

Decision of the ADVERTISING REGULATORY BOARD

Advertiser	Beiersdorf Consumer Products (Pty) Ltd
Competitor	L'Oréal South Africa (Pty) Ltd
File reference	4598 - Beiersdorf Consumer Products - L'Oréal South Africa
Outcome	Dismissed
Date	22 April 2026

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by L'Oréal South Africa (Pty) Ltd (“the Complainant”) against Beiersdorf Consumer Products (Pty) Ltd (“the Advertiser”) regarding certain claims made in advertisements for its Eucerin product range.

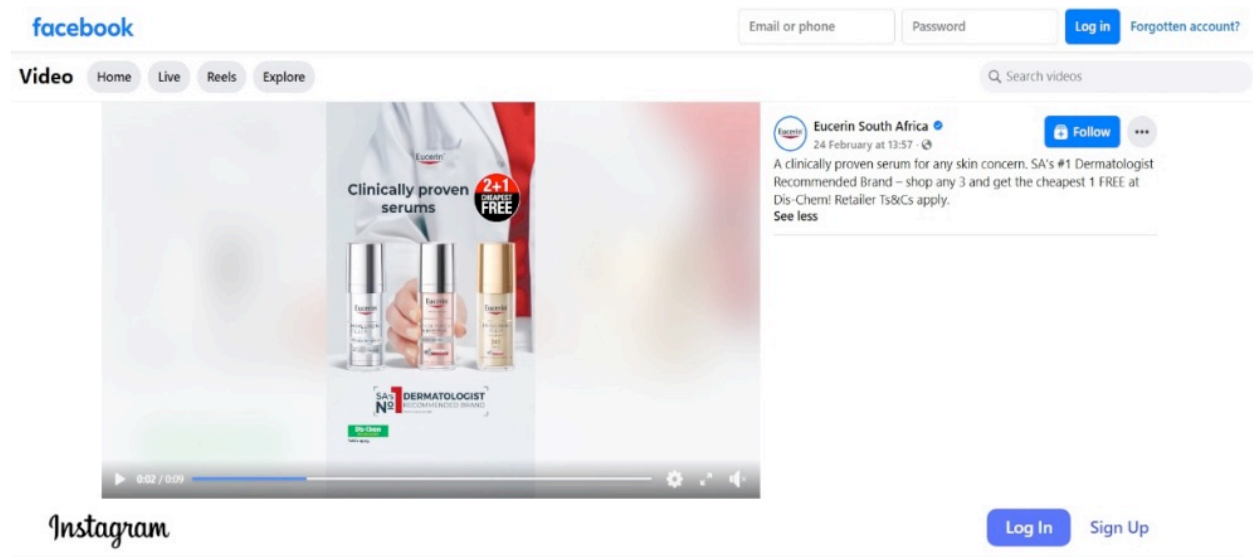
Description of the advertising

The complaint relates to the claims below (hereinafter, collectively, “the Claims”):

