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### Regulation of advertisements: national and international perspectives

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#### ABSTRACT

We are exposed to countless commercial messages every day persuading us to buy brand name products, creating images for us to adopt, and convincing us that we need and want more. Because of this, it is important to carefully examine advertisements to determine exactly what they are saying. This has been realised by the regulatory and enforcement agencies that there is lack of awareness and resultant understanding amongst the consumers; of the deceptiveness of the claims shown in the advertisements. This is the reason that most of the Indian consumers not even claim their rights and the violations on the part of the advertisers go unnoticed and unheard. So it is necessary to analyse different regulatory mechanism and their efficacy. The paper examines the Laws and Regulations relating advertisement prevailing nationally and internationally. First part of the paper discusses different authorities scrutinizing the advertisement in various countries including USA, Japan and UK. In the second part of the paper various laws and regulations controlling the malpractices by the marketers have been discussed the third and the last part of the paper concentrates upon the principles laid down in some of the landmark cases.

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#### Introduction

Recently, advertising all over the world has come up as social and economic phenomenon of vast scope. But the role of advertising has often been a subject of much debate in society. Advertising may be useful to consumers, considering that dissemination of information is necessary when the consumers have to make a choice amongst various products and services. Another school of thought contends that consumers are duped by advertisements which communicate deceptive claims.

The Indian mass media today comprises over 300 TV channels (reaching 112 million households), 50,000 newspapers and magazines (with a readership of over 250 million), around 300 radio stations, a thousand feature films in 18 languages made every year, and a plethora of print, electronic, digital and telecommunications media. According to the latest FICCI-Price-Waterhouse Cooper Report (2007), the Indian media and entertainment industry is worth over two hundred billion dollars and is projected to grow at the rate of 18-20% per annum.

Thus, daily we see so many advertisements. While most advertisements honestly inform and educate us, some are false or deceptive and illegal. Some advertisement may have the content of puffery, manipulation, comparative pricing, unsubstantiated claims, incomplete description, false testimonials or comparisons, partial disclosure or visual distortion of products. It has also been observed that advertisements make the consumer to take impulsive purchase decisions. When the consumer has not considered the bargain properly and is persuaded to make a deal through some oppressive and manipulative marketing strategies, his rights may easily be jeopardized.

Most of the Indian consumers not even claim their rights against the violations due to lack of awareness and resultant deception on the part of the advertisers go unnoticed and unheard. It has been observed that a consumer needs protection

not only from being supplied with defective goods and deficient services, but also from unfair trade practices. So the 'Consumer Protection' is a socio-economic programme which needs to be pursued by the government as well as the business because the satisfaction of the consumers is in the interest of both.

'Freedom of Expression' is one of our Fundamental rights under chapter III of Indian Constitution, which apply to the market players also. To Society's wellbeing fortune and market player's misfortune, the products like Liquor and Tobacco are refrained from this fundamental right.

Among the factors responsible for legislation to protect consumers' rights in India, one is the level of sophistication in marketing and selling practices in advertising and other forms of production. India has to go a long way to go before it really adopts stringent regulation and standards especially with regards to food product.

The stringency of regulation, in fact, reflects the reigning power's perception of advertising as predominantly positive or negative. Society's understanding of advertising's net impact comes from a weighing of the negative effect the society redeeming features of the products, the message and their alternatives.

The principal sources of advertising regulation is national governments, international governments, organizations, and non government institutions including associations of individual advertisers, the media, and advertising agencies. They adopt many different types of regulatory controls to govern advertising, such as national legislation, administrative rules and orders, intergovernmental recommendatory codes and guidelines. Together, this control from the complex regulatory web spanning the global marketplace.

#### Need for advertising regulation:

1. To curb malpractices at market place.
2. To control untruthful advertising.

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3. To prevent luring appeals.
4. To prohibit abuse of sex appeal.
5. To prevent discrimination against caste/creed
6. To curb advertisement creating social bias.
7. To stop any misuse of celebrity/role model.
8. To control any advertisement giving impression of false superiority over others.
9. To prevent unnecessary comprising unethical comparison.
10. To create an environment of trust in the market place.

