



The Advertising Standards Council of India

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Report of the Board of Governors

We take pleasure in presenting the Twenty-second Annual Report of the Advertising Standards Council of India, together with the Statement of Accounts for the period **April 2007 to March 2008**.

The highlights of the year:

Category Specific Guidelines on Advertising Code

In line with global advertising self regulation best practice, ASCI has started providing Guidelines on its Code for specific categories which are considered to be sensitive. ASCI working closely with its Foods & Beverages (F&B) industry members developed guidelines on the Advertising of Foods & Beverages directed at children which were made effective from January 1st, 2008, Your Council notified effective April 1st, 2008, specific Guidelines on Advertisements for Automotive Vehicles, which have been concurred by the Society of Indian Automobile Manufacturers (SIAM). These category specific guidelines will help the Advertisers and ASCI's Consumer Complaints Council (CCC) to avoid making unacceptable Ads and better evaluate the Ads respectively.

ASCI Becomes EASA Member

With the objective of making ASCI part of the global advertising self regulation movement and also to learn and adopt the best global practices, your Council has become a member of the European Advertising Standards Alliance (EASA), as part of their non-European Self-Regulatory Organisation (SRO) group, effective July 1st, 2007.

ASCI Wins EASA Global Best Practices Silver Award

In the 5th edition, 2007 of EASA, **Best Practice Silver Award** was presented to ASCI. The prestigious prize was awarded “**for its outstanding campaign in collaborating with the Indian government to spread self-regulation and provide sufficient legal backstop. The campaign was supported by a strong awareness campaign for the self regulatory organisation (SRO)**”. This award was in recognition of the Indian Government amending the Cable TV Act's rules which recognized the ASCI Code as part of Cable TV Act's ad code.

ASCI Membership Certificate

Your Council has sent to its members, a framed 'ASCI Membership Certificate', mentioning the key aspects of the ASCI Code, and also stating each to be an ASCI member. Also, a pocket version, in Booklet form, of the ASCI Code, including the Guidelines on the Advertising of Foods & Beverages, and on Advertisements for Automotive Vehicles, prepared by your Council, has been sent to its members.

ASCI Presentations

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 is now being 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 associate organisations. ASCI Secretariat has made this presentation to other associations eg Ad Club Calcutta, ISA. Interested ASCI members can contact the ASCI Secretary General who will be pleased to come and make this presentation to their organizations at mutual convenience.

Board of Governors Members

During the year, Ms. Vinita Bali resigned from the Board. The Board wishes to place on record its appreciation of the valuable services rendered by her during her tenure. Mr. Narendra Ambwani was co-opted to the Board, to fill the consequential vacancy.

Consumer Complaints Council (CCC) Members:

During the year, Mr. Bhaskar Das retired from the CCC. Mr. R. Krishnan, Ms. Sangeeta Pendurkar, Ms. Anita Ramachandran and Ms. Ingrid Srinath also resigned from the CCC. Mr. Madhukar Kamath and Mr. Pramesh Arya 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, **22** new members have enrolled during the year. However, **5** members did not renew their memberships.

Representation from the Advertisers category in your Council continues to be lower than required to extend the observance of Self-Regulation. It is a cause of concern for the self-regulation movement that over 100 major advertisers are not yet members of your Council. ASCI has requested the Indian Society of Advertisers (ISA) and the Advertising Agencies Association of India (AAA of I) support to help enroll new members.

CCC - Analysis of Decisions on Complaints

The CCC met 13 times and deliberated on 122 complaints against Ads of which, 69 were Upheld, whilst 53 were Not Upheld. The number of complaints received has reduced considerably during this year, despite the ASCI Awareness press campaign. Major priority for your Council decided by the ASCI's Board, is to increase the awareness of role of ASCI, its Code and redressal procedure to the public. A specific plan to increase awareness among students and opinion leaders is being worked out.

The provisions of the ASCI Code which have been contravened the most, appear to be Chapter I.1 – claims not substantiated or false (30 Ads), Chapter I.4 – misleading (18 Ads), Chapter II – offensive to generally accepted standards of public decency (3 Ads), Chapter III.3 - show or refer to dangerous practices (6 Ads), and Chapter III.4 – breach of the law (14 Ads).