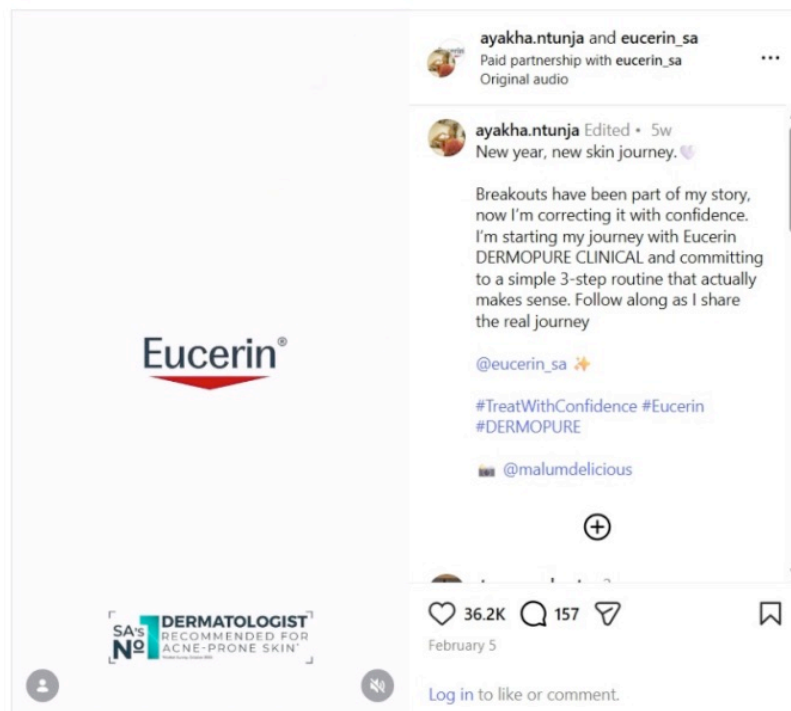
1. *SA's No.1 Dermatologist Recommended even tone brand;*
2. *SA's No.1 Dermatologist Recommended for Acne-Prone Skin;*
3. *SA's No.1 Dermatologist Recommended for Sun Protection; and*
4. *SA's No.1 Dermatologist Recommended Brand.*

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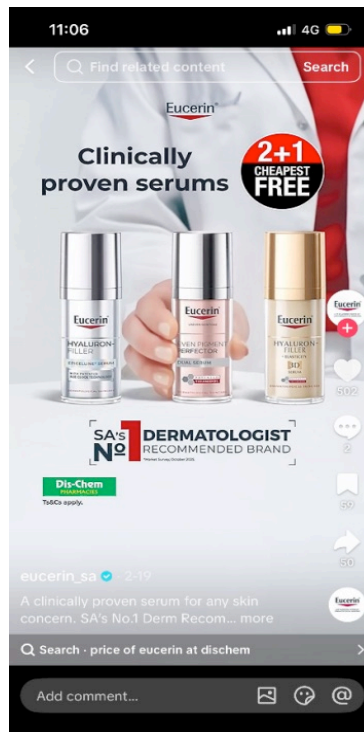
Some screenshots of advertisements bearing the Claims on social media, as included in the Complaint, appear below:



The screenshot shows a Facebook video advertisement for Eucerin South Africa. The video content features a hand holding three Eucerin serum bottles against a white background. Text on the video includes "Clinically proven serums" and a "2+1 BONUS FREE" offer. Below the video, the text reads: "SA'S No. 1 DERMATOLOGIST RECOMMENDED BRAND". The Facebook interface includes the "facebook" logo, search bar, and navigation tabs like "Home", "Live", "Reels", and "Explore". The video is from "Eucerin South Africa" and is dated "24 February at 13:57". The description states: "A clinically proven serum for any skin concern. SA's #1 Dermatologist Recommended Brand – shop any 3 and get the cheapest 1 FREE at Dis-Chem! Retailer Ts&Cs apply. See less".



The screenshot shows an Instagram post by "ayakha.ntunja and eucerin_sa". The post features a large Eucerin logo on the left and a text-based advertisement on the right. The text reads: "New year, new skin journey. Breakouts have been part of my story, now I'm correcting it with confidence. I'm starting my journey with Eucerin DERMOPURE CLINICAL and committing to a simple 3-step routine that actually makes sense. Follow along as I share the real journey". Below the text are the handles "@eucerin_sa", "#TreatWithConfidence #Eucerin #DERMOPURE", and "@malumdelicious". At the bottom left of the post, there is a claim: "SA'S No. 1 DERMATOLOGIST RECOMMENDED FOR ACNE-PRONE SKIN". The post has 36.2K likes and 157 comments, and is dated "February 5".



Complaint

The Complainant submits that the Advertiser has disseminated a wide range of advertisements for its Eucerin products across various social media platforms between November 2025 and February 2026, all of which bear the Claims, being dermatologist-recommendation claims. According to the Complainant, the Advertiser uses the same disclaimer, “*Market Survey, October 2025*”, on its advertisements bearing the Claims.

