



The Advertising Standards Council of India

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ASCI is a voluntary Self-Regulation council, registered as a not-for-profit Company under section 25 of the Indian Cos. Act. The sponsors of the ASCI, who are its principal members, are firms of considerable repute within Industry in India, and comprise Advertisers, Media, Ad. Agencies and other Professional/Ancillary services connected with advertising practice. The ASCI is not a Government body, nor does it formulate rules for the public or the relevant industries.

THE CODE FOR SELF-REGULATION IN ADVERTISING

PURPOSE

The purpose of the Code is to control the content of advertisements, not to hamper the sale of products which may be found offensive, for whatever reason, by some people. Provided, therefore, that advertisements for such products are not themselves offensive, there will normally be no ground for objection to them in terms of this Code.

DECLARATION OF FUNDAMENTAL PRINCIPLES

This Code for Self-Regulation has been drawn up by people in professions and industries in or connected with advertising, in consultation with representatives of people affected by advertising, and has been accepted by individuals, corporate bodies and associations engaged in or otherwise concerned with the practice of advertising, with the following as basic guidelines, with a view to achieve the acceptance of fair advertising practices in the best interest of the ultimate consumer:

- I. To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against misleading advertisements.
- II. To ensure that advertisements are not offensive to generally accepted standards of public decency.
- III. To safeguard against the indiscriminate use of advertising for the promotion of products which are regarded as hazardous to society or to individuals to a degree or of a type which is unacceptable to society at large.
- IV. To ensure that advertisements observe fairness in competition so that the consumer's need to be informed on choices in the market-place and the canons of generally accepted competitive behaviour in business are both served.

The Code's rules form the basis for judgement whenever there may be conflicting views about the acceptability of an advertisement, whether it is challenged from within or from outside the advertising business. Both the general public and an advertiser's competitors have an equal right to expect the content of advertisements to be presented fairly, intelligibly and responsibly. The Code applies to advertisers, advertising agencies and media.

RESPONSIBILITY FOR THE OBSERVANCE OF THIS CODE

The responsibility for the observance of this Code for Self-Regulation in Advertising lies with all who commission, create, place or publish any advertisement or assist in the creation or publishing of any advertisement. All advertisers, advertising agencies and media are expected not to commission, create, place or publish any advertisement which is in contravention of this Code. This is a self-imposed discipline required under this Code for Self-Regulation in Advertising from all involved in the commissioning, creation, placement or publishing of advertisements.

This Code applies to advertisements read, heard or viewed in India even if they originate or are published abroad so long as they are directed to consumers in India or are exposed to significant number of consumers in India.

THE CODE AND THE LAW

The Code's rules are not the only ones to affect advertising.

There are many provisions, both in the common law and in the statutes, which can determine the form or the content of an advertisement.

The Code is not in competition with law. Its rules, and the machinery through which they are enforced, are designed to complement legal controls, not to usurp or replace them.

DEFINITIONS

For the purpose of this Code:

- an advertisement is defined as a paid-for communication, addressed to the Public or a section of it, the purpose of which is to influence the opinions or behaviour of those to whom it is addressed. Any communication which in the normal course would be recognised as an advertisement by the general public would be included in this definition even if it is carried free-of-charge for any reason.
- a product is anything which forms the subject of an advertisement, and includes goods, services and facilities.
- a consumer is any person or corporate body who is likely to be reached by an advertisement whether as an ultimate consumer, in the way of trade or otherwise.
- an advertiser is anybody, including an individual or partnership or corporate body or association, on whose brief the advertisement is designed and on whose account the advertisement is released.
- an advertising agency includes all individuals, partnerships, corporate bodies or associations, who or which work for planning, research, creation or placement of advertisements or the creation of material for advertisements for advertisers or for other advertising agencies.
- media owners include individuals in effective control of the management of media or their agents; media are any means used for the propagation of advertisements and include press, cinema, radio, television, hoardings, hand bills, direct mail, posters, internet, etc.
- minors are defined as persons who are below the age of 18 years.
- any written or graphic matter on packaging, whether unitary or bulk, or contained in it, is subject to this Code in the same manner as any advertisement in any other medium.
- to publish is to carry the advertisement in any media whether it be by printing, exhibiting, broadcasting, displaying, distributing, etc.

