the provisions set out in the WASPA Code of Conduct.
 - 3-strike rule: Per member calculated in a calendar month.

The following solution was selected by majority vote:

3. Amend the Internal Affiliate Marketing Procedure:
 - c) 3 strike rule for AFHU 'banner > NHCP' flows:
 - Use the AFHU procedure for all affiliate marketing relating to the 'banner > landing page > NHCP' flow.
 - No 3-strike rule for the 'banner > landing page > NHCP' flow.
 - Use the AFHU procedure for all affiliate marketing relating to the 'banner > NHCP' flow.
 - A 3-strike rule to be implemented for AFHUs relating to 'banner > NHCP' flow.

- 3 'banner > NHCP' AFHU's to be sent, the 4th 'banner > NHCP' AFHU will automatically be escalated to a complaint dealt with in accordance with the provisions set out in the WASPA Code of Conduct.
- 3-strike rule: Per member calculated in a calendar month.

3-STRIKE RULE:

Scope:

- Applied to 'banner > NHCP' flow only;
- Not applicable to 'banner > landing page > NHCP' flow.

Application:

- First 'banner > NHCP' breach identified in a month = AFHU
- Second 'banner > NHCP' breach identified in a month = AFHU
- Third 'banner > NHCP' breach identified in a month = AFHU
- Fourth 'banner > NHCP' breach identified in a month = Complaint
- Fifth, sixth, seventh... 'banner > NHCP' breach identified in a month = Complaint
- Therefore, any affiliate marketing breaches in excess of the first 3 AFHUs will be dealt with as a complaint in accordance with the provisions set out in the WASPA Code of Conduct.

Time period:

- Calculations start on the first day of every calendar month.
- Thereafter, the totals are reset to zero on the first day of the next calendar month.

Per member:

- Strikes calculated per member, not per service.

Use of HU complaint in the Internal Affiliate Marketing Procedure:

AFHU used:

- To date, if there was only a breach relating to the advertising material (content of the banner), but all other provisions of the WASPA Code of Conduct have been complied with, then member received an AFHU complaint.
- This would be applicable to 'banner > landing page > NHCP' flows.
- Therefore:
 - banner = non-compliant
 - landing page = compliant
 - NHCP page = compliant
 - = AFHU for the banner
- If any breaches are found on the landing page or NHCP, then a HU complaint will be used for those breaches.

HU used:

- To date, if there was a breach relating to the advertising material (content of the banner) – ‘advertising breach’, and/or a breach of other sections of the WASPA Code of Conduct, including but not limited to:
 - No pricing information provided;
 - Non-compliant pricing information provided;
 - No 18+ on adult marketing material;
 - Explicit (x18 or xx18) adult marketing material;
 - No call centre number/terms and conditions link if required and not displayed on the NHCP or non-compliant display;
 - Misleading marketing material; etc.then the member received a HU complaint.
- The reason was that there was not only an ‘advertising breach’, but also a ‘Code breach’.
- This would be applicable to ‘banner > NHCP’ flows.
- We will continue to use this approach within the Internal Affiliate Marketing Procedure.
- Please note: 3 strike rule applies to these cases HU cases.

11 November 2016 CodeCom meeting:

The discussion regarding the Internal Affiliate Marketing Procedure and the majority decision reached was noted and distributed to the CodeCom Working Group. During the CodeCom meeting held on the 11th of November 2016, no objections were received, and the amendment to the Internal Affiliate Marketing Procedure was finalised.

DATE OF IMPLEMENTATION:

The amendment to the Internal Affiliate Marketing Procedure shall become effective on the **1st of January 2017**. The 3-strike rule, applicable to ‘banner > NHCP’ flows, will be calculated from this date and a complaint will automatically be lodged against a member for the 4th AFHU ‘banner > NHCP’ breach and onwards during any calendar month.

DATE OF REVIEW:

It was agreed that the 3-strike rule is an interim solution and the results will be reviewed at the next CodeCom meeting held in Q1 2017.

Any question or concerns regarding this procedure can be emailed to ilonkab@waspa.org.za.

We trust you find the above in order.

Kind Regards,
Ilonka Badenhorst
WASPA General Manager