



The Advertising Standards Council of India

REPORT OF THE BOARD OF GOVERNORS

We take pleasure in presenting the Twenty-third Annual Report of the Advertising Standards Council of India, together with the Statement of Accounts for the period **April 2008 to March 2009**.

The highlights of the year:

ASCI Presentations & ASCI in Business Schools Syllabus

Major priority for your Council decided by the ASCI's Board, is to increase the awareness of the role of ASCI, its Code and redressal procedure to the public.

To strengthen the cause of ASCI by increasing awareness of the role, Code, process and functions of ASCI among its members, a Power Point Presentation which includes case studies on various CCC decisions has been prepared, which continues to be rolled out by the members of your Council's Board of Governors, and industry members of the CCC, with the Secretariat's assistance, to relevant employees in their own and related organizations.

A specific plan to increase awareness among students and opinion leaders was worked out. A syllabus was drawn up to include ASCI & Self-Regulation in the Advertising Curriculum in Business Schools. This was delivered in a number of Business Schools/Media Institutes by the ASCI Secretary General.

Board of Governors Members

During the year, Mr. Ram Poddar retired from the Board having completed 10 years of dedicated service on the Board as well as having served as Chairman of ASCI. The Board wishes to place on record its appreciation of the valuable services rendered by Mr. Ram Poddar during his tenure. Mr. Pranesh Misra was co-opted to the Board, to fill the consequential vacancy left by Mr. Ram Poddar in the 'Allied Professions' category. Mr. Vikram Sakhuja, COO of Group M Media India Pvt. Ltd. was co-opted to the Board to fill the vacancy in the 'Advertising Agencies' category.

Consumer Complaints Council (CCC) Members

During the year, Mr. Madhukar Kamath and Prof.K.G.Narayankedkar retired from the CCC. Ms. Ingrid Srinath resigned from the CCC. Mr. Dhananjay Keskar, Mr. Prem Kamath, Mr. Arvind Mahajan and Ms. Sangeeta Kapila were appointed to fill the consequential vacancies.

On behalf of all members of the Council, the Board of Governors places on record its gratitude to the members of the CCC for their very generous contribution of valuable time and expertise each month.

Memberships

Your Council is pleased to report that due to active follow-up by the Board members, **47** new members have enrolled during the year. However, **8** members did not renew their memberships.

Your Council had requested the Indian Society of Advertisers (ISA), the Advertising Agencies Association of India (AAA of I), Indian Newspaper Society (INS), and Indian Broadcasting Foundation (IBF) seeking their support to help enroll new members. This initiative also resulted in the very high increase in membership this year.

CCC – Analysis of Decisions on Complaints

The CCC met 12 times and deliberated on 137 complaints against Ads of which, 66 were Upheld, whilst 68 were Not Upheld, and 3 were Non-Issues. The number of complaints received has reduced considerably during this year, despite the ASCI Awareness press campaign.

The provisions of the ASCI Code which have been contravened the most, appear to be Chapter I.1 – claims not substantiated or false (21 Ads), Chapter I.4 – misleading (12 Ads), Chapter II – offensive to generally accepted standards of public decency (6 Ads), Chapter III.3 – show or refer to dangerous practices (6 Ads), and Chapter III.4 – breach of the law (2 Ads).

Compliance with CCC decisions

Out of the 66 complaints which were Upheld, in 62 cases the Ads have been withdrawn or modified appropriately in line with the CCC decisions. Written assurance of compliance for 4 complaints has not been received. Incidence and details of non-compliance of CCC decision Upholding a complaint against an Ad are not only reported via the quarterly report issued to the ASCI members, media and relevant Govt. & NGO organizations, but also to the concerned media associations (IBF for TV and INS for print Ads) and regulatory authorities (I&B Ministry for TV and Press Council for Print Ads).

Intra-Industry Complaints

Out of the 137 complaints processed during this year, 30 were received from advertisers and ad. Agencies, in respect of misleading comparative advertising, or unfair competitive advertising. Of these, 18 were Upheld and 12 were Not Upheld; assurance of compliance has been received for 16 of these Upheld complaints. It is encouraging to observe that the rate of compliance of Upheld decisions is higher in intra industry complaints than in respect of consumer originating complaints.

A summary of these complaints is mentioned in the Compilation of CCC decisions reported for the year, which is included in this Report. The involvement of ASCI members in the various complaints, identified by * in this report, is indicative of the need for greater pro-active observance of the Code, at the time of development of every Ad. Your Council's offer of Copy Advice is a step in this direction.

