

CODE OF ETHICS & PROFESSIONAL CONDUCT

Voluntary Association with
Members

www.tipsasa.co.za

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TIPSASATM

THERMAL INSULATION PRODUCTS & SYSTEMS ASSOCIATION SA
A division of the Southern African Energy Efficiency Confederation

Abstract:

This document is aimed at serving as the Code of Ethics and Professional Conduct Policy for TIPSASA.

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CODE OF ETHICS & PROFESSIONAL CONDUCT

1. NAME OF THE ASSOCIATION

The name of the Association is: Thermal Insulation Products and Systems Association SA.

The shortened name is: TIPSASA

2. MISSION

The mission of the Association is to promote and maintain the common interests of the members of the Association and to improve the social, economic and environmental sustainability of Southern Africa by the promotion of energy conservation through the greater use, better understanding and application of thermal insulation and to enforce guidelines and rules which govern the Association.

3. CODE OF ETHICS & PROFESSIONAL CONDUCT

Given its mission, the Thermal Insulation Products and Systems Association SA (TIPSASA) a Non Profit Company has adopted a Code of Ethics & Professional Conduct to guide its board members, committee members, members and staff in their conduct when acting on behalf of the Thermal Insulation Products and Systems Association SA (TIPSASA).

The Code contains broad principles reflecting the types of behaviour TIPSASA expects towards Board members, Committee Members, employees and the public.

The Code of Ethics & Professional Conduct is one element of a broader effort to create and maintain a quality organization that gives ethical conduct the highest priority. As a division of SAEEC members are required to comply with the By Laws.

This policy is not intended as a stand-alone policy. It does not embody the totality of TIPSASA's ethical standards, nor does it answer every ethical question or issue that might arise. Rather, it is one element of a broader effort to create and maintain a quality organization that gives ethical conduct the highest priority. This Code will be reviewed periodically.

Board members, committee members and staff should:

1. Make all reasonable efforts to comply with the needs and concerns within the scope of our mission, and to strive for excellence and innovation and demonstrate professional respect and responsiveness to professionals, consumers, and others.
2. Make an effort to understand, respect and support all people from all cultures, exemplified by the contributions of the executive leadership and staff, and to contribute to an organizational culture that respects the diverse, individual contributions of leadership, members and staff.
3. Respect the confidentiality of sensitive information about the Association, its Board, members, employees and consumers.
4. Abide by the governing documents and policies of the Association.
5. Comply with applicable laws, regulations and responsibilities in an effort to create transparency in all operations; in particular:
 - 5.1 Abide by the National Building Regulations and Standards Act 103 Of 1977
 - 5.2 Abide by the Competition Act 89 of 1998 specifically Part A Section 4 (a) Restrictive Practices. (See Annex A)
 - 5.3 Abide by TIPSASA's Advertising Guidance for members. (See Annex B)
6. Be accountable for adhering to this Code of Ethics & Professional Conduct.
7. Act at all times in accordance with the highest ethical standards and in the best interest of the Association, its members, consumers, donors and reputation.
8. Openly and honestly tell the truth.
9. Honour commitments and promises to the best of our abilities.
10. Appropriately acknowledge contributions from other individuals and organizations who help facilitate our goals.
11. Not be deceptive in our activities or in prospecting for new members to join the Association.
12. Declare possible conflict of interest

4. LEADERSHIP

The Board of Directors and employees of the Association must provide credible and effective oversight to the organization's work without personal bias.

Not accept commissions, gifts, payments, loans, promises of future benefits or other items of value from anyone who has or may seek some benefit from the Association in return, other than occasional gifts of nominal value that are in keeping with good business ethics

5. COMPLIANCE, MONITORING AND REPORTING

The Association management is responsible for communicating this Code of Ethics & Professional Conduct to all members of the Board of Directors, standing Committee Members, Members as well as staff, staff interns and staff volunteers and for ensuring its adherence at all times.

