

1. COMPLAINTS PROCEDURES

7.1 The specific time lines and notice periods for these procedures shall be as out from time to time by the ASC.

7.2 Complaints from a Competitor.

7.2.1 The complaint shall be hand delivered, posted or sent from a secure and identifiable electronic mail, clearly addressed to the Secretariat of the ASBK accompanied by an administrative fee of Kshs. 150,000/= only or shall from time to time be specified by the ASC.

7.2.2 Upon receipt of such a complaint and the requisite fee, a duly authorized officer of the secretariat shall examine the complaint and may dispense with it at first instance. In the event that the officer is unable to dispense with the matter and /or the matter is found to have merit it shall be forwarded to the ASC.

7.2.3 Without prejudice to 7.2.2 above, immediately upon receipt of such a complaint , by the ASC a copy of the complaint shall be forwarded to the offending advertiser giving them an opportunity to file a formal response to the complaint.

7.2.4 On expiry of the period given and/or on the receipt of a formal response, the Chairman shall convene a special meeting of the Committee to consider the matter at hand. A properly constituted sitting of the ASC shall have no less than three (3) members sitting at any one time.

7.2.5 The committee shall then invite the parties to present their cases before it and where it deems necessary, discard the need of summoning the parties before it to give formal evidence.

7.2.6 After consideration of the complaint, the formal response, evidence adduced by the parties and any expert opinions requested shall make their judgment and issue a direction with this regard.

7.2.7 **PROVIDED ALWAYS** that a judgment is made and delivered within ninety (90) days of the receipt of the complaint at the secretariat and thirty (30) days of the conclusion of hearing.

7.3 Complaints from a Consumer or Member of the Public

7.3.1 A consumer or member of the public who is aggrieved by an advertisement is at liberty to the lodge a complaint

7.3.2 The ASC shall adopt the same procedure as above save for the fact that the complainant need only pay the nominal administrative fee prescribed herein.

7.3.3 The ASC may also in this instance request for and receive views from competitors of the offending advertiser.

7.4 Complaints arising from Dialogue in the Press.

7.4.1 The ASC Secretariat is charged with the duty of reporting complaints arising from the press to the Directorate of the ASBK.

7.4.2 If the complaint warrants attention or investigation, the Directorate is charged with the responsibility of framing a complaint and making a formal application to the ASC for consideration

7.4.3 These complaints shall be considered in the periodic meetings of the ASC or at a meeting specially convened by the Chairman. for the purpose of considering a particular complainant or issue.

7.4.4 The ASC shall then correspond formally with the Offending Advertiser requesting them to present their views within a specific time period.

7.4.5 On expiry of the period given and/or on the receipt of a formal response, the Chairman shall convene a special meeting of the ASC to consider the matter at hand and after consideration of the complaint, the formal response,

evidence adduced by the Offending Advertiser and any expert opinions requested shall make their judgment and issue a direction with this regard.

7.5 Outside legal representation may be permitted, but should not be employed to delay in expedient dispensation of the matter.

7.6 In event that the ASC requires witnesses to appear before the Committee for any reason whatsoever, appearances shall be limited to a maximum of three persons per party. The names and designations of the persons should be submitted to the Secretariat no less than forty-eight (48) hours prior to the meeting of the ASC.

7.7 Rulings, decisions and/or directions of the ASC shall be conveyed to the parties concerned in writing as soon as reasonably possible after the meeting where such ruling, decision and /or direction were made. Written reasons for any ruling must be provided at the request of either of the parties.

7.8 The ASC may call an emergency sitting of its members within a thirty-six (36) hour period to determine a complaint that due to its nature may occasion severe pecuniary injury or injury to reputation or any damage to any of the parties concerned. Such emergency sitting may issue out injunctive relief effective immediately pending issuance, at a subsequent date, of a reasoned out ruling or judgment

7.9 Such rulings shall be delivered in writing within twenty-one(21) days of the emergency sitting.

7.10 The directions issued shall be final and binding on the parties' subject only to an appeal to the Standards Appeal Council and subsequently to the High Court of Kenya on points of law.

7.11 Where such an appeal is lodged, the ruling, decision and/or direction of the ASC must be adhered to until reserved by the SAC or the relevant court of competent jurisdiction.

7.12 No party to the matter, **SAVE AS** by reason of its own default, be denied a chance to be heard or to respond to a complaint.