

## Tribunal meeting number 289

Case reference: 182456  
Case: Prohibition of an associated individual

This case was brought against the associated individual under paragraph 4.8.8 of the 14<sup>th</sup> edition of the Code of Practice (“**the Code**”).

### Background

1. The Tribunal was asked to consider imposing a prohibition against Ms Natalie Ramsey pursuant to paragraph 4.8.3(g) of the Code.
2. The case related to an adjudication against the Level 2 provider, Webdata Ltd, (**‘the Level 2 provider’**), which was heard on 11 October 2019 (case reference: 154913). The adjudication concerned a subscription-based alert service, ‘Lotto Alerts’ (**‘the Service’**) operated by the Level 2 provider. As part of the adjudication against the Level 2 provider, the Tribunal recommended that the Executive consider initiating the process which may lead to the prohibition of Ms Natalie Ramsey pursuant to paragraph 4.8.3(g) of the Code.
3. The Service provided consumers with lottery results to their telephone. The Service commenced operation on 22 June 2018 and the PSA received 99 complaints about the service.
4. On 11 October 2019, the Tribunal adjudicated against the Service operated by the Level 2 provider. The Tribunal upheld the following breaches of the Code raised against the Level 2 provider:
  - Rule 2.3.3 – Consent to charge
  - Rule 2.3.2 – Misleading
  - Rule 2.6.1 – Complaint-handling
5. The Tribunal considered the overall case to be ‘very serious’ and imposed the following sanctions:
  - a formal reprimand
  - a prohibition on the Level 2 provider from providing, or having any involvement in, any premium rate service for a period of five years, starting from the date of publication of the Tribunal decision, or until payment of the fine and the administrative charges, whichever is the later

- a requirement that the Level 2 provider must refund all consumers who claim a refund for the full amount spent by them on the Service, within 28 days of their claim, save where there is good cause to believe that such claims are not valid, and provide evidence to PSA that such refunds have been made
- a fine of £250,000.

The Tribunal also recommended that the Level 2 provider pay 100% of the administrative costs, which totalled £5,045.

6. The relevant provisions of the Code for the present matter relating to Ms Ramsey's potential prohibition included:

Paragraph 4.8.8 of the Code which states:

*"(a) If a Tribunal considers that it may wish to make a prohibition under sub-paragraph 4.8.3(f), 4.8.3(g) or 4.8.3(h) in respect of any associated individual, the PSA shall first make all reasonable attempts to notify the individual concerned and the relevant party in writing. (b) It shall inform each of them that any of them may request an opportunity to make representations in writing, or in person, to the Tribunal and of the right of any of them (or the PSA itself) to instead require an oral hearing."*

Paragraph 4.8.3(g) of the Code which states:

*"Having taken all relevant circumstances into account, the Tribunal may impose any of the following sanctions singularly or in any combination in relation to each breach as it deems to be appropriate and proportionate: (g) prohibit a relevant party and/or an associated individual found to have been knowingly involved in a serious breach or series of breaches of the Code from providing, or having any involvement in, any PRS or promotion for a defined period."*

Paragraph 5.3.9 of the Code which states:

*"'Associated individual' is any sole trader, partner or director or manager of a Premium rate service provider, anyone having day to day responsibility for the conduct of its relevant business and any individual in accordance with whose directions or instructions such persons are accustomed to act, or any member of a class of individuals designated by the PSA."*