#### **International Perspective of Advertising Regulation**

Since the 1960's the UN, many of its specialized agencies and regional intergovernmental groups have probed advertising from a variety of perspectives. The work has been both general and product specific and has taken several forms, including studies on marketing problems and public policies, debates in various forums, resolutions calling for further investigations, and the adoption of codes and guidelines.

General advertising practices have been the concern of the UN and UNESCO. The UN has focused on overall principle of consumer protection, and UNESCO has considered the need for a code of advertising practice to protect cultural integrity and social values. The UN (United Nation) general assembly adopted guidelines on consumer protection by consensus on April 9, 1985. The guidelines are of the general nature and relate to overall trade in consumer products and to the provision of product information. Advertising also falls under the "consumer protection" in the UN's draft code of conduct on transactional corporations. The paragraphs that were provisionally agreed upon express the need for respect of host government laws and regulations; regard for standards; provision of adequate information; and accurate advertising.

WHO (World Health Organisation) is the main forum sought by countries to scrutinize problems on the advertising of health-related products, specifically foods drugs, tobacco and alcoholic beverages.

#### **Regulation on advertising in the United States**

The United States is the advertising capital of the world. It is a market of more than 240 million people, or about 4 percent of the world's population. In the United States modern commercial advertising has grown to its fullest potential, and from the United States the latest techniques of the trade have been exported to the rest of the world.

#### **Administrative Law and Regulation**

Although more than twenty federal administrative bodies exercise control over advertising in one way or another, the Federal Trade Commission and the Food and Drug Administration (FDA) exercise the main jurisdiction. The U.S. Postal Services (USPS), the Federal Commission and the Securities and Exchange Commission are also involved.

The agencies and legislative bodies are concerned with advertising deemed to be (1) fraudulent, deceptive or misleading; (2) unfair in its methods of competition; and (3) injurious to public safety and health.

Although the power of FTC to take action against false and misleading advertising exists under the commission's general authority over unfair and deceptive acts or practices, the act also gives the commission specifically defined power in respect to the false advertising of particular products, notably food, drugs, devices and cosmetics.

#### **Deception defined by Federal Commission**

According to commission, deceptive acts and practices in advertising cases usually have taken three forms

1. Advertising containing direct representation
2. Advertising containing representation that, with reason, may be implied by the advertising, or
3. Advertising failing to disclose material facts.

#### **Unfairness defined by Federal Commission**

In 1934, the US Supreme Court broadened the interpretation of unfairness to include consumer protection. On the basis of some forty cases, the commission found three general grounds for determining unfair practices;

When the practice offends public policy or rules that have been established by statutes, the common Law, or otherwise

1. When the practice is immoral unethical, oppressive or unscrupulous or

2. When the practice causes substantial injury to consumers.

Subsequently, the commission added a fourth ground, when the practice makes advertising claims lacking adequate and well-controlled studies and tests.

#### **Regulations on advertising in Japan**

Japan has the second most powerful economy in free world. Its industrial mechanism accounts for 10% of the world's output and generate one trillion dollars annually. Japan's population exceeds 120 million, and per capita gross domestic products is about thirteen thousand dollars. Agriculture supports about one quarter of the populations, the remaining three quarter live in urban environment. Manufacturing and service industry are the major source of employment.

There are two forms of advertising regulation: administrative law and industry self regulation. The earliest government regulation, the police regulation of 1908, prohibited exaggerated and false advertising coercion of advertising publication, and demand for payment for any non-subscribed advertisement. In 1911 this law was superseded by the adoption of the Advertising Control Law. Self regulation had its beginnings in 1885, when the press established its outlines for Advertising Services.

The most far reaching administrative law affecting advertising practice are the Act concerning Prohibition of Private Monopoly and Maintenance of Fair Trade of 1947 as amended and supplementary legislation including the Act against unjustifiable Premiums and Misleading Representation of 1926 and the Fair Trade Commission Notification on Unfair Trade Practices, 1982. These measures have been amended and supplemented by additional legislation over the year.