Ratified by the Thermal Insulation Products and Systems Association SA Board of Directors on: 9 October 2018

CODE OF ETHICS & PROFESSIONAL CONDUCT DISCLOSURE FORM

All members of the board of directors, standing committee members, as well as staff, staff interns and staff volunteers upon their joining the organization, shall sign the declaration of compliance and disclosure.

The undersigned, by their affixed signature, accept and agree to abide by the Code of Ethics & Professional Conduct policy.



D SCHNETLER

Signature

Printed Name

TIPSASA

CHAIRPERSON

Company Name

Position within the organization

09/10/2018

Date



G RICHARDSON

Signature

Printed Name

TIPSASA

VICE-CHAIRMAN

Company Name

Position within the organization

09/10/2018

ANNEX A - Competition Act 89 of 1998 Part A section 4(a) Restrictive Practices

Purpose of the Act

The purpose of this Act is to promote and maintain competition in the Republic in order –

- a) to promote the efficiency, adaptability and development of the economy;
- b) to provide consumers with competitive prices and product choices;
- c) to promote employment and advance the social and economic welfare of South Africans;
- d) to expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic;
- e) to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and
- f) to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

Application of Act

1. This Act applies to all economic activity within, or having an effect within, the Republic, except –
 - a) collective bargaining within the meaning of section 23 of the Constitution, and the Labour Relations Act, 1995 (Act No. 66 of 1995);
 - b) a collective agreement, as defined in section 213 of the Labour Relations Act, 1995;
 - c) the rules of a professional association to the extent that they are exempted in terms of Schedule 1;
 - d) acts subject to or authorised by public regulation; or
 - e) concerted conduct designed to achieve a non-commercial socio-economic objective or similar purpose.
2. For all purposes of this Act, a person is a historically disadvantaged person if that person -
 - a) is one of a category of individuals who, before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), came into operation, were disadvantaged by unfair discrimination on the basis of race;
 - b) is an association, a majority of whose members are individuals referred to in paragraph (a);

- c) is a juristic person other than an association, and individuals referred to in paragraph (a) own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes; or
- d) is a juristic person or association, and persons referred to in paragraph (a), (b) or (c) own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes.

Prohibited Practices

PART A – Restrictive Practices

Restrictive horizontal practices prohibited.

- (1) An *agreement* between, or *concerted practice* by, *firms*, or a decision by an association of *firms*, is prohibited, if it is between parties in a *horizontal relationship* and if –
 - (a) it has the effect of substantially preventing, or lessening, competition in a market, unless a party to the *agreement*, *concerted practice*, or decision can prove that any technological, efficiency or other pro-competitive gain resulting from it outweighs that effect; or
 - (b) it involves any of the following *restrictive horizontal practices*:
 - i. directly or indirectly fixing a purchase or selling price or any other trading condition;
 - ii. dividing markets by allocating customers, suppliers, territories, or specific types of *goods or services*; or
 - iii. collusive tendering.
- Subsection (1) was amended to its present form by section 3 (a) and (b) of The Competition Second Amendment Act, 2000.*
- (2) An *agreement* to engage in a *restrictive horizontal practice* referred to in subsection (1)(b) is presumed to exist between two or more *firms* if –
 - (a) any one of those *firms* owns a significant interest in the other, or they have at least one director or substantial shareholder in common; and
 - (b) any combination of those *firms* engages in that *restrictive horizontal practice*.

Subsection (2) was amended to its present form by section 3 (c) of The Competition Second Amendment Act 2000.