Compliance with CCC decisions

Out of the 69 complaints which were Upheld, in 52 cases the Ads have been withdrawn or modified appropriately in line with the CCC decisions of the 69 complaints, 22 cases were associated with advertisers, 25 ad. agencies, and 35 media members of ASCI. Written assurance of compliance 17 complaints is awaited, which involves 6 advertisers being members of ASCI, 6 ad. agencies members and 11 media members. Of these 17 non-complied complaints, 7 were received from consumers, 7 were registered as suo motu complaints, 2 were from consumer representational organisations, and 1 was an intra-industry complaint.

Intra-Industry Complaints

Out of the 122 complaints processed during this year, 18 were received from advertisers and ad. agencies, in respect of misleading comparative advertising, or unfair competitive advertising. Of these, 9 were Upheld and 9 were Not Upheld; assurance of compliance has been received for 8 of these Upheld complaints. It is encouraging to observe that the rate of compliance of Upheld decisions is much higher in intra industry complaints than in respect of consumer 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 23 suo motu complaints registered by your Council, 19 were Upheld; of these, in 12 cases the Ads have been withdrawn or modified appropriately in compliance with the CCC decisions, whilst assurance of compliance is awaited for 7 complaints. 4 complaints were Not Upheld.

Of the 16 complaints received from Consumer Representational Organisations, in 9 cases the Ads have been withdrawn or modified appropriately; assurance of compliance is 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.

Complaints Upheld by CCC against TV Ads and Press Ads – Non-Compliance with CCC decisions (April 2007 – March 2008):

Relevant extracts of case papers of the complaints Upheld by the CCC against TV Ads for which the Advertisers or Ad. Agencies have not assured compliance with CCC decisions, have been sent to the Indian Broadcasting Foundation (IBF) and to the Ministry of Information & Broadcasting (I&B), for follow up and corrective action. In case of press Ads, details of the complaints Upheld by CCC for which the Advertisers or Ad. Agencies have not assured compliance, have been sent to the Press Council of India (PCI), for follow up and corrective action. Also, every Quarter the details of complaints Upheld where the Ads have been withdrawn or modified appropriately and where the Advertiser have not complied with the CCC decisions, is release to all members, to the media and relevant Government organizations.

Complaints Upheld against Surrogate Ads promoting Alcohol/ Liquor Brands

A report providing details of Complaints Upheld by the CCC, in those exceptional cases where assurance of compliance was still awaited from the Advertisers or Ad. Agencies, was sent to the Director General, Confederation of Indian Alcoholic Beverage Companies (CIABC), New Delhi, for appropriate action by their members.

The Role of the Media – Awareness of Self-Regulation in Advertising as administered by the ASCI

With the objective of increasing awareness of ASCI so that the number of complaints being received increases, your Council launched a Press promotion campaign, for drawing viewer attention to commonly experienced misleading and objectionable advertising, which lowers the credibility of advertising viewed by the general public.

Three Press Ads were released on (1) Overclaim – Chapter I.4 of the ASCI Code (2) Obscenity – Chapter II, (3) Dangerous Stunts which would create awareness in the public – Chapter III.3. The publications which carried these Ads were Business India, Outlook, Statesman, and Midday (all ASCI members). Your Council thanks these publications for releasing these Ads at no charge to the ASCI.

The Council thanks Mr. Arvind Sharma (Leo Burnett), Mr. Nitin Paranjpe (Hindustan Unilever), and Mr. Pranesh Misra (Lowe) for helping to produce and to released these Ads, without any cost to your Council.

ASCI – EASA - I&B Ministry Meet

Your Council joined the EASA as a member, to enable ASCI to be part of the Global Self-Regulation in Advertising movement. Mr. Jean Pierre Teyssier, President of EASA, visited India on 4th January 2008, for which your Council organized a meeting with EASA and the Ministry of Information & Broadcasting (I&B), Govt. of India, to share their views and experiences on Self-Regulation of Advertising content.

ASCI Chairman spoke of the key role that advertising plays in a growing economy like India and need for Self Regulatory Organisation (SRO) like ASCI to safeguard the interests of consumers and businesses, by guiding and monitoring the commercial communication, and the role that ASCI plays in self regulating advertising content in India and the challenges it faces.

President of EASA spoke of the role EASA is playing in promoting self and co-regulation in the European Union. His advice for increasing your Council's membership was to introduce 'free copy advice' i.e. precheck of Ads which is practiced by virtually all SRO members of EASA.