#### **Advertising and self regulation in the United Kingdom**

In UK there is a combination of statutory and self-regulatory control. The self regulation system in the UK is based upon the 'investigation of individual complaints from consumers, not on public policy agendas. Consumers are directly and precisely represented in this way; self-regulation is what it says is the industry responsibly and effectively policing itself.

In addition to the above regulatory authorities in different countries, there are some other agencies to regulate the advertising internationally.

#### **International Advertising Association**

The IAA is an active partner in regional and national advertising self-regulatory originations (SRO'S).

The IAA's over 3600 members are in 92 countries, responsible for 98% of worldwide advertising expenditure.

#### **The European Advertising Standard Alliance**

The European Advertising Standard Alliance (EASA) has the main objective to promote self regulation and to demonstrate

that, within a framework of legislation, it provides a more effective way of regulating advertising than detailed legislation.

#### **Regulation on Advertising in India**

In India, there are several legislations directly and indirectly related to advertisements which are discussed as under:-

#### **Consumer Protection Act, 1986**

Importance of the consumer to the business has yet to be realized fully in India. Business makes profit only when goods are consumed or services utilized. Business is entirely dependent on the consumer not only for its very survival but also for growth.

#### **Objectives of consumer protection act, 1986:**

- A. Protections against hazardous goods
- B. Right to information
- C. Right to access to variety
- D. Right to be heard
- E. Control of Unscrupulous exploitation
- F. Consumer education
- G. To provide the right to redress
- H. To protect the right to a physical environment that will enhance the quality of life

#### **The Drugs and Magic Remedies (Objection and Advertisement) Act, 1954**

This legislation was enacted for the laudable objection of controlling advertisement of drugs in newspaper or magazines relating firstly, the alleged cures for general disease and disease peculiar to women and secondly, the sexual stimulants. Such types of advertisements lead to ignorant to restore to self-medication with useless, and some time harmful, having side and after effect, drugs and appliances.

Section 3 prohibits the advertisement of certain drugs. No person can take any part in the publication of any advertisement referring to any drug if it suggests or is calculated to lead to the effect of drug for:

- (a) The procurement of miscarriage in women or prevention of conception in women or
- (b) The maintenance or improvement of the capacity of human beings for sexual pleasure, or
- (c) The correction of menstrual disorder in women, or
- (d) The diagnosis, care, mitigation, treatment or prevention of any disease, disorder or condition specified in the schedule of Act.

#### **The Monopolies and Restrictive Trade Practices Act, 1969 (this act has been replaced by Competition Act in 2002 with effect from September 1, 2009)**

This Act was brought on the statute with a view to ensure that:

Firstly, the operation of the economic power to the common detriment,

Secondly, to ensure that there are no monopolies and Thirdly, to prohibit monopolistic, restrictive and unfair trade practices prejudicial to public interest.

#### **The Cable Television Networks Rules (1994), the Cable Television Networks (Regulation) Act (1995) and Cable Television Networks (Amendment) Rules, 2000**

The new rules have made it mandatory for all cable operators – over 30,000 of them in the entire country – to re-transmit at least two Doordarshan channels (the national and metro channels) and one regional language channel in the prime band. Most cable operators gave little attention to these channels since they were free-to-air and did not fetch any revenue as the private satellite channels did. Further, cable operators were to be

held responsible for programmes that were offensive as well as for any advertisements of tobacco and alcoholic beverages. Clause vii (2) of the new Rules prohibits all advertisements which promote ‘directly or indirectly, production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants’. Also banned are infant milk substitutes, feeding bottles or infant foods. But cable operators ask how it is possible for them to stop overseas channels which carry such advertisements.

Section 6 of the Act of 1995 include the following provisions-

1. Programmes should not denigrate children
2. Programmes meant for children should not contain any bad language or explicit scenes of violence.
3. Programmes meant for adults should normally be aired after 11 p.m. and before 6 a.m.
4. Programmes unsuitable for children showing unhealthy practices showing children begging or behaving in an indecent way are prohibited.