STANDARDS OF CONDUCT

Advertising is an important and legitimate means for the seller to awaken interest in his products. The success of advertising depends on public confidence. Hence no practice should be permitted which tends to impair this confidence. The standards laid down here should be taken as minimum standards of acceptability which would be liable to be reviewed from time to time in relation to the prevailing norm of consumers' susceptibilities.

CHAPTER-I.

To ensure the Truthfulness and Honesty of Representations and Claims made by Advertisements and to Safeguard against misleading Advertisements

1. Advertisements must be truthful. All descriptions, claims and comparisons which relate to matters of objectively ascertainable fact should be capable of substantiation. Advertisers and advertising agencies are required to produce such substantiation as and when called upon to do so by The Advertising Standards Council of India.
2. Where advertising claims are expressly stated to be based on or supported by independent research or assessment, the source and date of this should be indicated in the advertisement.
3. Advertisements shall not, without permission from the person, firm or institution under reference, contain any reference to such person, firm or institution which confers an unjustified advantage on the product advertised or tends to bring the person, firm or institution into ridicule or disrepute. If and when required to do so by the Advertising Standards Council of India, the advertiser and the advertising agency shall produce explicit permission from the person, firm or institution to which reference is made in the advertisement.
4. Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions. Advertisements shall not contain statements or visual presentation which directly or by implication or by omission or by ambiguity or by exaggeration are likely to mislead the consumer about the product advertised or the advertiser or about any other product or advertiser.
5. Advertisements shall not be so framed as to abuse the trust of consumers or exploit their lack of experience or knowledge. No advertisement shall be permitted to contain any claim so exaggerated as to lead to grave or widespread disappointment in the minds of consumers.

For example:

- (a) Products shall not be described as 'free' where there is any direct cost to the consumer other than the actual cost of any delivery, freight, or postage. Where such costs are payable by the consumer, a clear statement that this is the case shall be made in the advertisement.
- (b) Where a claim is made that if one product is purchased another product will be provided 'free', the advertiser is required to show, as and when called upon by The Advertising Standards Council of India, that the price paid by the consumer for the product which is offered for purchase with the advertised incentive is no more than the prevalent price of the product without the advertised incentive.
- (c) Claims which use expressions such as "Upto five years' guarantee" or "Prices from as low as Rs. Y" are not acceptable if there is a likelihood of the consumer being misled either as to the extent of the availability or as to the applicability of the benefits offered.

- (d) Special care and restraint has to be exercised in advertisements addressed to those suffering from weakness, any real or perceived inadequacy of any physical attributes such as height or bust development, obesity, illness, impotence, infertility, baldness and the like, to ensure that claims or representations directly or by implication, do not exceed what is considered prudent by generally accepted standards of medical practice and the actual efficacy of the product.
 - (e) Advertisements inviting the public to invest money shall not contain statements which may mislead the consumer in respect of the security offered, rates of return or terms of amortisation; where any of the foregoing elements are contingent upon the continuance of or change in existing conditions, or any other assumptions, such conditions or assumptions must be clearly indicated in the advertisement.
 - (f) Advertisements inviting the public to take part in lotteries or prize competitions permitted under law or which hold out the prospect of gifts shall state clearly all material conditions as to enable the consumer to obtain a true and fair view of their prospects in such activities. Further, such advertisers shall make adequate provisions for the judging of such competitions, announcement of the results and the fair distribution of prizes or gifts according to the advertised terms and conditions within a reasonable period of time. With regard to the announcement of results, it is clarified that the advertiser's responsibility under this section of the Code is discharged adequately if the advertiser publicizes the main results in the media used to announce the competition as far as is practicable, and advises the individual winners by post.
6. Obvious untruths or exaggerations intended to amuse or to catch the eye of the consumer are permissible provided that they are clearly to be seen as humorous or hyperbolic and not likely to be understood as making literal or misleading claims for the advertised product.
7. In mass manufacturing and distribution of goods and services it is possible that there may be an occasional, unintentional lapse in the fulfilment of an advertised promise or claim. Such occasional, unintentional lapses may not invalidate the advertisement in terms of this Code.

In judging such issues, due regard shall be given to the following:

- (a) Whether the claim or promise is capable of fulfillment by a typical specimen of the product advertised.
- (b) Whether the proportion of product failures is within generally acceptable limits.
- (c) Whether the advertiser has taken prompt action to make good the deficiency to the consumer.

CHAPTER II

To ensure that Advertisements are not offensive to generally accepted standards of Public Decency.