- (3) A presumption contemplated in subsection (2) may be rebutted if a *firm*, director or shareholder concerned establishes that a reasonable basis exists to conclude that the practice referred to in subsection (1)(b) was a normal commercial response to conditions prevailing in that market.
- (4) For purposes of subsections (2) and (3), “director” means –
- a) a director of a company as defined in the Companies Act, 1973 (Act No.61 of 1973);
 - b) a member of a close corporation, as defined in the Close Corporations Act, 1984 (Act No.69 of 1984);
 - c) a trustee of a trust; or
 - d) a person holding an equivalent position in a *firm*.
- Subsection (4) was amended to its present form by section 3 (d) of The Competition Second Amendment Act, 2000.*
- (5) The provisions of subsection (1) do not apply to an *agreement* between, or *concerted practice* engaged in by, -
- a) a company, its wholly owned subsidiary as contemplated in section 1(5) of the Companies Act, 1973, a wholly owned subsidiary of that subsidiary, or any combination of them; or
 - b) the constituent *firms* within a single economic entity similar in structure to those referred to in paragraph (a).

Restricted vertical practices prohibited

- 1) An *agreement* between parties in a *vertical relationship* is prohibited if it has the effect of substantially preventing or lessening competition in a market, unless a party to the agreement can prove that any technological, efficiency or other pro-competitive, gain resulting from that *agreement* outweighs that effect.
- 2) The practice of minimum resale price maintenance is prohibited.
- 3) Despite subsection (2), a supplier or producer may recommend a minimum resale price to the reseller of a *good* or *service* provided -
 - a) The supplier or producer makes it clear to the reseller that the recommendation is not binding; and
 - b) If the product has its price stated on it, the words “recommended price” appear next to the stated price.

PART B – Abuse of a Dominant Position

Restricted application of Part

Section 6 was amended to its present form by section 4 of *The Competition Second Amendment Act, 2000*.

- 1) The *Minister*, in consultation with the Competition Commission, must determine –
 - a) A threshold of annual turnover, or assets, in the Republic, either in general or in relation to specific industries, below which this Part does not apply to a *firm*; and
 - b) A method for the calculation of annual turnover or assets to be applied in relation to that threshold.
- 2) The *Minister* may make a new determination in terms of subsection (1) in consultation with the Competition Commission.
- 3) Before making a determination contemplated in the section, the *Minister*, in consultation with the Competition Commission, must publish in the Gazette a notice –
 - a) Setting out the threshold and method of calculation for purposes of this section; and
 - b) The effective date of that threshold.

Dominant firms

A *firm* is dominant in a market if -

- a) It has at least 45% of that market;
- b) It has at least 35%, but less than 45%, of that market, unless it can show that it does not have *market power*, or
- c) It has less than 35% of that market, but has *market power*.

Abuse of dominance prohibited

It is prohibited for a dominant *firm* to –

- a) Charge an *excessive price* to the detriment of consumers;
- b) Refuse to give a competitor access to an *essential facility* when it is economically feasible to do so;
- c) Engage in an *exclusionary act*, other than an act listed in paragraph (d), if the anti-competitive effect of that act outweighs its technological, efficiency or other pro-competitive gain; or
- d) Engage in any of the following *exclusionary acts*, unless the *firm* concerned can show technological, efficiency or other pro-competitive gains which outweigh the anti-competitive effect of its act –

- i. Requiring or inducing a supplier or customer to not deal with a competitor;
- ii. Refusing to supply scarce goods to a competitor when supplying those goods is economically feasible.
- iii. Selling *goods or services* on condition that the buyer purchases separate *goods or services* unrelated to the object of a contract, or forcing a buyer to accept a condition unrelated to the object of a contract;
- iv. Selling *goods or services* below their marginal or average variable cost; or
- v. Buying up a scarce supply of intermediate goods or resources required by a competitor.