#### **Government General Rules of Conduct in Advertising in India**

According to Verghese Committee Report (1978), the following are the general rules of conduct in advertising:

1. Advertising should be so designed as to conform to the laws of the country and should not offend against any morality decency and religious susceptibilities of the people.
2. No advertisement should be permitted

(i) Which divides any race, caste, colour, creed, nationality except wherein such usage would be for specific purpose of effective dramatization?

(ii) Which is against any of objectives, principles of provisions of the constitution of India; (iii) Which will tend to incite people to crime or to promote disorder, violence or breach of law, (iv) which presents criminality as desirable, or furnish details of crime or imitation thereof; (v) which would adversely affect friendly relations with foreign states; (vi) Which exploits the national emblem for Doordarshan only, (vii) No cigarettes and tobacco products; (viii) Advertisement wholly or mainly must not be directed towards any religious or political end and have any relation to any industrial dispute (ix) Advertisement for services concerned with following are not acceptable (a) Moneylenders; (b) Chit fund and saving schemes; (c) Unlicensed employment service; (d) Matrimonial agencies; (e) Fortune-tellers, etc. and those with claim of hypnotism (x) Betting tips and guide books, etc., relating to horse racing or other games of chance shall not be accepted (xi) No advertisement shall contain references which are likely to lead public to infer that the product advertised or any of its gradients has some property or quality which is incapable of being established e.g. care for baldness. (xii) Scientific or statistical accepts from technical literature. (xiii) Advertisers or their agents must be prepared to produce evidence to substantiate any claims or illustrations. (xiv) Advertisement should not contain disparaging reference to another product or service. (xv) Imitation likely to mislead viewers (xvi) Visual and verbal representation of actual and comparative prices and costs must be accurate and should not mislead. (xvii) Testimonials must be genuine and must not be used in a manner likely to mislead the viewers.

3. In all other respects, the DG, AIR/DD will be guided for purpose of commercial broadcasting and telecasting on AIR/DD by code of Ethics for advertising in India issued by the advertising council of India as modified from time to time.

4. Notwithstanding anything contained herein, this code is subject to such modification/direction as may be made/issued by the Government of India from time to time.

#### **The Advertising Standards Council (ASCI)**

Like other countries around the world, India too has a self regulatory organization (SRO) for advertising content – The Advertising Standards Council of India, ASCI founded in 1985. The three main constituents of advertising industry viz advertisers, advertising agencies and media came together to form this independent NGO. The aim of ASCI is to maintain and enhance the public's confidence in advertising. Their mandate is that all advertising material must be truthful, legal and honest, decent and not objectify women, safe for consumers - especially children and last but not the least, fair to their competitors. The code of ASCI has been distributed in several chapters.

#### **Chapter I, II:**

To ensure the truthfulness and honesty of representation and claims made by advertisements and to safeguard against misleading advertisements; (i) the advertisements must be truthful. All description, claims and comparisons related to matters of objectively ascertainable fact should be capable of substantiation and they are required to produce such substantiation as and when required to produce by ASCI; (ii) the source and date of claims based on research or assessment should be indicated in advertisement. (iii) advertisements should not contain any reference to any person, firm or institution, picture without due permission; (iv) advertisements shall not distort facts or mislead the consumers by means of implications or omissions; (v) advertisements shall not be so framed as to abuse the trust of consumers or exploit their lack of experience or knowledge. Advertisements shall not be permitted to contain any claim so exaggerated as to lead to grave disappointment in the minds of consumers; (vi) obvious untruths or exaggerations intended to amuse or to catch the eyes of consumer are permissible.

To ensure that advertisements are not offensive to generally accepted standards of public decency, advertisements shall contain nothing indecent, vulgar or repulsive to cause grave or widespread offence.

