

Advertising regulation trends in 2014

 By [Gail Schimmel](#)

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As I sit down to write this piece, I am faced with the latest evidence of the ever growing censorship practices carried out by the SABC, the latest being the banning of material that shows the booing of Mr Zuma at Nelson Mandela's memorial service. I look at this, combined with the fact that we are going into an election year, and I predict a combination of trends that will work together to result in an interesting space.

In the first place, I think we will see a backlash against censorship and self-censorship with an increase in political parody advertising. I think that the election advertising (which falls outside the jurisdiction of the ASA) will be more vicious and also humorous than that of previous years. Think of the e-tolls billboards by the DA...

The reaction to this will in all likelihood involve channels making unilateral decisions to pull advertising, and increased government intervention in an area that should be industry regulated. I predict a hard year for the ASA as it finds itself caught between the reality of its mandate, and the demands of advertisers and political parties. It is my hope that the ASA will continue to show its admirable objectivity during this time.

A more personally based social conscience

On a more positive note, I believe that Mandela's death signals the beginning of a more personally based social conscience, and that we will see an increase in advertising that calls on people to take part in charitable endeavours. This type of advertising is often disturbing, and I think may result in an increase of complaints to the ASA on the basis of offensive advertising and advertising invoking fear.

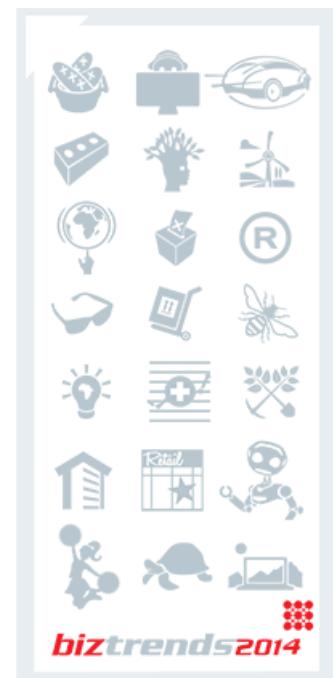
Hand in hand with this will be an increase of advertising that exploits Mandela's image, the rights to which have shifted now that he has died. I believe both the ASA and the Courts will find themselves charged with the question of what protection a dead celebrity enjoys.

This will again challenge its objectivity, as our nations reverence for Mandela cannot obscure an application of the general rule of law in this regard.

A space to watch

For the practitioners of advertising law, one of the interesting questions is around whether Kate O'Regan will remain as the President of the ASA. Judge O'Regan took the position last year, and has fast become known for her thorough decisions. Her continued office at the ASA reflects that she believes the internal management of the ASA is ethical and effective. While I hope that she remains at the ASA, I do believe that this is a space to watch.

My call to the industry this year is to get involved in the ASA - self regulation is the child of the industry, and only by active industry participation at Committee and Board level can the ASA face the ongoing challenges of litigation and state censorship.



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ABOUT GAIL SCHIMMEL

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