

# Advertising Standards Authority: Crisis? What crisis?

The Advertising Standards Authority (ASA) of South Africa has come in for some flak over the past few years. It has been accused of operating with a lack of transparency over its budget and its financial position, and of being used as a tool for disgruntled marketers to use to settle scores cheaply.



The Marketing Association of SA [MA(SA)] late in 2011 warned the media and marketing industries - both of whom pay levies to the Media and Marketing Collection Agency (Mamca) - of a "pending crisis" in terms of sustaining what it calls two "critical" industry bodies, the ASA and the South African Advertising Research Foundation (SAARF).

The crisis has its roots in the model used to finance two important aspects within the media and marketing sectors, self-regulation of advertising and media research. In an open letter to the industry, the chair of MA(SA), Brenda Koornhof, warned that should media owners be "unable or unwilling" to continue funding the budgets of the ASA and SAARF, there was a real threat to their existence.

Koornhof's warning followed the withdrawal of key funders such as Print and Digital Media SA, the Out of Home Media Association of SA (OHMSA) and the National Association of Broadcasters (NAB) from the system of paying levies into a centralised fund. Instead, these organisations chose to directly fund the organisations.

## No funding crisis

At the heart of the dispute is the collection of levies, the transparency of the system used, the amount each organisation pays, and how the money is distributed.

But the CEO of the ASA, Thembi Msibi, says the organisation "has/is not experiencing a funding crisis".

"Currently the industry, led by the MA(SA), is involved in a funding discussion of all industry bodies, including the ASA and SAARF, that will tackle several key points such as who contributes, how the contribution is determined, who should collect, and who will manage and distribute the collected funds according to industry bodies' needs. The findings of these matters will be finalised in the next year," she told TheMediaOnline.

The ASA has been accused of using research funding to prop it up, something Msibi vehemently denies. "Research

funding is not being used to prop up the Advertising Standards Authority. Any issues relating to where and how the ASA funding is derived would be better addressed by the industry, through the Mamca or MA(SA)," she said.

TheMediaOnline asked Quentin Green, who chairs Mamca and represents MA(SA) on the board, to elaborate. "Mamca is like the Treasury and has a joint industry board. Money collected through levies that is used for research is all in the same pool. Our view is that the levy is 'jointly owned', in a common pool," he says. "Arguments that too much is used by one industry or another are fallacious. It's an industry body so it's petty to pick over who complains the most so should pay more."

Green says the ASA has been trying to increase its budget. "The ASA board wanted 25% as it wants to build reserves, a rainy day fund, so to speak. You never know when you might need rainy day account, which is not unreasonable. But Mamca distributes funds on behalf of SAARF and ASA, and we hold that reserve ourselves."

## **The reserve fund**

The reserve fund currently stands at R8.9m in the account. Green says Mamca gave SAARF an extra R7.37m to set up an expanded TAMS panel. The remaining R8.9m is "there for those rainy days", he says, and excludes the levies paid by PMSA and OHMSA.

AdFocus reported earlier this year that Mamca collected R74m in 2011, but new broadcast platforms have brought additional requirements and it plans to increase its budget for 2012 to R95m. The levy increased from 0,5% to 1% between 2007 and 2008, as budget requirements grew.

Msibi denies the ASA's budget has ballooned, an accusation levelled at the organisation. "The ASA's budget has not ballooned, as alleged," she said, and once more, referred questions regarding finances to Green.

An industry insider, who did not want to be named, said the budget hadn't ballooned, because Mamca didn't accede to the request for a 25% increase. "Mamca represents the funds collected from TV, radio and Cinemark. These three media types currently account for 40% of the complaints processed by the ASA yet provide just over 80% of the funds. The ASA requested a 25% increase in funding from Mamca and 14% from PMSA. Mamca approved a 7% increase in funding."

"Mamca thought 7% was reasonable," Green says.

Asked about the perceived lack of transparency in terms of funding, Msibi said because the ASA is not funded through public funds, "the organisation's finances have never been made available to the public. However they are made available to the members that established and continue to fund the organisation".

Msibi says the ASA deals with, on average, 2,000 cases and more. In 2010 the ASA dealt with 2,062 complaints; in 2011 the ASA dealt with 2,189 complaints, and so far in 2012 the ASA has dealt with 1,270 complaints. "The number of cases has not increased, but have become more complex," she says.

## **"ASA keeps to its timelines"**

Msibi says, in response to a complaint by a major media owner that the ASA's turnaround times were a problem, that the "ASA keeps to its timelines. How quickly and how fully parties respond to our requests and the complexity of the complaint determines how quickly the ASA is able to finalise rulings".

As to the complaint that the ASA has been used by disgruntled marketers to settle scores cheaply, Msibi says there is "provision in the Code for dealing with vexatious litigants. In any event, there is the Code review process, which the industry, and general public, can utilise to address such concerns. In our opinion the ASA plays a valid role, which it has been recognised for by both its counterparts internationally and the government".

She admits there has been a problem in terms of communication. The last press release the organisation released was in July 2011. Is there a problem with capacity? "Capacity is also dependent on case loads," she says. "ASA staff is highly qualified and efficient to deal with the cases the organisation receives."

And communication with stakeholders? "There were internal issues that the ASA had to consider before appointing a communications manager. We are in the process of appointing one," she says. "The ASA website is undergoing changes and will be relaunched at a date yet to be confirmed."

Despite the disputes over levies, and management and distribution of the levies, there is one thing all players agree on and that is that the ASA remains self-regulated.

"The business model of the ASA should always be one of self regulation. He who pays the piper calls the tune," says Green. "We don't want legislation influencing advertising. We worked very hard to keep the industry self-funded and while there are the odd wobbles, it still works."

## **Which way will the tide turn?**

Industry players are still not sure which way the tide will turn. And consensus on a way forward, which addresses the concerns of the media and marketing industries, is still to be found.

MA(SA) is taking a leading role in finding that resolution. It has suggested that a transparent add-on levy "is essential for the sustainability and growth of both SAARF and the ASA. Additionally, the proposed system of direct collections by media associations should be regulated in order to ensure all members are contributing to the same degree" and it stressed that "media owners should recognise the marketers right to play a direct role in the management of the levy fund", it said in a statement.

A meeting of all stakeholders in January saw it receiving responses to proposals from NAB, OHMSA, the Association of Communication and Advertising (ACA) and the Advertising Media Forum (AMF). "MA(SA) will collate all the responses into an interim agreement outlining the areas of consensus as well as the responses that require further negotiation and discussion. MA(SA) is confident of a positive resolution at this stage as the initial responses confirms support for the ASA and SAARF as a means of providing an independent audience and product research as well as self regulation for the industry."

And now? Now the industry waits. Green says he's confident the situation will be resolved "in the next four months".

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