



# Colgate wins in ASA case

[Colgate-Palmolive](#) has successfully defended a number of advertising claims made in respect of its Total toothpaste before the [Advertising Standards Authority of South Africa \(ASA\)](#), according to Kelly Thompson, partner, Trade Mark Litigation Department at [Adams & Adams](#).



[GlaxoSmithKline \(GSK\)](#) South Africa lodged a competitor complaint against the brand's in-store promotion. GSK complained to the ASA and alleged that the various claims made in the in-store promotion were unsubstantiated and misleading.

## Primary message

The primary message of the advertisement was "Stop using ordinary toothpaste. Start fighting germs for twelve hours" and it included a number of statements regarding the particular efficacy of the toothpaste, such as the product reduces 90% more germs than regular fluoride toothpaste twelve hours after brushing and reduces gum problems by 88%. The advertisement also claimed that it is the brand most used and recommended by dentists.

The promotion was intended to highlight the unique efficacy of the toothpaste when compared to regular toothpastes. Unlike ordinary toothpastes, which have only fluoride as an active ingredient, this also contains Triclosan, an anti-bacterial ingredient, as well as Gantrez, a copolymer, which ensures that the active anti-bacterial ingredient is delivered to, and retained on, the teeth and gums, protecting them from bacteria and plaque build-up for 12 hours.



## Documentary evidence required

The ASA's Code of Advertising Practice states that, before advertising is published, advertisers must hold in their possession documentary evidence to support all claims, whether direct or implied, that are capable of objective substantiation. There are strict requirements for this substantiation.

Documentation must be up-to-date, current and have market relevance. Documentation should also emanate from, or be evaluated by, a person/entity which is independent, credible and an expert in the particular field to which the claims relate. Where survey evidence is used, this must emanate from, or be evaluated by, a member of the South African Market Research Association (SAMRA).

## Claims substantiated

Adams & Adams attorneys submitted a response to the complainant, on behalf of Colgate, pointing out that the efficacy of the formulation had been thoroughly tested in numerous clinical studies, which supported the various claims made. An independent expert with over 30 years of experience in the field of dentistry also confirmed that he had reviewed the studies in question and that he was satisfied that the various claims were supported by the scientific data available.

The ASA found that the expert was independent and credible and that his report adequately substantiated the efficacy and superiority claims made in respect of Colgate Total 12 toothpaste.

In respect of the claim "number one brand used and recommended by dentists", Colgate submitted a report from an accredited market research company, which had conducted a survey of over 200 randomly selected dentists countrywide. The results of the survey had shown that more dentists recommended Colgate Total than any other toothpaste. The claim was therefore true and correct.

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