Advertisements should contain nothing indecent, vulgar or repulsive which is likely, in the light of generally prevailing standards of decency and propriety, to cause grave or widespread offence.

CHAPTER III

To safeguard against the indiscriminate use of Advertising in situations or of the Promotion of Products which are regarded as Hazardous or Harmful to society or to individuals, particularly minors, to a degree or of a type which is Unacceptable to Society at Large.

1. No advertisement shall be permitted which:
 - (a) Tends to incite people to crime or to promote disorder and violence or intolerance.
 - (b) Derides any race, caste, colour, creed or nationality.
 - (c) Presents criminality as desirable or directly or indirectly encourages people - particularly minors - to emulate it or conveys the modus operandi of any crime.
 - (d) Adversely affects friendly relations with a foreign State.
2. Advertisements addressed to minors shall not contain anything, whether in illustration or otherwise, which might result in their physical, mental or moral harm or which exploits their vulnerability. For example, Advertisements:
 - (a) Should not encourage minors to enter strange places or to converse with strangers in an effort to collect coupons, wrappers, labels or the like.
 - (b) Should not feature dangerous or hazardous acts which are likely to encourage minors to emulate such acts in a manner which could cause harm or injury.
 - (c) Should not show minors using or playing with matches or any inflammable or explosive substance; or playing with or using sharp knives, guns or mechanical or electrical appliances, the careless use of which could lead to their suffering cuts, burns, shocks or other injury.
 - (d) Should not feature minors for tobacco or alcohol-based products.
 - (e) Should not feature personalities from the field of sports, music and cinema for products which, by law, either require a health warning in their advertising or cannot be purchased by minors.
3. Advertisements shall not, without justifiable reason, show or refer to dangerous practices or manifest a disregard for safety or encourage negligence.
4. Advertisements should contain nothing which is in breach of the law nor omit anything which the law requires.
5. Advertisements shall not propagate products, the use of which is banned under the law.
6. Advertisements for products whose advertising is prohibited or restricted by law or by this code must not circumvent such restrictions by purporting to be advertisements for other products the advertising of which is not prohibited or restricted by law or by this code. In judging whether or not any particular advertisement is an indirect advertisement for product whose advertising is restricted or prohibited, due attention shall be paid to the following:
 - (a) Visual content of the advertisement must depict only the product being advertised and not the prohibited or restricted product in any form or manner
 - (b) The advertisement must not make any direct or indirect reference to the prohibited or restricted products
 - (c) The advertisement must not create any nuances or phrases promoting prohibited products

- (d) The advertisement must not use particular colours and layout or presentations associated with prohibited or restricted products
- (e) The advertisement must not use situations typical for promotion of prohibited or restricted products when advertising the other products

CHAPTER IV

To ensure that Advertisements observe fairness in competition such that the Consumer's need to be informed on choice in the Market-Place and the Canons of generally accepted competitive behaviour in Business are both served.

1. Advertisements containing comparisons with other manufacturers or suppliers or with other products including those where a competitor is named, are permissible in the interests of vigorous competition and public enlightenment, provided:
 - (a) It is clear what aspects of the advertiser's product are being compared with what aspects of the competitor's product.
 - (b) The subject matter of comparison is not chosen in such a way as to confer an artificial advantage upon the advertiser or so as to suggest that a better bargain is offered than is truly the case.
 - (c) The comparisons are factual, accurate and capable of substantiation.
 - (d) There is no likelihood of the consumer being misled as a result of the comparison, whether about the product advertised or that with which it is compared.
 - (e) The advertisement does not unfairly denigrate, attack or discredit other products, advertisers or advertisements directly or by implication.
2. Advertisements shall not make unjustifiable use of the name or initials of any other firm, company or institution, nor take unfair advantage of the goodwill attached to the trade mark or symbol of another firm or its product or the goodwill acquired by its advertising campaign.
3. Advertisements shall not be similar to any other advertiser's earlier run advertisements in general layout, copy, slogans, visual presentations, music or sound effects, so as to suggest plagiarism.
4. As regards matters covered by sections 2 and 3 above, complaints of plagiarism of advertisements released earlier abroad will lie outside the scope of this Code except in the under-mentioned circumstances:
 - (a) The complaint is lodged within 12 months of the first general circulation of the advertisements/campaign complained against.
 - (b) The complainant provides substantiation regarding the claim of prior invention/usage abroad.