The Complainant submits that the Claims are incapable of substantiation. In response to a request for evidence of the substantiation of the Claims, the Advertiser asserted that the claims were “fully substantiated” by an October 2025 market survey but refused to provide any proof, stating that it would only disclose evidence to the ARB.

The Complainant submits that the Claims are misleading and unsubstantiated and, therefore, in breach of:

- **Clause 4.1.1** of Section II of the ARB Code (documentary evidence must be held before publication);
- **Clause 4.1.2** of Section II the ARB Code (evidence must be up-to-date and have market relevance);
- **Clause 4.1.3** of Section II the ARB Code (survey evidence must emanate from a SAMRA-accredited researcher);
- **Clause 4.2.1** of Section II the ARB Code (advertising may not mislead by implication, ambiguity, omission or exaggeration);
- **Clause 6.1(xii)** of the Cosmetic Advertising Code (doctor-recommendation claims prohibited unless substantiated); and
- **Clause 6.2.2(iii)** of the Cosmetic Advertising Code (dermatologist-recommendation claims must be based on statistically significant dermatologist opinion).

The Complainant further states that it holds independent survey evidence, dating back to February 2026, showing that:

- its own La Roche-Posay product is the #1 dermatologist-recommended brand in South Africa;
- La Roche Posay is also #1 for even tone and sun protection, and
- another brand (not Eucerin) is #1 for acne-prone skin.

The Complainant's survey evidence was not submitted with the Complaint.

The Complainant argues that even if the Advertiser possesses an October 2025 survey:

- it is not up-to-date, given that the Complainant's evidence includes February 2026 findings; and
- it is unclear whether the Advertiser's survey is SAMRA-accredited or based on a statistically significant number of dermatologists, as required by the Code.

The Complainant, therefore, submits that the Advertiser's reliance on an undisclosed October 2025 survey is insufficient to justify ongoing dissemination of the "*#1 dermatologist recommended*" claims.

Response

The Advertiser submits that all four dermatologist-recommendation claims are fully substantiated, compliant with the Code and not misleading.

The Advertiser first clarifies that:

- Clause 4.1 of Section II requires advertisers to hold substantiation at the time of making a claim;
- the Code does not require advertisers to disclose substantiation to competitors during inter-company exchanges; and
- the obligation to disclose arises only once a formal ARB complaint is filed.

The Advertiser confirms that it did hold up-to-date substantiation before publishing the Claims. In support of this, the Advertiser submits three components of substantiation, discussed separately below.

1. The Market Survey Commissioned by the Advertiser

The Advertiser explains that it commissioned mindline healthcare GmbH (“Mindline”), an ESOMAR-member international research agency, to conduct a comprehensive dermatologist survey on dermo-cosmetic skincare recommendations in South Africa (“the Market Survey”).

The Market Survey, according to the Advertiser, assessed dermatologist recommendations at both overall brand level and specific indication level, including even tone, acne-prone skin and sun protection.

The Advertiser records that:

- the study was conducted as a full-service research project;
- fieldwork took place between 29 June and 17 December 2025;
- the sample comprised 152 dermatologists, drawn from the 220 actively practising dermatologists registered with the HPCSA;
- this yields a 95% confidence level with an error margin between 4.7% and just over 5%.

The Advertiser submits that this constitutes a statistically significant number of fully qualified dermatologists, satisfying Clause 6.2.2(iii) of the Cosmetic Code and the requirements of Clause 4.1.3 of Section II.

2. Confidentiality of the Mindline Reports

The Advertiser submits two confidential documents as part of its substantiation:

- Annexure B: The Mindline Report, dated 27 January 2026; and
- Annexure C: The Mindline debrief insights report, in PowerPoint format, dated December 2025.

It requests confidentiality under Clause 5 of Section I of the Code on the basis that these documents:

- are not in the public domain;

- contain proprietary research methodology, sample structuring, question framing and internal analysis;
- have economic and commercial value; and
- were created at the Advertiser's expense through an independent research agency.