#### **Chapter – III**

To safeguard against the indiscriminate use of advertising for promotion of products hazardous to society or individuals, to such degree that is unacceptable to society at large. (i) No advertisements shall be permitted which tends to incite people to crime, disorder, violence or intolerance and divides any race, caste, colour, creed or nationality and adversely affects friendly relations with a foreign state; (ii) advertisements addressed to children shall not contain anything in illustration or otherwise, which might result in their physical, mental or moral harm or which exploits their vulnerability. (iii) Advertisements should contain nothing in breach of law; (iv) advertisements shall not propagate products, the use of which is banned under the law.

#### **Chapter – IV**

(i) Advertisements containing comparisons with other manufacturers or supplier or with the products, including those where a competitor is named are permissible in the interests of vigorous competition and public enlightenment with aspect, subject matter of products and no consumers shall be misled due to such comparison. (ii) Advertisements shall not make unjustifiable use of the name or initials of any other firm, company or institution, nor take symbol of another firm and its products; (iii) Advertisements shall not be so similar to other

advertisements in general layout, copy, slogans, visual presentation, music or sound effects as to be likely to mislead or confuse consumers.

The following are excerpts from code of ethics for advertising issued by the Advertising Council of India.

1. Advertisement should be so designed as to confirm not only to the laws but also to the morals, aesthetic and religious sentiments of the country.
2. No advertisement likely to bring advertising into contempt or disrepute should be permitted.
3. No advertisement of talismans, charms and character reading from photographs.
4. Advertisement should be truthful avoid distorting facts and misleading the public by means of implications and omission.
5. No advertisement should be permitted to contain any claim so exaggerated as to lead inevitably to disappointment in the mind of public. Special care is called for in the advertisements related with illness, investment of money, invitation to lotteries, publication of employment notices requiring fees for application forms, prospects, etc.
6. Methods of advertising designed to create confusion in the mind of consumers as between goods of one make and another.
7. Advertising should endeavour to gain the goodwill of public on the basis of merits of good, or services advertised.
8. Indeed, vulgar, suggestive, repulsive or offensive theme or treatment should be avoided in all advertisements.
9. No advertisement should offer to refund money paid.
10. The use of national emblem is prohibited by law in advertisements, trademarks, etc.

The council is doing a commendable job in regulating the advertising. The Consumer Complaints Council (CCC) currently has about 21 members: 9 are from within the industry and 12 are from the civil society like well-known doctors, lawyers, journalists, academicians, consumer activists, etc. The CCC's decision on complaint against any ad is final. Some significant cases disposed of by it are discussed here. *Deception as defined by CCC*

In Videocon Industries Ltd. (Videocon Washing Machines) published in Saatchi & Saatchi Business India (2/2009 issue) there was a complaint as regards the claims "Eco-Friendly washing machines", "Designed to not just care for your clothes, but also conserve water, save energy", According to the complaint received in 2/2009, it was pleaded that the advertiser should substantiate the claims on the basis of technical data for "water consumption" as well as "energy saving"; and that how does the product qualify to be eco-friendly. In April 2009, relying upon Chapter I.1, it was held that the claims were not substantiated. So the *Advertisement was withdrawn*.

In Surya Roshni Limited (Surya Tubelight) aired on India TV (1/2009) A complaint was received in 2/2009 that the claims were without substantiation and were misleading the consumers. The advertisement claimed that "Surya Tubelight lasts 3 times longer than others", "Surya lamps are brighter and lasts longer than others". In April 2009, relying upon Chapter I.1, it was held that the claim, Surya Tube light "lasts 3 times longer than others" was not substantiated with comparative data of other brands. So *ultimately the TVC modified*.

