

OUTsurance forced to make breach of conduct public – *published courtesy of RiskSAWired.*

Beginning no later than 1 December 2012, OUTsurance will have to publish the following statement on its website for no less than 60 days.

OUTsurance breaches SAIA Code of Conduct

The Code of Complaints Committee of SAIA has found that a particular OUTsurance television advertisement was misleading, non-factual and non-verifiable and was therefore in breach of the Code. An appeal against that finding was dismissed. The Ruling and the supplementary Ruling of the Complaints Committee is published in full and can be accessed by way of the following link.

The South African Insurance Association (SAIA) will have to publish a similar note on its website for such a period as it deems fit, but not in excess of 120 days.



Peter Todd, CEO of Mutual and Federal

This public statement relates to a complaint lodged by Mutual & Federal against a television advertisement flighted by OUTsurance between October 2011 and May 2012. The advert contained a price comparison in which the direct insurer compared its average price for a business insurance policy against the average price of its four closest rivals. The OUTsurance quote is significantly cheaper than that of its competitors, with the quoted figures shown on-screen at the time being R2 862 and R3 066 respectively.

After Mutual & Federal challenged the advert, it was found that OUTsurance was in fact more expensive than the average of its three closest rivals and so not the cheapest in the market, as the advert claimed. The advert further claimed to be making a like-for-like comparison, but was based purely on price and didn't take into account policy benefits, excesses, indemnity periods and the like. "Comparative quoting is problematic when it doesn't involve a like-for-like comparison. It's tantamount to false advertising," says Peter Todd, CEO of Mutual & Federal, who initially brought the case against OUTsurance to the SAIA.

After a hearing, the SAIA committee ruled that the advert was misleading, non-factual, not verifiable and accordingly in breach of the SAIA Code of Conduct. While OUTsurance did not appeal the committee's finding, it did appeal the sanction.

The sanction originally imposed by the SAIA's committee was that OUTsurance would have to publish the breach of the code on its website. The SAIA would publish a similar statement on its website too. OUTsurance thought the penalty was too harsh, not least because of the fact that the insurer claims it receives 116 000 monthly visits to its website. Making this public would expose it to enormous reputational risk, it argued.

Other reasons submitted by OUTsurance were that it was a first time offender that did not act deliberately, but at worst negligently; that it voluntarily withdrew the offending advertisement, as well as two other advertisements in the same series, before the committee made its ruling; that there was no evidence that any consumer was actually misled by the screening of the advertisement; that Mutual & Federal was not inspired by a concern for consumers or an adherence to the code but rather by the fact that it was a business competitor of OUTsurance; and that the flighting of the advertisement in any event constituted no more than a minor infraction of the code.

But these reasons were not compelling enough for Judge Petrus Nienaber of the SAIA Code of Conduct appeals body. He has decided not to interfere with the committee's sanction and dismissed OUTsurance's appeal. Among his reasons for dismissal was the fact that OUTsurance withdrew the advert only after the hearing had taken place and not when the complaint was made. There was further no admission of wrongfulness on OUTsurance's part and Judge Nienaber agreed with the committee's decision that a mere withdrawal of the advertisement was too light a sanction.

"The ruling speaks for itself. The fact that the complaint emanated from a competitor rather than a consumer does not lessen the seriousness of the breach," says Todd. "As a leading insurer, Mutual & Federal has a direct interest in maintaining the image and reputation of the industry. Consumers should be able to have confidence in an industry with high ethical standards and good business practices."

We hope to bring you comment from OUTsurance on the breach in a future article.

By Hanna Barry – RISKSA Magazine