

Guidelines for ASMI Members for the preparation of Complaints and Responses in proceedings before the ASMI Complaints Panel – July 2008

Although the Complaint and Response take the form of letters passing between the parties, adherence to the following guidelines will improve clarity, reduce unnecessary duplication and assist Panel members to understand the issues and readily to identify the relevant parts of accompanying evidence. These guidelines do not supersede the requirements of the ASMI Code of Practice insofar as they relate to the content of the Complaint and Response.

General provisions applicable to both Complaints and Responses

1. These guidelines apply to all copies of the Complaint and Response provided to ASMI.
2. An Index should precede the formal Complaint and Response, describing the content of the various sections (starting with the Complaint and Response themselves).
3. The Complaint and Response and their attachments should be contained in one or more ring binders divided into sections separated by individually numbered or lettered tabs. Within each section, all page numbers should be legible. The Index should describe each document and refer to its tab number or letter.
4. Materials should not be provided in sleeves unless impracticable to do otherwise (eg. DVDs or Videos).
5. All documents, especially photocopies, should be easily legible in their entirety.
6. Soft copies in Word format of the Complaint and Response (excluding attachments) should be sent to ASMI by email, to assist the Panel in summarizing the submissions in its determination.

The Complaint

7. The Complaint should set out, in relation to each impugned advertisement or promotional activity, the section of the Code said to be breached, the basis for contending there is a breach and, at the end of the Complaint, the suggested classification of the breaches and proposed sanctions.
8. All studies relied on should be complete.

9. Where the Complaint refers to a passage of an accompanying document, the Complaint should identify the relevant tab and page. The passage should be highlighted on that page but not obscured.
10. The covering letter by which copies of the Complaint and Response are forwarded to ASMI should not contain arguments or submissions by way of reply to the Response.

The Response

11. The Response should address each of the alleged breaches, adopting, so far as practicable, the same sequence and topic headings as the Complaint. The Response should explain the basis for any contention that there is no breach. If remedial measures are proposed, they should be set out.
12. The Response should also address the issues of classification of breach and sanctions, in the event that the Panel finds in favour of the Complainant. This will not be taken by the Panel as a concession of breach unless the Response expressly admits breach. However, if the Panel does find breach, the Respondent's submissions on these issues will be taken into account.
13. All studies relied on should be complete, unless already contained in the Complaint, in which case only those pages containing passages relied on by the Respondent should be included and highlighted. The Response should identify those pages by reference both to the tab and page in the Response and to the corresponding tab and page in the Complaint.