The advertisement of Dabur Lal Tail aired on DD1, Sony TV, Star Gold, Zee Cinema (7/2009) (in Hindi) claims "Dabur Lal Tail ki maalish se bachche dugini tezi se badhe" (Massaging with Dabur Lal oil leads to doubly faster growth in babies), with a super "Yeh clinical research main pramanit hua hai, jisme

maalish rahat bachchon se tulna ki gayi hai” (Proven in clinical research, wherein a comparison is made to non-massaged babies). a complaint was received in 8/2009 which alleged that Claim appears to be false and misleading because it intends to create an impression that the baby’s growth will be holistic when massaged with Dabur Lal oil, since no particular dimension of growth is specified. Baby’s growth needs to be measured on multiple dimensions to conclude that the baby is growing adequately. It is in the best interests of the consumer, therefore, that data substantiating doubly faster growth on all aspects of growth is furnished. Growth in babies cannot be singularly attributed to massaging alone. This is because apart from massaging, there are many factors like nutrition, genetics of parents, environmental conditions, social-economic conditions etc. that could be favourable to growth. So, in order to conduct a clinical trial to measure growth of babies due to massaging alone, it is essential to neutralize the effects of other growth factors. In October 2009, relying upon Chapter I.4, CCC considered the supporting technical information provided by the advertiser and concluded that the claim is misleading by ambiguity as no particular dimension of growth is specified. So the claim was modified

In case of Complian Memory the TVC was aired on various channels and there was a promotion message on the pack. Pack claims “New Complian Memory helps in 4 signs of Brain Development”. The quote mentions a scientific study done on “Complan” for 12 months and Claims “improvement in memory, concentration, intelligence and mathematical abilities” “New Complian Memory has 23 vital nutrients in planned proportion along with 5 Brain Chargers”. A Complaint was received in 9/2009 on the following basis:

The wording of the text implies that the actual claim is based on a scientific study on ‘Complan Original’ and a separate study for ‘Complan Memory’ has not been conducted. The pack fails to give details of the reference of the scientific data. The age group of children in the said study is not mentioned on the pack. Claim is exaggerated and literature review shows that claims of ‘Complan Memory’ are refutable. The baseline nutrition comparison is not known in the study done for Complian. Hence, it is not clear what the improvement has been compared against. Claim implies that there are 5 brain chargers and 23 vital nutrients taking the total actives to 28. Other references on the pack clearly point that the 5 brain chargers referred to are a subset of the 23 vital nutrients. In October 2009 keeping in view Chapter I.4, it was held that Pack and TVC is misleading as it projects benefits of Complian Memory which is being claimed based on a study done on Complian. Accordingly, Promotion messages on the pack, and the TVC were modified.

As regards the claim “Boost provides three times more stamina than an ordinary chocolate drink”, it was contended that claim stems from a randomized control study where school going children who consumed Boost performed three times more on the endurance test as compared to control groups. A complaint received in 11/2009, alleging that there is no specific and universal technique for stamina / endurance and thus quantifying that Boost can provide three times of a non-existent measure of stamina / endurance is misleading. Claim based on a randomized control group can only pass muster if it is a validated scientific study which has undergone rigorous independent peer review. If the same rigour has not been applied to this study, then the claim itself is questionable. In December 2009, CCC accepted the advertiser’s contention that it conducted a validated scientific

study. This complaint was not upheld because the scientific study submitted by the advertiser, substantiated the claim. However, the study did not compare “Boost drinkers” to those with other “ordinary chocolate drinks”, but with a placebo. Up to that extent the advertisement was misleading. So the TVC was modified.

#### **Child sensitive issues as defined by CCC**

Of an advertisement of Bajaj Auto Ltd (Bajaj XCD Motorbike) O & M aired on various channels, a complaint was instituted that the advertisement was dangerous. TVC shows the rider of the bike driving at a very high speed and at a dangerous angle from the earth. In June 2009 CCC held that as per Clause C of the Guidelines on Advertisements for Automotive Vehicles the cautionary message in the TVC was inadequately readable. So the TVC has been modified appropriately by increasing the size of the cautionary message. Advertiser assured that the said TVC will not be aired in future. While considering the suo motu complaint as to the conditions mentioned in the “The Confident XCD 135 Free Bike Challenge”, were in an inadequately readable font size which could be misleading. So the Complaint was Upheld at July 09 CCC meeting.