## Preliminary issue

7. The hearing was held remotely via Microsoft Teams due to the ongoing Covid-19 situation. As the Level 2 provider was not in attendance at the Tribunal, the Tribunal considered as a preliminary issue the issues of service and proceeding in absence.
8. The Tribunal wanted to be certain that the Executive had complied with Code paragraph 4.8.8 and made all reasonable attempts to notify Ms Ramsey and the Level 2 provider in writing. In addition, it wished to satisfy itself that the Executive had informed Ms Ramsey and the Level 2 provider that any of them may request an opportunity to make representations in writing, or in person, to the Tribunal, and of the right of any of them to instead require an oral hearing.
9. The Tribunal considered whether the Executive had made reasonable efforts to properly serve the Warning Notice (**'the Notice'**) on Ms Ramsey and the Level 2 provider.
10. The Tribunal noted that the Level 2 provider was in liquidation and its registered address was that of its liquidators. The Executive had issued the Notice on the liquidators as well as on Ms Ramsey as required by the Code, and the Tribunal noted that the liquidators had stated that: *"Given that the Company is in liquidation, and the fact that the proceedings are against the former directors personally, neither the Company nor the liquidators intend to take any part in the proceedings..."* The Tribunal further noted that the Notice had been successfully delivered to Ms Ramsey's residential address on 14 September 2021.
11. The Tribunal then went on to consider whether the Executive had notified Ms Ramsey about the date and time of the hearing. It noted that the Executive emailed Ms Ramsey the date and time of the hearing on 26 November 2021. The Executive also sent out the notification by post and it was successfully delivered to Ms Ramsey's residential address by Royal Mail on 27 November 2021, and by UPS on 30 November 2021.
12. The Tribunal was therefore satisfied that the Executive had complied with Code paragraph 4.8.8; the Notice had been properly served on both Ms Ramsey and liquidators for the Level 2 provider.

## Proceeding in absence

13. The Tribunal then considered whether it was fair to proceed in Ms Ramsey's and the Level 2 provider's absence. Although Ms Ramsey had not responded to the Notice, the Tribunal was not convinced that adjourning the matter would serve any useful purpose. Ms Ramsey had been informed about the proceedings and had been notified of the date and time of the paper-based hearing, but it appeared that she had decided not to engage with the PSA. The Level 2 provider was now in liquidation and its liquidators had confirmed that it would not be taking part in the proceedings.

14. In all the circumstances, the Tribunal was satisfied that it ought to proceed with the hearing in the absence of Ms Ramsey. It did not consider that there would be any or any sufficient benefit in adjourning the matter, as, among other things, it appeared unlikely that such an adjournment would secure Ms Ramsey's attendance at any future hearing. As such, the Tribunal was satisfied that it was fair and reasonable to proceed in the absence of both Ms Ramsey and the Level 2 provider.

### Associated individual

#### The Executive's submissions

15. The Executive considered that Ms Ramsey was an associated individual for the purpose of paragraph 5.3.9 of the Code, as it considered that she had day to day responsibility for the conduct of the Level 2 provider. The Executive stated that this was evidenced by the following:

- Ms Ramsey was the sole director of the Level 2 provider between 11 April 2016 and 15 July 2018. The Executive noted that the Service commenced on 22 June 2018 and the first complaint about the Service was received by the PSA on 29 June 2018.
- Ms Ramsey was the sole shareholder of the Level 2 provider. This was evidenced by the CreditSafe report for the Level 2 provider.
- Ms Ramsey had been listed as the primary contact for the Level 2 provider on the PSA Registration Scheme since the Level 2 provider first registered on 28 May 2018.
- Ms Ramsey remained a responsible person for the Level 2 provider until at least mid-December 2018, as indicated by Ms Ramsey's response to the Executive's direction, which the PSA received on 13 December 2018.
- on 4 May 2018, Ms Ramsey, in her capacity as the Level 2 provider's Director, signed a contract to operate premium rate services with the Level 1 provider
- on 4 June 2018, Ms Ramsey, in her capacity as the Level 2 provider's Director, signed a contract with the third-party subscription verifier.

16. The Executive submitted that Ms Ramsey, in her capacity of director for the Level 2 provider, was instrumental in setting up and initiating the commencement of the Service.

17. Ms Ramsey ceased to be the director for the Level 2 provider as of 15 July 2018. Notwithstanding this, the Executive considered that her ongoing correspondence with the Executive, in relation to the status of the Service and business following her resignation in July 2018, indicated that she shared responsibility with the new director for the conduct of the Level 2 provider.

