

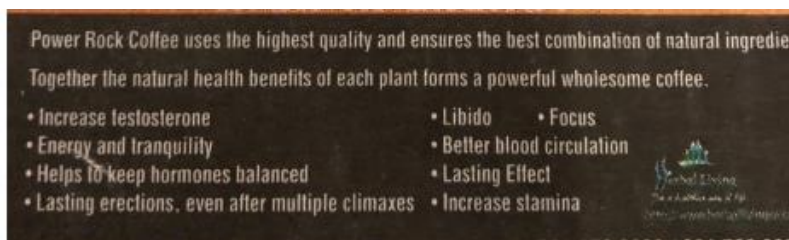
Decision of the ADVERTISING REGULATORY BOARD

Complainant	Karen Bloom
Advertiser	Herbal Living SA
Consumer/Competitor	Consumer
File reference	416 - Power Rock Coffee – Karen Bloom
Outcome	Upheld
Date	7 October 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Karen Bloom against newspaper advertising for Herbal Living SA's Power Rock Coffee product.

Description of the advertising

The advertisement includes the following claims:



Complaint

In essence, the Complainant submits that the advertised product has no proven efficacy for the claims.

Response

Despite attempts, the ARB was unable to secure a response from the Advertiser.

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Substantiation – Clause 4.1 of Section II

Misleading claims – Clause 4.2.1 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Jurisdiction

The Advertiser has not responded in this matter and the ARB will therefore assume that it does not consider itself bound by the ARB and the Code of Advertising Practice.

The Memorandum of Incorporation of the ARB states:

“3.3 The Company has no jurisdiction over any person or entity who is not a member and may not, in the absence of a submission to its jurisdiction, require non-members to participate in its processes, issue any instruction, order or ruling against the non-member or sanction it. However, the Company may consider and issue a ruling to its members (which is not binding on non-members) regarding any advertisement regardless of by whom it is published to determine, on behalf

of its members, whether its members should accept any advertisement before it is published or should withdraw any advertisement if it has been published.”

In other words, if you are not a member and do not submit to the jurisdiction of the ARB, the ARB will consider and rule on your advertising for the guidance of our members.

The ARB will, however, rule on whatever is before it when making a decision for the guidance of its members. This ruling will be binding only on ARB members and on broadcasters in terms of the Electronic Communications Act.

The ARB will therefore proceed to consider this matter for the guidance of its members.

Merits

The complaint in this matter is simple – the Complainant calls for substantiation of the claims that Power Rock Coffee can deliver on, *inter alia*, the following claims:

- increase testosterone
- lasting erections, even after multiple climaxes
- lasting effect

Clause 4.1 of Section II requires that advertisers should hold documentary evidence to support claims that are capable of objective substantiation. In a case like this one it must emanate from or be evaluated by a person or entity which is independent, credible and an expert in the relevant field.

The Advertiser has chosen not to respond to the complaint. This places the Directorate in a position that there is no reason to accept that the claims are true.

In the circumstances, the Directorate has no choice but to find that the claims are unsubstantiated and in breach of Clause 4.1 of Section II and Clause 4.2.1 of Section II.

Sanction

Members of the ARB are advised not to accept advertising for Power Rock Coffee making claims regarding sexual health and performance, in any medium.