In the advertisement of Hyundai Motor India Ltd (Hyundai Verna) given in Deccan Chronicle (5/2009) Advertisement headline - “Leave the city behind, with the Hyundai Verna” was alleged as similar to the headline copy created and released for Ford Fiesta – “Fiesta leaves the city far behind”. It was further alleged that the blatant use of the copy by Hyundai Verna will confuse and dilute Ford Fiesta’s communication recall. In June 2009 while considering Chapter IV.3 the council observed that the headline copy of the advertiser’s advertisement was similar to that of the headline copy of the complainant’s advertisement. So the advertisement released by the local dealer was withdrawn.

TVC of Idea Cellular Ltd aired on NDTV Imagine (7/2009) shows people from different professions on various locations and situations walking and talking on mobile, two men carrying a huge hoarding, climbing stair case, walking on the pavement, etc. According to Complaint received in 7/2009, TVC encourages an unsafe act of walking while talking on the mobile phone, which could cause injury to a person or others or both. (Seven similar complaints were received against the same TVC). On July 2009, as per Chapter III.3 the council held that some action sequences as depicted in the TVC, shows dangerous practices and manifest a disregard for safety without justifiable reason. So the TVC was modified.

The advertisement of Mankind Pharma Limited (Manforce Condoms) Prachar Communication was shown on NDTV Imagine. A complaint was received in 7/2009, that the TVC shows many bad and vulgar scenes which cannot be seen in the presence of small children. Two similar complaints received against the same TVC. In August 2009 while relying upon Chapter II it was held that the TVCs violate the prevailing standards of decency. The time of airing the advertisements were not suitable for viewing by children and minors. Accordingly the TVC was modified.

As to the Claim “If children don’t drink Dabur health drink they will remain dwarfs” (“Bachche tingu rahenge”) and the visual “a short boy being hit by a taller boy and called “tingu” a complaint was received in 12/2009, It was contended by the complainant that the advertisement sends out an extremely negative message in an emotionally hurtful manner to short children. It is a well known fact that height is a genetic

inheritance. Advertisement is very demeaning for impressionable minds of children. On February 2010, keeping in view Chapter I.5 (d) it was held that the visual is hurtful. Advertisement tends to create by implication, a perceived inadequacy of a physical attribute. i.e. the height of the person, which could be objectionable to minors and to a large number of youth in India. *Advertiser assured appropriate modification of the TVC and the matter was disposed of.*

TVC of PediaSure Complete shows - "a child frowning at a basic Indian meal and then drinking PediaSure". A Complaint was received in 12/2009 that TVC is encouraging children to be picky about food. It is incorrect to prompt children against something which the parents encourage. Can an Indian meal be replaced by a packaged product like PediaSure, and why should a child be shown frowning at food. One similar complaint received against the same TVC. In February 2010 keeping in view Clause 2 of the Guidelines on the Advertising of Food & Beverages directed at children under 13 years of Age. CCC held that "Unless a food product has been nutritionally designed as a meal replacement, it should not be portrayed as such". *Subsequently, the Advertiser provided technical proof that PediaSure Complete has been indeed designed as a meal replacement, and also the sample survey reports of Indian Paediatricians.*

In Godrej Sara Lee Ltd (Good Knight Aerosol) on Chutti TV TVC shows - "Aerosol as a fragrant and the actors are inhaling it". A complaint was lodged that this is highly objectionable as one must not inhale a pesticide even if it is safe. The canister for the aerosol resembles that of 'Hit' spray for cockroaches and other pests.

These insecticides are far more dangerous and should not be inhaled directly. The TVC is being aired on children's channel and is giving new ideas to children in order to endanger their lives. In April 2010, relying upon Chapter III.2 (b), the council held that the visual depictions of a girl inhaling a mosquito repellent spray", shows a dangerous act which is likely to encourage minors to imitate them in a manner which could cause harm or injury. *So the TVC was modified.*