18. The Executive asserted that the above demonstrated that Ms Ramsey had day-to-day responsibility for the conduct of the Level 2 provider's business, both during the time

she was a director for the Level 2 provider and subsequently. The Executive submitted that Ms Ramsey was an associated individual under paragraph 5.3.9 of the Code when breaches of Rules 2.3.3, 2.3.2 and 2.6.1 of the Code were being carried out.

### **Ms Ramsey's response**

19. Ms Ramsey did not respond to the Executive's Warning Notice and did not attend the paper-based hearing.
20. The Level 2 provider was in liquidation and its liquidators informed the Executive that:  
*"Given that the Company is in liquidation, and the fact that the proceedings are against the former directors personally, neither the Company nor the liquidators intend to take any part in the proceedings..."*

### **Conclusions**

21. The Tribunal noted that Ms Ramsey was the sole director and sole shareholder for the Level 2 provider from 11 April 2016 until her resignation on 15 July 2018. It also noted that the Service commenced operation on the 22 June 2018 and the first complaint the PSA received about the Service was on 29 June 2018. The Tribunal considered that in respect of all 99 complaints that the PSA received about the Service, all of the subscriptions were initiated before Ms Ramsey ceased to be the director of the Level 2 provider.
22. The Tribunal further noted that even after Ms Ramsey's resignation as a director, she appeared to remain a responsible person for the Level 2 provider, as indicated by the response she had given to the Executive's direction for information, which the Executive received on 13 December 2018. The Tribunal considered that in light of Ms Ramsey's ongoing correspondence with the Executive, in relation to the operation and status of the Service and business, this indicated that she had a shared responsibility with the new director for the conduct of the Level 2 provider.
23. The Tribunal was satisfied with the Executive's evidence which demonstrated that Ms Ramsey fulfilled the requirements of being an associated individual of a premium rate service provider. The Tribunal agreed with the Executive's submission that Ms Ramsey was instrumental in setting up and initiating the commencement of the Service, noting that she had entered into agreements with the third-party verifier and the Level 1 provider.
24. The Tribunal therefore found, on a balance of probabilities, that Ms Ramsey was an associated individual of the Level 2 provider.

## Knowing involvement

### The Executive's submissions

25. As the primary contact on the PSA Registration Scheme Database and the person in the position of a Director until 15 July 2018, the Executive submitted that Ms Ramsey was, at the time that the series of breaches occurred, responsible for the oversight of the company affairs and ensuring that the company was properly managed, including complying with the Code and sanctions.

26. The Executive noted that key events occurred which would have alerted Ms Ramsey to the potential Code breaches and the fact that the Level 2 provider was operating non-compliantly. The Executive relied on the following:

- Ms Ramsey requested an extension to respond to the informal enquiry sent to the Level 2 provider on 3 October 2018
- Ms Ramsey acknowledged reading the formal direction for information sent to the Level 2 provider on 15 November 2018
- furthermore, in her response received on 13 December 2018, Ms Ramsey provided details of the status of the Service and the state of the company's financial position. In particular, Ms Ramsey stated that: "*Lotto alerts was stopped after your last letter in November and we NOT carrying on with this as its so hard on us at the moment*". The Executive noted that the operation of the Service did not cease due to proactive action taken by Ms Ramsey, but as the result of the Level 1 provider suspending the Service in November 2018.

27. The Executive asserted that Ms Ramsey was aware that the Level 2 provider was not operating compliantly with the Code. The investigation into the Service was conducted between 15 November 2018 and 25 October 2019 and, as stated above, the Executive first received a complaint about the Service on 29 June 2018. An informal enquiry was sent to Ms Ramsey on 3 October 2018. The case was then allocated to a Track 2 procedure and the Executive continued to send and received a number of responses from Ms Ramsey's email address. The last correspondence that the Executive received from Ms Ramsey was dated 13 December 2018. The correspondence received and responded to by Ms Ramsey included:

- an Informal Enquiry sent to the Level 2 provider on 3 October 2018 in which the Executive outlined its initial concerns regarding the Service. These were listed as:
  - "*Consumers are not aware of how they became opted into the service.*"
  - "*Consumers do not feel they've provided genuine consent for the service in question.*"
- a formal direction for information was sent to the Level 2 provider on 15 November 2018. In the covering email, the Executive outlined the following concerns:

- “There are concerns that consumers are being charged without their consent.”
- “There are concerns regarding the methods used to verify consumers’ consent to charge.”
- “There are concerns regarding Webdata Ltd’s complaint handling processes”.
- “There are concerns that the service being promoted is not being delivered to consumers.”