Of 16 suo motu complaints registered by your Council, 12 were Upheld; of these, in 12 cases the Ads have been withdrawn or modified appropriately in compliance with the CCC decisions, which is 100% compliance. 4 complaints were Not Upheld.

Of the 21 complaints received from Consumer Representational Organisations, in 9 cases the Ads have been withdrawn or modified appropriately; assurance of compliance is still awaited for 2 complaints. It is gratifying to observe that consumer bodies have come to rely on your Council to address the reluctance of the offending advertisers who failed to respond to them directly.

CCC Procedure Review Committee

The CCC Procedure was reviewed by a Board appointed Special Committee which examined and suggested improvements in the current procedure for processing complaints. The CCC Procedure has been divided into three parts – 1) Pre CCC meeting 2) CCC Meeting 3) Post CCC meeting. The Board approved the revised CCC Procedure wef September 2008 and members were informed of the same.

Copy Advice Procedure & Appt. of Copy Advice Committee

Your Council launched a Copy Advice Service for the members from May 1st, 2008.

The Copy Advice panel consists of ex Board members with extensive experience in advertising, and of ASCI and its CCC's working., A technical expert is co-opted by the panel on a case to case basis if required. The Secretary General as an ex officio member, coordinates the process. A letter to Members and Press Release announcing the start of copy advice service along with FAQs was released as well as put up on the ASCI website.

The main purpose of ASCI's Copy Advice is to prevent problems before they happen; this benefits not only the advertiser, ad. Agency and media concerned, but also the wider advertising industry, by avoiding complaints and promoting social and consumer responsibility. Consequently, advertisers, ad. Agencies and media are encouraged to seek copy advice, which will be provided to its members, free of cost. During the year number of copy advice sought was 17 print Ads / TVCs.

ASCI Team meeting with Secretary, I&B Ministry

ASCI team of representatives of the Board and Consultative Committee met Ms. Sushma Singh, I&B Secretary. She appreciated the work of your Council and assured the Team that she would recommend to the Press Council to include ASCI's ad code in its Ad Code. She also indicated that she will look positively at the other suggestions which include:-

Refer complaints to ASCI, rather than take unilateral decisions.

Ask all other Govt. Depts. to refer complaints regarding offending Ads to ASCI.

Make membership of ASCI mandatory for advertisers, ad. Agencies and media under the new Broadcasting Regulations or existing Cable TV Act.

Notify the Ministry's draft broadcasting content code related to Advertising which has in it ASCI's CCC as the primary adjudicating authority on complaints against Ads in broadcast media.

National Commission For Women (NCW)

NCW organized a Seminar on July 1st 2008 on Indecent Representation of Women, in Kolkata. Your Council was represented by the Secretary General, who made a presentation of its Code, CCC Composition and Process. It included Ads pertaining to indecency.

Your Council was also invited by the NCW on November 13th 2008 in Hyderabad. ASCI's role was highlighted. ASCI presented its views that it is a self regulatory non-profit organization which could independently adjudicate complaints under the Indecent Representation of Women's Act.

Surrogate Advertisements/Brand Extensions

On 27th February, 2009, a Notification was issued by the I&B Ministry regarding Brand Extension Ads. Subsequent to this Notification an Ad on TV of a product or service bearing the brand name of a liquor or tobacco will be considered meeting the law of the land if the product or service is cleared for advertising by the I&B Ministry and its Ad is certified for general release by the Censor Board. ASCI henceforth will not consider any complaint against a TV Ad being

surrogate of a product whose advertising is banned if it has approval of the Government and Censor Board. However for Ads on non TV media, the ASCI's Code on Surrogate Product Ads will apply as this Notification pertains to Ads on TV only.

Status of Legal Cases against your Council

Unfair Trade Practice Enquiry (UTPE) filed before MRTPC by Vicco Laboratories against ASCI in May 2000: An additional Affidavit of evidence was filed on behalf of ASCI. On the basis of this, the Board's representative was cross examined as to how ASCI can bind persons who are not members and require them to agree to CCC's decisions and regarding the legal fees chargeable for a review of the CCC decision. The matter was listed before the MRTP Commission in May 2009 and was adjourned to September 2009 at the request of the Petitioner.

Emami Ltd – Suit filed in Kolkata High Court by Emami Ltd against ASCI in April 2000: A member of the CCC has been authorised to depose on behalf of ASCI, before the Kolkata High Court. Pending hearing and final disposal.

Bharti Cellular Ltd – Suit filed in Mumbai High Court by Bharti Cellular against ASCI in January 2005: The Hon'ble Mumbai High Court denied grant of a temporary injunction requested by Bharti Cellular Limited, stating that ASCI is a body for Self-Regulation in Advertising and the opinion it has formed about the Plaintiff's Ad can be intimated in good faith and in the interest of trade to its members and this cannot amount to defamation. Your Council has filed a written statement before the Court praying dismissal of Suit with costs.

