

Appendicitis at the ASA?

 By [Gail Schimmel](#)

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It's not often that the [Advertising Standards Authority of South Africa](#) (ASA) leave me completely speechless. Slightly surprised, yes. But not speechless. Luckily for you, my speechlessness only lasted a few hours and now I am *full* of words. Not all of which I can appropriately use.

The cause of my problem - a [ruling dated 16 August 2012](#) in the matter of [Nycomed-Dona / K Charleston](#) in which the ASA said:

"At a resolution passed by the ASA board on 4 February 2012, it was decided that Appendix F should no longer form part of the [ASA Code](#)."

Implications

To understand the implications of this sentence, you first have to understand Appendix F. Appendix F contains (contained?) a list of diseases that, basically, cannot be mentioned by products that are not registered medicines.



This appendix has always been controversial. It contains some mighty strange diseases such as "Leg trouble" and "Diseased ankles". It has also prevented many complementary medicines from advertising treatment for arthritis and osteoarthritis, despite well-documented proof that their products do seem to offer some relief.

I have never been a fan of this appendix, believing that the list needed urgent revisiting. This having been said, Appendix F offered two very important protections: it only allowed registered medicines to offer treatment for cancer, and AIDS.

Not hard to fathom

The reason that the board passed the urgent resolution is not hard to fathom. On 3 February 2012 in [Solal Tech Omega 3 & 6 / K Charleston / 16711](#), the Final Appeal made a ruling regarding the interpretation of Appendix F. The parties in this matter are important - Solal is a company known for its aggressive approach with the ASA and, I believe, is currently taking it on review. Dr Charleston is one of a trio of regular complainants who seem committed to keeping the complementary medicines industry underground.

In addition, fingers have been pointed at the ASA about "ownership" of the Appendices, with the [Medicines Control Council](#) (MCC) suddenly refusing to take responsibility for anything in them. I have actually personally sat in a meeting about Appendix F with an MCC representative present and defending it... but that is another story.

Reasons for being upset

So why am I so upset? The first reason is to do with advertising for claims relating to cancer and AIDS, two illnesses that drive people to the depth of desperation and therefore vulnerability.

I have no doubt that the ASA would defend the decision by saying that claims to help or cure or prevent cancer and AIDS still have to be substantiated, and this is true. It is also true that the ASA has over the last few years applied an extremely

high level of scrutiny to substantiation. But the reality is that the system can be tricked, and I am distressed that these two diseases have been thrown in with the same standards applied to flu or verrucae of the feet (another Appendix F disease).

What bothers me even more is that this ruling of 16 August 2012 is, as far as I can ascertain, the first public statement about the resolution of the board. A resolution that has an enormous impact on countless advertisers who have been limited only because of Appendix F, despite holding excellent substantiation for their claims.

Quietly nursed this little secret

So, for six months, the ASA has just quietly nursed this little secret. There is no statement on its website. The last press release on the website is dated July 2011. I realise the ASA has frozen the position of communications manager in a cost-cutting effort, but I do think that a press release about Appendix F's death might have been appropriate. In fact - and this is the bit I absolutely love - Appendix F still appears on the website as part of the Code in all its glory!

Part of my irritation is probably ruffled pride - for the last six months I have been giving my clients inaccurate advice on this point - and I pride myself on my knowledge and up-to-date advice. But I am also deeply concerned that this is yet another symptom of an illness within the ASA.

It seems, and I may be wrong, that instead of following a process of amendment and thought, the ASA board buckled to external pressure and made a panicked decision the day after a difficult ruling, and then chose not to tell any of its stakeholders about the decision. I can only hope that, at the next AGM in September, the ASA consider where it has left advertising of treatments for cancer and AIDS, and makes a decision about whether it is going to be an organisation cowed by the Solals and Charlestons of this world, or not.

And possibly, at the end of it, it could issue a wee press release to let us all know.

For more:

- Advertising Standards Authority: [Full ruling, Nycomed-Dona / K Charleston, 16 August 2012](#)

ABOUT GAIL SCHIMMEL

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