The Advertiser submits that disclosure to a direct competitor would prejudice its competitive position. It, therefore, provides these documents to the ARB only and relies on the non-confidential expert evaluation (Annexure A – discussed below) as the publicly shareable summary of the methodology and findings.

3. Independent Expert Review (Annexure A – Non-Confidential)

To ensure independent verification, the Advertiser engaged Mr Michael Charnas of *Catalyst Research & Strategy* to review the Market Survey. Mr Charnas is an accredited SAMRA member, an ESOMAR member and previously accepted by the ARB as a market research expert.

Mr Charnas reviewed the raw data, questionnaire, methodology, reporting decks and supporting confirmations. He confirms that:

- a) the sample is statistically significant;
- b) the methodology is sound;
- c) the questionnaire is not biased or leading;
- d) the data is reliable; and
- e) the study was conducted in accordance with SAMRA and ESOMAR standards.

Based on his independent evaluation, Mr Charnas concludes that the Market Survey reliably substantiates all four challenged claims, namely that Eucerin is:

- SA's No.1 Dermatologist recommended brand;
- SA's No.1 Dermatologist recommended even tone brand;
- SA's No.1 Dermatologist recommended for acne-prone skin;
- SA's No.1 Dermatologist recommended for sun protection;

Based on this, the Advertiser submits that its substantiation is current, professionally validated and market-relevant and that it satisfies all requirements of Clause 4.1 and 4.1.3 of Section II as well as Clauses 6.1(xii) and 6.2.2(iii) of the Cosmetic Code.

The Advertiser concludes that, as the claims are factually substantiated, they cannot mislead consumers. It, therefore, denies any breach of the Code.

The Advertiser points out that, while the Complainant refers to its own “*independent survey evidence*”, it has not filed that evidence with the ARB. The Advertiser submits that:

- any material not placed before the Directorate cannot be relied upon in a complaint;
- the Directorate must, therefore, disregard L’Oréal’s references to unfiled evidence; and
- there is no indication that the Complainant’s alleged evidence meets the same SAMRA/ESOMAR requirements that it demands of the Advertiser.

The Advertiser submits, therefore, that the Directorate must decide the matter solely on the substantiation actually before it.

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

- Clause 4.1 of Section II – Truthful presentation: Substantiation
- Clause 4.2.1 of Section II – Misleading claims
- Clause 6.1 (xii) of the Cosmetic Code – Unacceptable claims
- Clause 6.2.2 (iii) of the Cosmetic Code – Substantiation of “Dermatologically/Dermatologist” Claims for Cosmetic Products

Decision

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

Merits

The Directorate considered the Claims in light of the relevant provisions of the Code and applicable legislation.

1. Confidentiality of the Advertiser's Annexures

The Directorate is satisfied that the two Mindline documents discussed above meet the criteria for confidential treatment within the meaning of Clause 5 of Section I of the Code. They are not in the public domain; they contain commercially valuable research material; and they were created at the Advertiser's expense through an independent research agency.

The Directorate, therefore, accepts the documents on a confidential basis and will consider them in its assessment, without disclosing their contents here or to the Complainant.

The non-confidential Evaluation Report (Annexure A) by Mr. Charnas provides an accurate and sufficient public-facing summary of the methodology and conclusions for purposes of procedural fairness.

2. Assessment of the Advertiser's Substantiation

In summary, the Advertiser relies on a dermatologist survey conducted by Mindline between 29 June and 17 December 2025. The sample comprises 152 dermatologists, representing a 95% confidence level and an error margin between 4.7% and just over 5%. The Advertiser also submitted the raw data, methodology, questionnaire and reporting decks to Mr Charnas.

The Directorate is satisfied that the Advertiser held adequate and appropriate substantiation for the Claims at the time of publication, as required by Clause 4.1.1 and Clause 4.1.3 of Section II, and by Clauses 6.1(xii) and 6.2.2(iii) of the Cosmetic Code.

The requirements of Clause 4.1 are that evidence emanates from an independent and credible expert in the field to which the claims relate, and in the case of survey data, that said expert is SAMRA or equivalent accredited.

