

# The asinine axing of Axe

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The debate marketers, and particularly advertisers, need to be having right now is not whether the Axe "Angels" commercial should be banned but rather whether a horrendously expensive and one-sided system of adjudication should be allowed to continue. [video]



What I am talking about is the ability of South Africa's [Advertising Standards Authority](#) (ASA) to act on one single complaint and, among other bizarre things, declare the accused guilty until proven innocent.

Take the current debate over the Axe commercial. One citizen among South Africa's 50 million complained to the ASA, which then took a committee decision to ban the ad on the basis that it would offend Christians.

### **Big assumption**

The question that needs to be raised is whether the ASA actually asked a representative sample of the millions of Christians in this country whether they were offended. It didn't, of course - it just assumed Christians would be offended.

The ASA, as it has done countless times in the past, has allowed one citizen of this country to speak on behalf of millions without any mandate whatsoever.

What makes matters worse is that, when in the past an advertisement was withdrawn pending a judgment from the ASA and then found to be acceptable, that single complainant was simply thanked for his or her interest, told that the ad has been found to be acceptable and nothing else.

Meanwhile the advertisers, who were been found to be completely innocent, ended up stuck with a five-figure legal bill and hours, if not days, of time wasted in giving evidence and providing supporting documentation to the ASA. And who pays? Well, eventually the consumer does, because all those costs of defending advertising are eventually factored into cost of sales.

### **It's a national sport.**

One only needs to talk to some of our cellular network operators to hear horror stories of how single individuals make a

hobby of studying the ASA rule book and sending in one complaint after the other. One particular man was found to have been responsible for 75% of all the complaints about cellphone advertising in a year.

It's become a sort of national sport for people with too much time on their hands and who lack the capacity to do the crossword or Sudoku.

A question I often ask is why the ASA is so much more draconian than, for example, the Broadcasting Complaints Commission? The answer is three-fold.

The first is paranoia about Government talking of an advertising regulatory role if the ad industry fails to adequately self-regulate. Which is an asinine argument because, through a section of the Trade Practices Act which has been around since 1949, Government is quite entitled to intervene with regard to advertising. It has often stated that the last thing it wants to do is get involved in deciding whether advertising is offensive or not.

### **Legal beagles**

The second reason is that the ASA is no longer a body made up of members of the advertising and marketing industries but largely of lawyers who have no interest other than applying the letter of the law. Which is quite simple when it comes to misleading advertising but extremely difficult when it comes to offensive advertising. This requires lawyers to play God in determining what might be offensive to the public of SA.

The third reason is apathy and lack of backbone. I cannot tell you how many calls I get from irate advertising agencies which are steamed up at having their advertising banned for being offensive. They are expecting me to pick up the cudgels for them instead of getting involved with the ASA and voting out the committees that give them so much grief.

They don't, of course. Within a day or two, they are back at the grindstone with no time or inclination to get involved in anything but their day-to-day chores.

### **Follow the money, folks**

Big brands also just take it on the chin. Pay the big bucks to their lawyers and pass on the costs to the consumer. It is quite beyond me why no big brand has yet had the balls to launch a civil case against a consumer who has had a complaint turned down by the ASA but who has in the process cost the innocent company a couple of hundred thousand rands in legal fees?

They won't, of course. Because they don't want to be seen to be heavy-handed with their customers and, what the heck, they'll just pass the costs on to the consumer, anyway. It's easier.

So, it would be wrong to blame the ASA alone for the insanity of a situation where a single citizen of this country can effectively cause an entirely innocent party to lose significant amounts of money and time and get away with no more than a polite letter and a pat on the head.

### **Apathetic agencies**

The advertising industry is very much to blame, as are their clients. And, as always, it's the consumer who pays the price.

The whole process is undemocratic, unbusinesslike, grossly unfair and a complete charade, if you ask me.

As the makers of AXE, Unilever, so rightly pointed out in a newspaper statement, a similar commercial featuring angels run by Virgin Mobile was found not to be offensive, on top of which there have been dozens of movies and cartoons depicting fallen angels, funny angels, naughty angels and all sorts of other compromised angels, yet none of these have been banned.

The reason is simple. It's hard work convincing the Broadcasting Complaints Commission to ban a programme or the media or court of law, for that matter, to ban a cartoon.

But, getting the ASA to do something about an advertisement is the easiest thing in the world. A simple process for any Tom, Dick or Harry with a bee in his bonnet. It's worth a shot - it only takes a minute or two and if it doesn't work - well, there's nothing to lose.

### **Guilty till proved innocent**

When you look at how well all South Africans, whether they be private citizens, corporations or state employees, are protected by the constitution through a complex judicial process based on the premise of the accused being innocent until proved guilty, the way the ASA handles things comes across as very different.

For a start, the ASA system is based on the premise of being guilty until proven innocent and, when proved innocent, the accuser walks away free as a bird while the innocent picks up all the costs.

Hardly surprising that the ASA comes across as nothing more than a pompous and paranoid kangaroo court.

### **For more:**

- Mail & Guardian Online: [Axe not for whom the bell tolls](#) by Chris Roper
- 2OceansVibe: [Clever Advertising In Wake Of Axe Deodorant Ban](#)
- Google News Search: [ASA Axe ad](#)
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*For More list updated at 28 October 2011.*

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