



## Advertising Standards Authority of South Africa

(Association incorporated under Section 21)

Telephone 011 781 2006 Fax 011 781 1616 Email [info@asasa.org.za](mailto:info@asasa.org.za) Website [www.asasa.org.za](http://www.asasa.org.za)  
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Company Registration Number 1995/00784/08 Non-profit Registration Number 043-694-NPO

### PRIVACY AND CONFIDENTIALITY

The information contained in this facsimile is intended for the named recipient/s only. It may contain privileged and confidential information and if you are not an intended recipient, you must not copy, distribute or take any action in reliance upon it.  
If you have received this facsimile in error, please notify us immediately on 27 11 781 2006 and destroy the facsimile.

**To:** Mr Bongani Gosa  
BWD Advertising  
**Email:** [Bongani@bwd.co.za](mailto:Bongani@bwd.co.za)

**From:** Ms Bongiwé Tyutu  
**Email:** [bongiwe@asasa.org.za](mailto:bongiwe@asasa.org.za)

**Date:** 16 February 2017

**Reference:** BWD ADVERTISING / E BUCHAN / 2017-5318F

Dear Mr Gosa

1. You may be aware of the existence of the Advertising Standards Authority whose main objective is to promote and maintain the highest standards in advertising in all media in South Africa. This we endeavour to achieve by implementation of a code of practice.
2. Enclosed please find a letter of complaints received regarding the above from which it appears that you are the appropriate entity to whom this complaint should be addressed, as respondent in this matter.
3. We wish to afford you an opportunity to respond to the complaint before the ASA considers the objection. Accordingly we would appreciate it if you could consider the complaint and furnish us with your written comments **by close of business on 23 February 2017**.
4. Your response will be made available to the complainant. **Should you believe any part of the response to be confidential in nature, kindly mark the relevant sections as such and attach them as annexures to the response.** Furthermore, in terms of Clause 5 of Section I, furnish us with the reasons for believing the annexures to be confidential. Any documentation not clearly marked confidential may be forwarded to the complainants.
5. After the stipulated deadline, the ASA Directorate may consider the alleged breaches of the Code by investigating and ruling on the matter. Should the Directorate rule on the matter, the relevant information and documentation as submitted at the time by the respective parties will be considered. Alternatively, the Directorate may decide to refer the matter to the Advertising Standards Committee for a ruling. In this event you will be advised and furnished with full details.
6. Any party who feels aggrieved by a ruling of the Directorate may, within ten days of the date of notification, appeal against such ruling to the Advertising Standards Committee. The notice of appeal must be given in writing and must be communicated to the ASA in any manner acceptable for the lodging of complaints, and should set out concisely the grounds of appeal. The other party or parties to the matter will be entitled to reply to the

Chairperson of FAC: Judge Bernard Ngoepe

Directors NV Nkomo (Chairperson) DR Terblanche (Deputy Chairperson) TN Msibi (CEO) M Gendel S Mbhele

notice of appeal within 10 working days of the date of receipt thereof. Where the advertiser appeals, a payment of R91 770 (inclusive of VAT) shall be made.

7. Any party who is agrieved by the ruling of the Advertising Standards Committee or Advertising Industry Tribunal, may, within twenty days of notification, appeal against such ruling to the Final Appeal Committee. Notice of appeal must be given in writing and must be communicated to the ASA in any manner acceptable for the lodging of complaints. The notice of appeal should set out concisely the grounds of appeal and should be accompanied by the ruling which is being appealed and any reasons given for it, as well as all written representations and documentation submitted to the Advertising Standards Committee. The other party or parties to the matter will be entitled to reply to the notice of appeal within 10 working days of the date of receipt thereof. Where the advertiser appeals, a payment of R104 310 (inclusive of VAT) shall be made.
8. Rulings of the Directorate and the Advertising Standards Committee must be adhered to until reversed.
9. The ASA will consider the complaint in terms of the following clause(s) of the Code of Advertising Practice:
  - i) Section II, Clause 3.4 - Discrimination
10. Bearing in mind that the Directorate will consider the matter after the deadline stipulated, your assistance and co-operation in submitting a response timeously will be appreciated.
11. Kindly note that should an adverse ruling be made, the ASA may issue an Ad-Alert to its members (including newspapers, magazines, radio, television, cinema and the Printing Industries Federation) to request them not to accept the advertising at issue.
12. Should you at any time feel that your dispute was delayed due to our actions, please do not hesitate to contact the office of the CEO on (011) 781-2006 or [lindiwe@asasa.org.za](mailto:lindiwe@asasa.org.za).