The Directorate visited the Mindline website at www.mindline.de, and it would appear that it is independent from the Advertiser, and an experienced expert on consumer research. Mr

Charnas is also known to the Directorate, and as the Advertiser has pointed out, has previously been accepted as an independent SAMRA accredited expert by the Directorate. There is nothing before the Directorate to indicate that this would not be an appropriate finding in the current matter.

Mr Charnas unequivocally accepted that the claims in question have been substantiated by the research conducted.

The complaint relates to advertising bearing the Claims between November 2025 and February 2026. The Complainant argues that, even if substantiation were possible, it would be outdated in light of its own evidence dating February 2026.

Regardless of the Complainant's own evidence (dealt with separately below), the Directorate does not agree that the Advertiser's evidence is outdated.

The advertisements include the wording "*Market Survey, October 2025*", while the Advertiser's substantiation shows that the underlying fieldwork was conducted between 29 June and 17 December 2025, with analysis completed in January 2026.

The key question is whether data collected between June and December 2025 and labelled in the advertising as "*Market Survey, October 2025*", can legitimately support advertising flighted between November 2025 and February 2026.

The Directorate is satisfied that it can.

Clause 4.1.1 requires advertisers to hold substantiation at the time a claim is made. The Advertiser asserts that it did hold such substantiation before it started publishing the Claims in November 2025. The advertisements themselves reference "*Market Survey, October 2025*", indicating that the survey was already sufficiently advanced at that point to support the Claims.

While the fieldwork continued until 17 December 2025, the Advertiser's substantiation demonstrates that the dataset was already substantially collected by October and the independent reviewer confirms that the survey as a whole is statistically significant, methodologically sound and professionally executed. The continuation of fieldwork beyond

October does not undermine the Advertiser's ability to rely on the data already collected when the Claims first appeared.

The October 2025 disclaimer also does not suggest staleness. To the contrary, it indicates that the survey was conducted immediately prior to the advertising period and within the same commercial cycle. The fact that the underlying dataset extends beyond October strengthens, rather than weakens, the contemporaneity of the substantiation.

On this basis, the Directorate is satisfied that the substantiation is current, professionally validated and market-relevant for advertisements flighted between November 2025 and February 2026 and that the timing of the fieldwork does not render the Claims outdated or misleading.

3. The Complainant's Reference to Later, Contradictory Data

The Complainant asserts that it possesses "*independent survey evidence*" showing that its La Roche-Posay product is the #1 dermatologist-recommended brand overall, #1 for even tone and sun protection and that another brand is #1 for acne-prone skin. It further states that this evidence includes findings from February 2026, which it argues supersede the Advertiser's October 2025 data.

However, the Complainant did not file this evidence with the ARB. It merely referred to its existence. This is, however, not material as the Directorate would not, in any event, consider the Complainant's substantiation.

When an Advertiser makes a claim, the onus falls on that Advertiser to substantiate the claim – and not on the complainant to disprove the claim. The Directorate therefore, at this stage of the proceedings, confines itself to the question of whether the substantiation supports the claim.

In the event that the Complainant holds equally persuasive substantiation that the claim is *not* true, as appears may be the case here, the Clause 16 of the Procedural Guide may be triggered, if the parties so wish.

The other possibility is that the two things are both true at once. In other words, it could be that the two products are so close in this particular race that two equally good surveys, done in slightly different and equally valid manners, might come to different, yet valid, conclusions.

Having considered the submissions, the substantiation filed and the applicable provisions of the Code and the Cosmetic Code, the Directorate is satisfied that the Advertiser held adequate and appropriate substantiation for each of the dermatologist-recommendation Claims at the time the Claims were published.

For these reasons, the Directorate concludes that the Advertiser has met the requirements of Clause 4.1 and 4.1.3 of Section II, as well as Clauses 6.1(xii) and 6.2.2(iii) of the Cosmetic Code. The Claims are, accordingly, substantiated and not misleading in terms of Clause 4.2.1.