Price discrimination by dominant firm prohibited

- 1) An action by a dominant firm, as the seller of goods or services is prohibited price discrimination, if –
 - a) It is likely to have the effect of substantially preventing or lessening competition;
 - b) It relates to the sale, in equivalent transactions, of *goods or services* of like grade and quality to different purchasers; and
 - c) It involves discriminating between those purchasers in terms of –
 - i. The price charged for the *goods or services* ;
 - ii. Any discount, allowance, rebate or credit given or allowed in relation to the supply of *goods or services*; or
 - iii. The provision of services in respect of the *goods or services*; or
 - iv. Payment for services provided in respect of the *goods or services*.
- 2) Despite subsection (1), conduct involving differential treatment of purchasers in terms of any matter listed in paragraph (c) of that subsection is not prohibited price discrimination if the dominant *firm* establishes that the differential treatment –
 - a) Makes only reasonable allowance for differences in cost or likely cost of manufacture, distribution, sale, promotion or delivery resulting from the differing places to which, methods by which, or quantities in which, *goods or services* are supplied to different purchasers;
 - b) Is constituted by doing acts in good faith to meet a price or benefit offered by a competitor; or
 - c) Is in response to changing conditions affecting the market for the goods or services concerned, including –
 - i. Any action in response to the actual or imminent deterioration of perishable goods;
 - ii. Any action in response to the obsolescence of goods;
 - iii. A sale pursuant to a liquidation or sequestration procedure; or
 - iv. A sale in good faith in discontinuance of business in the *goods or services* concerned

ANNEX B - TIPSASA's Advertising Guidance for Members

Summary of Principles

Comparative advertising

Advertisements in which factual comparisons are made between products and/or services are permitted provided that all legal requirements are adhered to. Attention is drawn to the provisions of the Trade Marks Act 194 of 1993.

Discrimination

Advertisements should not contain anything that is discriminatory, unless, in the opinion of TIPSASA, such discrimination is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

Disparagement

Advertisements should not attack, discredit or disparage other products, services, advertisers, or advertisements directly or indirectly.

Efficacy claims

Claims to efficacy which cannot justifiably be attributed to the use of the product, and any specific or measurable results claimed should be fairly presented.

Exploitation of advertising goodwill

Advertisements may not take advantage of the advertising goodwill relating to the trade name or symbol of the product or service of another, or advertising goodwill relating to another party's advertising campaign or advertising property, unless the prior written permission of the proprietor of the advertising goodwill has been obtained.

If products do not comply with the relevant test standards applicable to these products, the usage of the TIPSASA logo is prohibited.

Guarantee & Warranty

If a guarantee is offered in an advertisement, the full terms and conditions of that guarantee should be available in printed form, for the consumer to inspect.

Headlines

Headlines to advertising should not mislead in any way and it shall not be acceptable to contend that a misleading impression conveyed by a headline has been corrected in the body copy of the advertisement.

When a statement contained in a headline of printed advertising is asterisked to refer to an explanatory footnote, the type-size used in the footnote shall not be smaller than that used in the substantive copy of the advertisement.

Honesty

Advertisements should not be so framed as to abuse the trust of the consumer or exploit his lack of experience or knowledge or his credulity.

Imitation

An advertiser should not copy an existing advertisement, local or international, or any part thereof.

Illegal activities

Advertisements should not show anything, which may encourage or support criminal or illegal activity.

Legality

Advertisements should not contain anything which might lead or lend support to criminal or illegal activities.

Offensive Advertising

No advertising may offend against good taste or decency or be offensive to public or sectoral values and sensitivities, unless the advertising is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

Pricing policy

The selling price at which the goods will be sold to the purchaser against immediate payment must be quoted in full. Such selling price must include all necessary or incidental costs. Attention is drawn to the provisions of Section 64 and 65 of the value-added Tax Act 89 of 1991.

Misleading claims

Advertisements should not contain any statements or visual presentations, which directly or by implication, omission, ambiguity, inaccuracy or exaggeration claims or otherwise, is likely to mislead consumers.

Safety

Advertisements should not without reason, justifiable on educational or social grounds, contain any visual presentation or any description of dangerous practices or of situations which show a disregard for safety. Special care should be taken in advertisements directed towards or depicting children or young people.

Standards and Research bodies

Advertising copy which refers to a standardisation mark or a standards and/or research body such as the SABS or CSIR shall not be acceptable unless previously approved in writing by such body. It shall be the duty of the advertiser to submit such copy to the relevant body and to satisfy TIPSASA that the necessary approval has been obtained.

