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The Code Review Committee  
Attention: Fred Makgato  
The Advertising Standards Authority of South Africa  
P.O. Box 41555  
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28 February 2011

### **THE ASA'S CALL FOR SUBMISSIONS TO AMEND THE CODE OF ADVERTISING PRACTICE**

1. On 14 December 2010, the Advertising Standards Authority (the ASA) published a press release inviting interested parties to submit suggestions for changes or additions necessary to update the Code of Advertising Practice (the Code). Interested parties were invited to submit their written submissions no later than 28 February 2011.
2. The National Association of Broadcasters (the NAB) welcomes the opportunity to make its written submission to the ASA, and believes that its inputs will add value to the 2011 code review process.
3. **PROCEDURES AND REMEDIES OF THE ASA CODE**
4. In terms of the definition clause of the Code, *"the Code means the Code of Advertising Practice of the ASA, as amended by the ASA from time to time, and includes all appendices to the Code and the Procedural Guide."*
5. From the NAB's point of view, any code emanating from other Regulatory Bodies, appended to the Code, and administered by the ASA on behalf of that particular Regulatory body, shall be deemed to form part of the ASA Code. From our understanding for administrative purposes, and to alleviate

confusion, such a code ought to conform to, and be adapted to the ASA Code.

6. However, when perusing the ASA Code and its appendices, it appears some appendices have been adopted by the ASA without aligning them to the ASA Code. Appendices identified are inter alia Appendix A and Appendix D.
7. The Procedural Guide of the ASA Code, categorically outlines processes a complainant may follow when lodging a complaint with the ASA<sup>1</sup>. The Code further outlines remedies and sanctions that can be meted against a party who may be found to have contravened the Code. The Procedural Guide attempts by all means to avoid confusion and alleviates issues of concurrent jurisdiction. To this end clause 2 of the Procedure Guide provides that:

*“where the complainant has lodged a complaint or dispute, or instituted an action with or in any other regulatory body or in a court, and where the subject matter of the complaint, dispute or action is substantially the same as the subject matter of a complaint lodged by that compliant with the ASA, the ASA will decline to consider and deal with the complaint”.*
8. On the contrary, the provisions of Appendix A of the Code<sup>2</sup> recognise a different dispute reporting system from that outlined by the ASA Code. Part D of Annexure A outlines provisions for the enforcement the South African Code for the Marketing of Health Products should be lodged. The specified structures deviate from those provided for by the ASA Code.
9. Similarly, the provisions of clause 12 of Appendix D<sup>3</sup> outline enforcement procedures to be followed in complaints related to Mail Order Advertising, which are different from those outlined by the ASA Code. From the NAB point of view, these provisions are confusing, and need to be reviewed.
10. The NAB proposes that when reviewing the Code, the ASA should attempt to align the provisions of Annexure A and D to the Procedural Guidelines of the ASA Code.

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<sup>1</sup> Clause 1 of the ASA Code

<sup>2</sup> SA Code of Practice for the Marketing of Health Products

<sup>3</sup>Mail Order Advertising

11. The NAB would once again like to thank the ASA for affording it the opportunity to submit its written submission to the 2011 Code Review.

Kind regards,

A handwritten signature in black ink, appearing to read 'J. Koster', with a long horizontal flourish extending to the right.

Johann Koster  
**Executive Director**

# HP Color LaserJet 2840

NABSA  
0113255743  
Feb-28-2011 15:25

## Fax Call Report

Job	Date	Time	Type	Identification	Duration	Pages	Result
2964	2/28/2011	15:24:01	Send	0117811616	0:00	0	No answer

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NATIONAL ASSOCIATION OF BROADCASTERS