It is heartening to note that ever since August 2006, when I&B Ministry notified ASCI's Ad code as part of Cable TV Network Rules' Ad code, there has been no case of advertiser challenging CCC's decision upholding a complaint against an Ad in a Court of law.

Recent Developments – April to June 2009:

ASCI Awareness Campaign through SMS

This campaign through SMS was started on July 6th, 2009. 3,00,000 people were sent the following message through SMS : 'If you find an Ad misleading, dishonest or indecent, call ASCI'

The initial results have been encouraging with 66 phone calls received on the 1st four days. Most of the calls were to enquire about the work done by ASCI.

Supreme Court - Hindustan Latex Case

The Hon Madurai Bench of Chennai High Court in recent past while looking into the matter of indecent and obscene condom packages has unilaterally held that ASCI is a government body and should be the authority to approve packaging of condoms. The same order has been challenged by the condom manufacturers before the Hon Supreme Court and while granting a stay, the Court has issued notice to ASCI also. In reply to the Hon. Supreme Court, ASCI has clarified the following :

- a) ASCI is an industry self regulatory organization (SRO) and not a Govt body regulating advertising content in India.
- b) ASCI entertains and adjudicates complaints against Ads in media or on package but does not pre approve or certify any content of Ads or packaging. If a complaint against an Ad is Upheld then the advertiser concerned voluntarily modifies or withdraws the Ad.
- c) Govt. of India under I&B Ministry's – August 2006 Notification prohibits the TV Channels & Cable Operators to air Ads which are in contravention of the ASCI Code.

ASCI in the News

Your Council has been in the news throughout the year. ASCI has received extensive coverage from The Times of India, Campaign India, DNA City, The Economic Times, TNN, Sakal, Mint, Deccan Herald, Maharashtra Times, The Wall Street Journal, and Mumbai Mirror.

The items of coverage include:

- Madhukar Kamath is the ASCI Boss
- Kamath is the new ASCI Chairman
- Does this Ad offend You?
- Cos. Lose Appetite for Junk Food Ads
- Surrogate Ad Products Must Be Available in the Market
- Change Unacceptable Ads
- Ads that don't add up under Industry Watchdog Scanner
- ASCI Questions Beauty Products Ads Claims
- In Your Face Ads: Are Admen stooping to grab eyeballs?
- Misleading Ads should be stopped
- Achievements of ASCI
- Ad Policing
- ASCI Asks Cos. To withdraw Ads
- Monitoring Ads for children
- Condoms under obscenity Scanner

ASCI is grateful to Madison PR and Eikona PR for their de bono services of ASCI news Tracking.

Financial Results

	This year Rs.	Previous year Rs.
Income	59,92,083	49,61,931
Expenditure	<u>28,49,332</u>	<u>26,12,178</u>
Excess of Income over expenditure for the year	31,42,751	23,49,753
Add: Transfer from Accumulation under Section 11 (2) as amount no longer required	25,500	
Balance at the beginning of the year	<u>45,61,315</u>	<u>46,56,208</u>
	<u>77,29,566</u>	<u>70,05,961</u>
Less:		
(i) Accumulation under Section 11(1)(a) of the Income tax Act 1961	8,08,452	6,44,646
(ii) Accumulation under Section 11(2) of Income tax Act 1961	<u>24,21,000</u>	<u>18,00,000</u>
	<u>32,29,452</u>	<u>24,44,646</u>
Balance carried to Balance Sheet	Rs. <u>45,00,114</u>	<u>45,61,315</u>

Directors' Responsibility Statement:

The Directors confirm that:

1. in the preparation of the annual accounts, the applicable accounting standards have been followed and there has been no material departure;
2. they have selected such accounting policies and applied them consistently and made judgements and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the Company as at 31st March 2007, and of the excess of income over expenditure of the Company for the year ended on that date;
3. they have taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of the Companies Act, 1956, for safeguarding the assets of the Company and for preventing and detecting fraud and other irregularities; and
4. they have prepared the annual accounts on a going concern basis.

Particulars of Employees:

The Company does not have any employee drawing an annual or monthly salary in excess of the limits prescribed under Section 217(2A) of the Companies Act, 1956.

Conservation of Energy and Technology Absorption:

During the year under report, there was no activity relating to conservation of energy and / or technology absorption.

Foreign Exchange Earnings and Outgo:

During the year under Report, there were no earnings or outgo in respect of foreign exchange.