Statistics and scientific information

Advertisements should not misuse research results or quotations from technical and scientific literature. Statistics should not be so presented as to imply that they have a greater validity than is the case. Scientific terms should not be misused and scientific jargon and irrelevancies should not be used to make claims appear to have a scientific basis they do not possess.

Substantiation of claims

Advertisers should have available acceptable proof of all factual claims made in advertising.

Testimonials

Advertisements should not contain or refer to any testimonial or endorsement unless it is genuine. Testimonials or endorsements which are obsolete or otherwise no longer applicable (e.g. where there has been a significant change in formulation of the product concerned) should not be used.

Truthful presentations

Before publication of advertisements, the advertiser shall hold in their possession documentary evidence to support all claims, whether direct or implied, that are capable of objective substantiation. Documentary evidence, shall be up to date and current, and shall have market relevance.

Use of the word “NEW” in advertising

The maximum use of the word “new” or words implying “new” shall be confined to a 12 month period calculated from date of proven first usage in an advertisement. It may also be used to advertise any change or improvement to a product, service or package, provided that the change or improvement is material and can be substantiated and defined.

Advertising Containing Environmental Claims

1. General

1.1 An “Environmental claim” means any direct or indirect claim, representation, reference or indication in an advertisement relating to the immediate or future impact or influence on the environment of a product or its packaging or a service.

1.2 Unless the context otherwise requires a reference to the product is deemed to include reference to any packaging in which the product or any of its components are or were at any time contained.

1.3 All environmental claims and statements made in advertising should provide accurate information, meaningful to the consumer and based on recognized scientific standards and principles.

1.4 Advertisements should not contain vague, incomplete or irrelevant statements about environmental matters, nor should it impair public confidence in the efforts made by the business community to improve its ecological standards.

2. Absolute claims and statements

2.1 Advertisements containing unqualified claims and statements about environmental matters will be interpreted as meaning 100%, and shall be subject to substantiation. The same principle will apply to descriptions such as "...free" or "contains no ..." which will be assumed to claim total absence of the stated substance.

2.2 Corporate claims in advertising may refer to specific products or actions, but may not imply that they extend to the company's performance functions as a whole, unless this can be substantiated.

2.3 Advertisements should clearly indicate whether the claims made relate to the products or packaging, and in the absence of such indication shall be considered to be referring to both.

2.4 Advertisements containing general statements such as "environmentally friendly" or "ozone friendly" or "green", or graphics or symbols designed to convey a similar environmental message, will not be permitted unless qualified by a description of the benefit conferred, e.g. "ozone friendly - free from CFC's".

2.5 Environmental signs or symbols used in advertising should clearly indicate their source and should not imply official approval.

3. Recyclable

Advertisements may not by using the Mobius Loop symbol or in any other way claim that the product is recyclable, merely because it is technically capable of being recycled, unless facilities, which are reasonably accessible, exist for collection and recycling.

4. Degradable

4.1 No advertisement may make claims for the degradability of the packaging material unless the claim can be substantiated.

4.2 Advertising claims about the degradability of products disposed of through the sewage systems may only be made if the by-products of degradation and the product in question do not contain substances which are known to be damaging either to the environment or the sewage collection and treatment facilities.

5. Ozone friendly

5.1 No product or packaging may claim to be "ozone friendly" if at any point in its manufacture, packaging, use or degradation it uses or is likely to emit chlorofluorocarbons.

5.2 Advertisements which claim to indicate in any other way that a product does not contain any substance which will or may have an adverse or detrimental effect on the ozone layer ("ozone layer") shall not be acceptable unless TIPSASA is satisfied that the product falls within the class of product –

5.2.1 in which chlorofluorocarbons ("freons") are or have in the past commonly been used as inert dispensing agents or as solvent or refrigerants; or

5.2.2 which is generally perceived by the consumer public as being a product which contains such substances.