

ASA loses weight debate

If you don't believe the claims Herbex makes about weight loss, don't bother complaining to the Advertising Standards Authority.



A Johannesburg High Court judgment has interdicted the ASA from ruling on Herbex adverts because it does not belong to the organisation and is not compelled to belong to it as membership is voluntary.

In the past the ASA has repeatedly found that Herbex products make weight loss claims without scientific evidence, essentially duping consumers with unsubstantiated promises.

Yesterday Herbex said it was "thrilled" by the judgment.

But others say the judgment leaves consumers without protection from advertisers who make promises without scientific evidence to back up their claims.

Stellenbosch science communication professor George Claassen said it opened the door to quackery as now any salesman could make false promises without sanction.

Former Constitutional Court judge Kate O'Reagan found in an ASA ruling in 2014 that Herbex had no evidence to show its "Attack the Fat" syrup, "Eat Less" drops and appetite control tablets worked.

Herbex asked the High Court to interdict the ASA from ruling on its adverts, as it was not a member of the authority and did not subscribe to its marketing code. It said rulings damaged its reputation.

The high court ruled that the authority could no longer act on complaints about Herbex adverts because it did not have legal power over non-members.

The authority was ordered to repay about R170000 in appeal fees. Freddy Makgato, head of regulatory affairs at the authority, said it was considering appealing.

Herbex lawyer Saul Shoot said: "The authority has finally been exposed for what it is, an unqualified, ignorant and cavalier private club which has no jurisdiction over non-members."

Groupon and Solal Vitamins have cases pending against the ASA, arguing they need not abide by its rulings.

Source: The Times

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