



Advertising Standards Authority of South Africa

(Incorporated in terms of Section 21)

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RULING OF THE ASA DIRECTORATE

In the matter between:

SOUTH AFRICAN GUN OWNERS ASSOCIATION

COMPLAINANT

and

GUN FREE SOUTH AFRICA

RESPONDENT

11 July 2014

GUN FREE SOUTH AFRICA / [REDACTED] / 2014-954F

[REDACTED] on behalf of the South African Gun Owners Association, lodged a consumer complaint against a print advertisement featured in the Sunday Times newspaper during May 2014.

The advertisement features an image of a man pointing a firearm at a shop keeper. His right arm is inside the sleeve of a leather jacket, while what appears to be his left arm is protruding from a black t-shirt. The shopkeeper's hands are shown in the air. The copy contains a 'GUN FREE SOUTH AFRICA' logo and reads:

**"IF YOUR STOLEN GUN WAS THERE,
SO WERE YOU.**

**Eighteen South Africans are shot and killed every day.
Take responsibility. Hand in your gun. Visit gfsa.org.za
for more information."**

COMPLAINT

The complainant submits that the advertisement is misleading as it implies that the owner of a stolen gun is responsible for any crime committed with it. Furthermore, the advertisement fails to specify whether these gun-related killings were crime-related,

suicides or accidents. The source of this statistic is not quoted, and the image of a gun links all firearms to illegal activities.

RELEVANT CLAUSES OF THE CODE OF ADVERTISING PRACTICE

In light of the complaint the following clauses of the Code were taken into account:

- Section II, Clause 4.1 - Substantiation
- Section II, Clause 4.2.1 - Misleading claims

RESPONSE

The respondent submitted that it is a national NGO and registered non-profit organisation established with the purpose of contributing to safety and security in South Africa by reducing gun violence. It is recognised internationally and by the SAPS that there is a correlation between firearm-related injuries and mortalities. The statistics submitted as part of its response indicate that gun violence in South Africa is at crisis levels. Measures to educate the public and each person's responsibility to assist in reducing gun violence are therefore crucial.

The advertisement is part of a broader campaign being conducted by GFSA. The campaign was developed *pro bono* by Y&R advertising, and media outlets and advertisers supporting the campaign are doing so out of support for the important role civil society groups such as GFSA, play in counteracting the level of violence in the country.

The campaign has been developed in order to challenge the myth that guns are only effective for self-defence, by conveying the message that a licensed gun owner remains connected to their gun, even after it is stolen or lost and used by criminals to threaten, injure or kill others. The message of the campaign is: a person in legal possession of a firearm has both a moral and a legal obligation to take reasonable care to ensure that this firearm is not stolen or lost.

The campaign refers to several statistics. The statistic used in the advertisement states that 18 people are shot and killed per day in South Africa. GFSA submitted a confidential letter from the South African Medical Research Council to confirm the scope of the research and veracity of the findings.

It also submitted various data showing civilian, police and total firearm loss or theft. It added that no reasonable person reading the advertisement would be led to a conclusion that a gun owner is responsible for any crime committed with his or her firearm. The message of the advertisement is clearly that a person in legal possession of a firearm must understand the significant responsibility attached to his/her position as a licensed firearm owner.

The advertisement highlights that should a firearm be lost or stolen, the owner of that firearm is not automatically absolved from the consequences of not taking care to keep his / her firearm safely. The previous owner bears a certain moral burden for being the unwitting conduit for the weapon now in criminal hands. The message of the entire campaign is that persons in legal possession of firearms must endeavour to keep firearms safe.

The statistic used in the advertisement refers to shooting incidents which resulted in death not all crime-related. There is no provision of the Code which is violated by the fact that the number of crime-related incidents is not mentioned in the advertisement. The statistic implies that violence with firearms is a significant issue in South Africa.

ASA DIRECTORATE RULING

The ASA Directorate considered all the relevant documentation submitted by the respective parties.

Clause 4.1 of Section II states, *inter alia*, that an advertiser must hold documentary evidence to support all claims that are capable of objective substantiation. In addition, it clarifies that such documentary evidence shall emanate from or be evaluated by an independent and credible expert in the particular field to which the claims relate. In addition, the Code requires that substantiation be "up to date and current..."

