

**MCA COMPLAINT: ADJUDICATION COMMITTEE SUMMARY REPORT**

Case No: MCAC08 2016

Date of Adjudication: 24 November 2016

Report Date (7 days): 25 November 2016

**Complainant:** Reckitt Benckiser Pharmaceuticals (Pty) Ltd

Product: Citro-Soda

**Respondent:** Adcock Ingram Healthcare

Product: Citro-Soda

**Committee: Duly constituted adjudicating committee of the MCA**

**Clarification of processes**

*Report is final – no clarification or correspondence allowed. If parties are not satisfied with decisions, penalties, rulings or decisions of the adjudicating committee, they have 5 days to appeal in writing.*

**1. The facts as established by the Committee, or where it cannot be established:**

	Reference to clause in code	Briefly describe each alleged infringement (refer to all related promotional items).	Code was infringed YES/No	If infringement is the finding, is the infringement still ongoing and needing to be dealt with
<b>1</b>	25.21 of Part B	The use of a celebrity to endorse Citro-Soda was an infringement	Yes	Yes

		Marketing   Code   Authority		
		on the clause. The Company used two celebrities i.e. Tema Sebopedi and Cindy Swanepoel. The same celebrities are used on a facebook campaign that talks about life hacks and giving advice to consumers on how to avoid heartburn and indigestion and other general tips on everyday life.		
<b>2</b>	25.21 of Part B	The appearance of Tema Sebopedi and Cindy Swanepoel in advertising Citro-Soda, a SO medicine in terms of the Medicines and Related Substances Act 101 of 1965, is a clear contravention of Clause 25.21 of Part B of the MCA code, insofar as it is designed to leverage the celebrity status of Tema Sebopedi and Cindy Swanepoel and encourage consumers to use Citro-Soda	Yes	Yes

**Sanction/Remedies imposed by the Committee**

**To remove all website and other mediums of advertisements linked to Tema Sebopedi and Cindy Swanepoel and Citro-Soda with immediate effect, including:**

- Remove all television advertisements with immediate effect
- Remove all Facebook and other social media version of the advertisement with immediate effect
- Instruct the actresses / celebrities in question to remove the advertisement off all their social media platforms with immediate effect
- Delete the YouTube version of the advertisement with immediate effect.
- Do not utilise the advertisement in any manner with immediate effect.

Fine: R100 000.00 (ONE HUNDRED THOUSAND RAND) (Payable to the MCA) by 15<sup>th</sup> December, 2016.

Proof of compliance with the remedial action to be received by the Executive Officer of the MCA by the CoB on the 2<sup>nd</sup> December, 2016.

Cost order for fees: NONE Payable to the Respondent/Complainant

Cost order for MCA costs: NONE Payable to the MCA

Recommendation for both Compliance Officers to update their expired Code certifications.

If no appeal is submitted within 5 days, this summarised version of the findings of the adjudication process shall be published on the MCA website including a summary of the violation and the penalty imposed.

*The MCA does not envisage cost orders for legal and other third party costs.*

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**2. Concluding remarks: (Does any action need to be taken with respect to the code or guideline/action regarding code certification/**

NO

**3. Rights:**

To Appeal

*Either party to a complaint has the right to appeal the ruling e to the Executive Officer in writing within 5 days of receiving the findings of the Adjudication Committee. Such appeal can be on any procedural, substantive, interpretation or other ground.*

To report it to regulatory authority:

*The MCA has the right to refer to a regulatory body prior to the final internal resolution or to any relevant authority should it deem the matter to warrant such referral.*

**The full, committee-signed report, is on file with the MCA.**



## MCA CODE ENFORCEMENT: THE APPEAL COMMITTEE SUMMARY REPORT

Case No: MCAC08    Date of Appeal 18<sup>th</sup> January 2017    Date Report: 31 January 2017

Appellant (Company Name): Adcock Ingram

Compliance Officer: Suzette Bezuidenhout    CEO: Andy Hall

Respondent (Company Name): Reckitt Benckiser

Compliance Officer: Salome Sebata    CEO: Alan Thompson

Product/s: Citro Soda

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1. **Appeal Committee:** Committee duly constituted by the Executive Officer in terms of the Code

2. **Findings:**

The Appeal Committee has determined the following are infringements (list):

Nil

The Appeal Committee did not find infringements in the following cases (List):

Nil

3. **Summary of case and findings**

The Respondent alleges a breach of clause 25.21 of the Code which states that Advertising and/or promotion shall not include the appearance and/or recommendation and / or endorsement, whether directly or indirectly by a person, who, because of a celebrity status in any field (notwithstanding whether this is local or international celebrity status), may encourage consumers to use a particular health product.

In the absence of clear guidelines as to what constitutes "celebrity" and whether an actor/actress, known to be an actor/actress, acting in their capacity as such, and not in their personal capacity, may or may not appear in an advertisement or promotion pertaining to a health product, it is not possible for the committee to properly determine whether there was a breach clause 25.21.

It could not be established whether there was breach of clause 25.21. Consequently, it was the decision of the committee to neither prejudice nor benefit either party by imposing sanctions or remedial action of any kind upon either party.



It was agreed by the committee that the Appellant's current advertising campaign, which forms the subject matter of the complaint, may continue to run until 31 March 2017.

**4. Sanction/Remedies**

Remedial Action Required: Nil

Fine: Nil

Cost order for fees: Each Party to pay their own costs

Cost order for MCA costs: Nil

*The MCA does not envisage cost orders for legal and other third party costs.*

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**5. Rights:**

To report it to regulatory authority:

*The MCA has the right to refer to a regulatory body prior to the final internal resolution to any relevant authority should it deem the matter to warrant such referral.*

The full, committee-signed report, is on file with the MCA.

For further information on the complaints processes of the Marketing Code Authority contact the Executive Officer, Val Beaumont, [Val@marketingcode.co.za](mailto:Val@marketingcode.co.za)