



association for  
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## CODE OF CONDUCT

### **PROCUREMENT OF MARKETING, ADVERTISING AND PR SERVICES/PRODUCTS**

#### **OVERVIEW**

The very nature of the advertising and communications sector is that of competition and advertising and communications agencies rely on this prevailing characteristic for their very survival. Competition is healthy, in that it stimulates growth, promotes creativity, encourages training and has resulted in South Africa's reputation ranking amongst the best in the world. However, it is important to that the competitiveness be directed to constructive development and not lead to "unwarranted disruption of productive client-agency relationships, unfair loss of profitability for agencies, potential distrust between advertisers and agencies, or the decrease of the general perception of advertising for what it is – a freestanding, highly professional trade in its own right."

Furthermore, during November 2002, Government and the advertising and communications industry consolidated a report to the Portfolio Committee on Communications on the state of transformation in the marketing, advertising and communications sector. Government noted in its concluding remarks to the Portfolio Committee the need to ensure that existing procurement policies are used to their full potential to promote transformation and to assist SMMEs' participation in the sector.

Reference: The Way Forward <http://gcis.gov.za/docs/portcom/02fwd.html>



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It is to this end that the Association for Advertising and Communications (ACA) and ASOM - the then representative body of marketers, in collaboration with the Department of Trade and Industry (DTI), the Government Communication and Information Services (GCIS) and National Treasury put their collective experience together to provide a set of rules for marketers, advertisers and agencies to follow in order to improve the level of professional reputation desired.

Within this context, the Code of Conduct for the procurement of marketing, advertising and PR services/products aims to:

- Address gaps hampering the effective use of procurement policies, including subcontracting by all partners – Private Sector, Government, Parastatals and the industry – to assist the process of transformation.
- Ensure procedures for procurement of marketing, advertising and PR services/products promote participation of Black-owned enterprises.
- Achieve agreement through a consultative process with consensus amongst all key stakeholders, inclusive of less experienced advertisers, design and public relations agencies, Government and NGO organisations.
- Protect intellectual property.
- Reimburse direct costs through the payment of pitch fees when strategic and creative work is required from agencies.
- Prevent unfair, exploitative and unreasonable competition during the procurement of marketing, advertising, communications and PR services/products from the advertising and communications sector.





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## THE RULES OF ENGAGEMENT

The following must be heeded when procuring marketing, advertising and PR services/products:

1. The number of **agencies shortlisted should not exceed five** – whether or not an incumbent agency is involved.
2. **Sufficient time** must be afforded to agencies for preparation of their submissions - at least **fifteen working days** (three weeks) is required.
3. **Only credentials and case studies should be submitted and/or presented by agencies during pitches** because providing creative and strategic work is costly and it places agencies' intellectual property at risk. Pitching with strategic and creative work is expensive and must be avoided especially when a client's budget is less than R10million.
4. When strategic and creative work is asked of the shortlisted agencies, the agencies may only proceed with the pitch if:
  - 4.1 There is absolute confirmation that the agencies' **intellectual property is protected and will be retained by the agencies** during and after the pitch process; and
  - 4.2 **A pitch fee of at least R50,000 (fifty thousand rand) excluding VAT is paid to each unsuccessful agency.**

*Note that the pitch fee does not under any circumstances purchase ownership the agencies' intellectual property. Clients who wish to use the agencies ideas must pay the agencies separately for their intellectual property as pitch fees are merely a token in recognition of the hard costs incurred by the agencies during pitch processes.*





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## ADDITIONAL INFORMATION

Additional information/documentation pertaining to:

- Glossary of Terms
- Request For Information Form
- Campaign Brief
- Scope of Work
- Financial Balanced Score Card
- Agency Remuneration
- Client and Agency Contracts

is available from the ACA.

Enquiries regarding the Code of Conduct and/or additional information should be directed in writing to:

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