Yours sincerely

**THE ADVERTISING STANDARDS AUTHORITY OF SOUTH AFRICA**

  
**BONGIWE TYUTU**  
**CONSULTANT: DISPUTE RESOLUTION**  
EM

## Reception

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**From:**  
**Sent:** 31 January 2017 08:18 AM  
**To:** complaint@asasa.org.za  
**Cc:** mpumi@asasa.org.za  
**Subject:** New Complaint



A complaint has been sent from the ASASA website

Title Mrs  
FirstName Emily  
LastName Buchan  
Date 2017-01-31 08:17:48 AM  
IDno  
Address

PostalCode  
Telephone  
TelephoneAlt  
Fax  
Email

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Company False  
CompanyName  
AdAgency bwd advertising  
TypeOfAd Other  
OtherType Billboard  
AdvertSource Suspended from footbridge M1 South, 1km north of Marlboro Drive offramp  
AdvertDate 2017-01-31 08:17:48 AM  
AdvertProduct Advertising Company  
AdvertCompany bwd Advertising  
AdvertDescription 100% (black) is better  
ComplaintReason It's racist. We should all be trying to promote inclusivity: adverts like this (as would a '100% white is better' advert) only create more divisions in society.

# 100% BLACK OWNED ADVERTISING AGENCY

SOME THINGS ARE BETTER AT 100%

[WWW.BWDAADVERTISING.CO.ZA](http://WWW.BWDAADVERTISING.CO.ZA)

**bwda**  
ADVERTISING



## Clinton Chetty

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**From:** Emily Buchan  
**Sent:** 12 February 2017 03:20 PM  
**To:** 'Clinton Chetty'  
**Subject:** RE: BWD Advertising / E Buchan / 2017-5331A

Dear Clinton,

Thank you for your reply and for attaching the advertisement.  
Apologies for the discrepancy, which came about as I was concentrating more on driving on the highway than on the billboard.

However, the advert is obvious and not open to multiple interpretations.  
'100% black owned advertising company' and 'some things are better at 100%' contained in the same advert clearly suggest that a company that is entirely black owned is better than a mixed or white owned company. Such a remark is racist.

How much elaboration do you need for an advert that is so concise and clear in its message?

Please let me know if you need anything further from me to proceed with this matter.

Kind regards,  
Emily

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**From:** Clinton Chetty [<mailto:clinton@asasa.org.za>]  
**Sent:** Friday, 10 February 2017 12:04 PM  
**Subject:** BWD Advertising / E Buchan / 2017-5331A

Dear Mrs Buchan

We have received (and attached hereto) a copy of the billboard you mention.

We note that the wording appears to be a little more comprehensive than simply stating "100% (black) is better" as you have submitted.

It is headed "100% BLACK OWNED ADVERTISING AGENCY" and features a cup of black coffee next to the words "SOME THINGS ARE BETTER AT 100%". This discrepancy between the wording in your complaint and that of the actual advertisement suggests that perhaps you were unable to read and contextualise the entire billboard?

In order for us to understand why you feel this billboard is racist, we need you to elaborate on the argument please. At the moment you merely claim that it is racist, and then comment on how society would interpret it.

Please understand that if we investigate, we will have to do so within the parameters of your complaint, which means you need to articulate your concerns clearly so that not only the Directorate, but the advertiser as well are able to tell exactly what your concerns are and how they relate to the advertisement.

In the absence of such clarity, we will unfortunately not be able to take this dispute any further.

We look forward to your reply at your earliest convenience.