

DOES YOUR ADVERTISEMENT COMPLY WITH THE GENERAL PRINCIPLES OF ADVERTISING, AS SET OUT BY THE ASA AND WHAT ACTION CAN CONSUMERS TAKE AGAINST YOU AS A RESULT OF NON-COMPLIANCE WITH THE GENERAL PRINCIPLES?

Category: Media and OTT

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In terms of the standards of advertising, all advertisements must comply with certain criteria as set out by the Advertising Standards of Authority of South Africa's (**ASA**) Codes of Advertising. One of these general principles is *misleading claims*. In this regard, it provides that "*Advertisements should not contain any statement or visual presentation which, directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer.*" The intention of these codes is obviously to protect consumers and to ensure that they are fully aware of the nature of the products and/or services when transacting. They also serve to ensure that all advertisements remain *informative, factual, honest, and do not conflict with any laws*.

In the event of failure to comply with any of these codes, consumers can raise complaints with the ASA. Depending on the merits of the matter, the complaint can either be upheld or dismissed. A recent ruling in the matter between SAB / CASTLE FREE / E VAN ANTWERPEN / 2017- 7059F was adjudicated upon on the basis of the contents of the advertisement being alleged to be misleading. The merits of the case were based on the labelling of the product, being the alcoholic beverage. The labelling stated, *inter alia*, that: "*CASTLE FREE, 100% BEER TASTE, 0%ALCOHOL*". However, on the ingredient panel, it stated: "*Contains de-alcoholised beer 0.03% alcohol*". At the bottom of the label, it stated, "*0.0%ALC/VOL.*".

The complainant raised the issue that the advertisement was misleading as the labelling claimed that the product is 0.0% alcohol, but on the panel, it indicated that it has 0.03% alcohol. The respondent argued that a reasonable person would understand that a majority of consumables that are considered to be alcohol free actually contain some traces of alcohol. They are however so insignificant and as such, the products are regarded as alcohol free. It therefore submitted the claims were not misleading. It submitted that the inclusion of the statement "*contains de-alcoholised beer 0.03% Alc/Vol*" on the packaging of the product was with the view of being transparent, and affording consumers the right to choose whether or not to consume the product.

In the ruling the ASA found that the inclusion of both statements in the product was contradictory. Further, given the nature of the print, the consumers would likely interpret it to be different from other alcohol-free products, in that this specific product contains absolutely no traces of alcohol. As a result, the complaint was upheld and the respondent was ordered to withdraw the claims made in their current format immediately, and prohibited from continuing using the advertisement in future.

This is an illustration of the stringent compliance requirements with the codes. It also shows the consequences of failures to adhere to the standards as set out in the codes. It is therefore important to note all the requirements and ensure compliance in order to avoid any complaints from the public, as well as any sanctions by the ASA as a result.