Clause 4.2.1 of Section II states that advertisements should not contain any statement or visual presentation which, directly or by omission, ambiguity, or exaggerated claim, is likely to mislead the consumer about the advertised product.

The complainant's concerns are:

1. That the advertisement is false and misleading because it states that the owner of a stolen gun is responsible for the crime associated with it;

2. That the advertisement does not specify how many of the killings were crime related, suicides or accidents;
3. That the advertisement does not quote its source of information;
4. That the advertisement shows a gun being used in a criminal act thereby linking all firearms to illegal activities.

In the matter Organ Donor Foundation / VM Smith and another / 20163 (12 April 2013), the Directorate considered a complaint against a commercial featuring a young girl walking through a motor cycle accident scene, wearing what appears to be a hospital gown. As she reaches the biker who appears to be dead, she lies down next to him and closes her eyes. The words "if you are not an organ donor, when you die you take someone else with you" appeared on screen. The complainants submitted that the commercial creates guilt, emotional blackmail and encroaches on the individual's right to choose whether or not to donate by effectively accusing the viewer of murder if they do not donate. The Directorate ruled "...the advertising equates every person who dies without being an organ donor, to a murderer. This view is taken without due consideration for each individual's right to choose whether they wish to donate their organs or not, as well as the reasons they might have for such a choice. The condemnation is emphasised by the statement (of fact rather than possibility) that 'if you are not an organ donor when you die YOU TAKE SOMEONE ELSE WITH YOU'." On this basis the complaint was upheld.

A similar aspect can be applied to the matter at hand.

The hypothetical reasonable person confronted with the advertisement would interpret it to mean that should their firearm be stolen and used subsequently in a crime that they would be responsible. While the Directorate accepts that advertising is not likely to be taken literally, this instance creates a causal link between ownership and perpetrating a crime in a manner that imposes an obligation on the rightful owner in an unjustified manner.

The advertisement paints a picture of the former owner of the gun as an accessory to a crime. The use of the words "IF YOUR STOLEN GUN WAS THERE, SO WERE YOU." implies that the person whose gun has been stolen contributes to the crime in some way, almost suggesting negligence on the part of the owner.

The wording "Eighteen South Africans are shot and killed every day." further suggests that these 18 deaths are as a result of a stolen firearm being used. There is no clarity on the whether the 18 deaths comprise of crime related incidents, accidental deaths or suicides. It also suggests that the lawful owner is an accessory to the 18 killings each day.

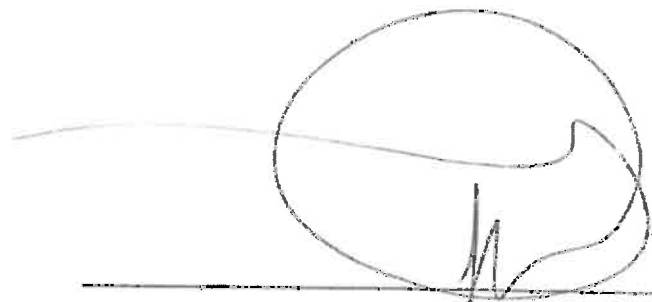
A lot of the respondent's research dates back as far as 1994, and it would appear that the respondent has extrapolated its findings and statistics from this research. While the complainant is incorrect in arguing that the source of such research is automatically required, he is correct in suggesting that the advertisement oversimplifies the matter, and places what appears to be an unjustified blame on gun owners. Much like the organ donor example referred to above, the respondent appears to omit the fact that the consequence portrayed is one of a couple of possibilities, and in doing so, creates a misleading impression of the reality, and of the responsibility of legal gun owners.

Based on the above, the advertisement is creating a misleading impression of the surrounding circumstances, and is therefore in breach of Clause 4.2.1 of Section II of the Code.

In light of the above:

- The advertisement must be withdrawn;
- The process to withdraw the advertisement in all forms must be actioned with immediate effect on receipt of this ruling;
- The withdrawal of the advertisement in all forms must be completed within the deadlines stipulated by Clause 15.3 of the Procedural Guide;
- The advertisement may not be used again in its current format and context.

The complaint is upheld.



ON BEHALF OF THE ASA DIRECTORATE