In case of (Nestle Maggi Ketchup) advertisement shown on Disney XD, Nick channel (3/2010) shows an obese aged gentleman consuming unhealthy fried burger, and makes a misleading claim that "Make India Healthy". It was argued by the complainant that the advertisement creates an impression that by consuming unhealthy food, India can be made healthy. Such depiction of consumption of such unhealthy food with the advertised product as accompaniment by the persons of old age is certainly not recommended or advisable as it is contradictory to healthy eating habits. In April 2010, as per Chapter I.4, it was observed that in spite of the TVC being humorous, the visual of "an obese aged man eating a burger", shown in conjunction with the claim, "Make India Healthy", is misleading. *So the TVC was discontinued.*

#### **Gender stereotype condemned by CCC**

The advertisement of Levis Strauss (I) Ltd and (Levis Innerwear for Jeans) published in Bombay Times in (5/2009) "a young man bare bodied with his jeans unbuttoned reveals partly his innerwear, and says "My girlfriend's sister turns me on". Advertisement states, "Bare what's inside", "live unbuttoned". A Complaint received in 7/2009 alleged that in what way is an innerwear correlated with someone being turned on or turned off? So the Visual shown in the advertisement is suggestive. In August 2009 the council decided *ex parte* that the advertisement

violates the code of Chapter II. Advertisement copy, "Bare what's inside" is indecent, and the statement, "My girlfriend's sister turns me on", is not culture sensitive. Advertisement is likely to cause grave or widespread offence. *So the advertisement was withdrawn.*

#### **Promotions injurious to particular classes condemned by CCC**

In an advertisement of Tata AIG Life Insurance Company Ltd (Tata AIG Insurance) Aired on Radio City 91.1 FM (1/2010) the tag line was if you don't take Tata AIG Insurance, your son cannot become a successful person but a 'Coolie'. A Complaint received in (1/2010) alleged that No profession is bad; especially 'Coolie' without whom our luggage would never get on trains. So the advertisement demeans the 'Coolie' profession. In February 2010 relying upon Chapters II and III.1 (b), it was concluded that the use of the word 'Coolie' in the advertisement is likely to cause grave and widespread offence, and also it derides a particular race/caste. *So the advertisement was withdrawn by the advertiser on receiving the ASCI's request for comments on this complaint.*

The advertisement of Parle Agro Pvt. Ltd (LMN Juice) shows "a dry parched African site where the people (showcased as having no water and depicted as stupid) are scrounging for water. The TVC then says, "if you don't have water, drink LMN juice". The complaint was that the situation in Africa and India is extremely grave with no water. The advertiser should not make a joke of this situation.

The TVC is in extremely poor taste showing African nation in a bad light. The voice over, "if you don't have water, drink LMN juice", is ridiculous. In June 2010, relying upon Chapter III.1 (b), it was held that TVC has nourished stereotypes about Africans which are blatantly racist. *So the TVC was withdrawn.*

The advertisement of Volkswagen Group Sales India Pvt. Ltd New Volkswagen Polo Car) DDB Mudra published in The Times of India, Bangalore edition (5/2010) it was stated "Drive your Volkswagen Polo to a wildlife sanctuary. Search for the meanest looking rhino. Inch the Polo towards the abovementioned rhino. Take a deep breath and blast the horn as hard as you can". It was alleged that this advertisement is in poor taste and socially irresponsible inciting people to behave badly in some of the last few places in India where our rich wildlife heritage remains preserved. The advertisement also shows violence towards rhinos. In June 2010, keeping in view Chapter III.4, it was held by CCC that Advertisement was in apparent violation of the performing Animals (Registration) Rules, 2001. Advertisement was in breach of the law. *So advertisement campaign was discontinued.*

Again in Coca-Cola India Pvt. Ltd (Sprite) aired on various channels TVC shows "two explorers are captured by a tribe that are, apparently, cannibals and appear, quite distinctly, African. One of them manages to get out of it by bribing them with a drink bottle". On a suo motu matter taken up by the council it was observed that TVC has nourished stereotypes about Africans which are blatantly racist. In September 2010, as per the principles of Chapter III.1 (b), it was held that the TVC has nourished stereotypes about Africans which are racist. *So the TVC was withdrawn since July 2010.*

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