28. The Executive asserted that the evidence outlined above and contained within the annexes to the Notice demonstrated that Ms Ramsey received and responded to crucial correspondence on behalf of the Level 2 provider during the Executive’s investigation.

29. Notwithstanding Ms Ramsey’s resignation as a director on 15 July 2018, the Executive submitted that Ms Ramsey remained the primary contact for the Level 2 provider on the PSA Registration Scheme database and accordingly remained responsible to answer the Executive’s enquiries. The Executive asserted that Ms Ramsey was aware of potential breaches of the Code, and was fully aware of the Executive’s investigation.

30. The Executive submitted that Ms Ramsey was an associated individual with knowledge in a series of breaches of the Code that were upheld and considered overall to be ‘very serious’ by an earlier Tribunal, and was knowingly involved in the non-compliant conduct at the relevant times.

### **Ms Ramsey’s response**

31. Ms Ramsey did not respond to the Executive’s Warning Notice and did not attend the paper-based hearing. The Level 2 provider was in liquidation and its liquidators informed the Executive that they would not be taking any part in the proceedings.

### **Conclusions**

32. The Tribunal considered whether Ms Ramsey was knowingly involved in a serious breach or a series of breaches of the Code.

33. The Tribunal noted how swiftly complaints were received following the Service’s commencement and how quickly the Level 2 provider descended into liquidation. It observed Ms Ramsey’s response dated 13 December 2018 and specifically that she had stated: “... *lotto alerts was stopped after your last letter in November and we NOT carrying on with this as its so hard on us at the moment...*”

34. The Tribunal was satisfied on the balance of probabilities that Ms Ramsey was knowingly involved in a serious breach or series of breaches of the Code. The Tribunal considered that the Executive’s evidence clearly demonstrated that Ms Ramsey had been made aware by the Executive that the Service was acting non-compliantly throughout the relevant time of her directorship and subsequently. It noted that Ms

Ramsey had responded to communications sent by the Executive such as informal enquiries and formal directions and the Interim Warning Notice.

35. The Tribunal was of the view that Ms Ramsey was sufficiently involved in the running and conduct of the Level 2 provider company. It noted that Ms Ramsey was the Level 2 provider's sole director and shareholder at the commencement of the Service, but continued to have involvement even after her resignation as director. The Tribunal considered that, on the balance of probabilities, Ms Ramsey was knowingly involved in a serious breach or series of breaches of the Code

## Sanctions

36. The Executive recommended that Ms Ramsey should be prohibited from providing, or having any involvement in, any premium rate service in the UK for a period of five years from the date of publication of this decision. The Executive asserted that this was a proportionate outcome due to the severity of the breaches that had been upheld in the previous adjudication.
37. The Tribunal noted that Ms Ramsey had not responded to the Executive's Notice and had chosen not to attend the paper-based hearing. In the absence of any submissions by Ms Ramsey, either in writing or in person, the Tribunal carefully considered the likely impact of the prohibition on Ms Ramsey.
38. The Tribunal decided (unanimously) to prohibit Ms Ramsay from providing, or having any involvement in, any premium rate service in the UK for a period of five years from the date of publication of this decision. The Tribunal did not identify any or any sufficient evidence to mitigate the duration of the sanction.
39. The Tribunal considered that such a prohibition was appropriate, proportionate and justified due to the proven conduct of the Level 2 provider and the Tribunal's finding that Ms Ramsey was knowingly involved in the same. The Tribunal took into account the deterrent effect of sanctions and the need to ensure that such non-compliant conduct would not be repeated by Ms Ramsey. It had regard to the wider public interest and the PSA's legitimate aim of protecting consumers and the public, and upholding standards and confidence in the sector.

Administrative charge recommendation: 100%