Mr. Uday Kumar Verma, Addl. Secretary, I&B Ministry, said that Self-Regulation is a strong symbol of maturity of an industry and is superior to any form of regulation. He praised ASCI for doing an excellent job and mentioned that his Ministry has already incorporated the ASCI Code in the Cable TV Act. ASCI is also represented on relevant committees of the Ministry. He hoped that a time would soon come when institutions like the Judiciary and the Executive would refer advertising disputes to ASCI for resolution.

Steering Committee Meeting Convened by the Ministry of Health & Family Welfare

ASCI was represented on the Steering Committee convened by the Ministry of Health and Family Welfare. Indirect Advertising and Promotion of Tobacco Products was discussed. The Secretary was very clear that he would set up state level committees to look at issues to do with tobacco advertising. State Govt. panels would have to take up some of that burden along with civil society supporters. The Secretary suggested that many of the issues of what constitutes surrogate advertising will be dealt by the Trade Marks authority and that their ruling alone would provide resolution to many of these points.

Disability Rights Communications Workshop

India Centre for Human Rights and Law (ICHR) organized a half day workshop on 18th March 2008 on the role of content creators, in films, television and the written media. The aim of the workshop was to sensitize media persons on portraying the disabled without resorting to cheap gimmicks that would offend the sensibilities of the disabled community. The Secretary General, representing your Council spoke on Self-Regulation and the experience ASCI had in dealing with complaints against Ads portraying vulnerable sections of Society, especially the disabled.

I&B Ministry – Committee for Programme & Advtg Codes prescribed under the Cable Television Networks (Regulation) Act 1995 held a Meeting on June 1st, 2007

ASCI Board's representative to the I&B's Committee recommended that membership ASCI should be made mandatory for all advertisers, ad. agencies and media so that self regulation in Advertising becomes more widespread. The Information & Broadcasting Ministry has put the draft Ad code on its website for comments over a year ago. In this draft code ASCI's CCC has

been assigned primary responsibility to adjudicate complaints against TV Ads. Your Council now await notification of this draft code.

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 has been listed for final arguments in November 2008.

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.

Recent Developments – April to June 2008: ASCI Copy Advice

Your Council launched a Copy Advice Service for its members from 1st May 2008. Copy advice is a provision by ASCI of an opinion as to whether or not an Ad complies with ASCI Code and Government Rules. It is provided on a confidential basis and usually accompanied by advice on the amendments necessary to bring a non-complying Ad into line with the Code. Copy advice is provided on request to advertisers, ad. agencies and the media members of ASCI.

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.

Copy advice reduces the risk of infringements of the ASCI Code and Government Rules, and consequently of an Ad giving rise to complaints of substance, although it cannot completely eliminate the risk.

In the event of deliberation of a complaint, the ASCI's CCC is not bound by pre-publication/release copy advice previously offered by ASCI's Copy Advice Panel.

Surrogate Advertisements

The I&B Ministry reversed its earlier Notification of 9th August 2006 which had a proviso for the Ads of products having brand names of banned Ad products by specifying certain guidelines with requirement of pre clearance from the Central Board of Film Certification (CBFC). The Govt. has informed your Council that there is a resentment to the reversal of the Ministry's position by the industry and had sought your Council's opinion. The response of the ASCI's Board to the Government on this was that: ASCI's position as prevalent in the earlier Code guidelines has been and is that mere use of a brand name for another product that may be of a product whose advertising is banned cannot be found automatically objectionable. In other words, ASCI does not consider a legitimate brand extension of e.g., a liquor brand name objectionable if it meets the criteria of being a legitimate commercial product or service and not misleading to the consumers. ASCI also recommends that all Ads bearing brand name of banned Ad categories should be pre cleared by a Government appointed body as is also provided in the Notification of 9th August 2006. ASCI cannot get involved in pre clearance mechanism as this would be a statutory role so as to be played by a statutory body.

National Commission For Women (NCW)

The NCW organized a Seminar on 'Indecent Representation of Women', on 24th May 2008, at the Hyatt Regency. Your Council was represented by the Secretary General. ASCI made a presentation of its Code, CCC Composition and Process. It included Ads pertaining to indecency. The Chairperson of NCW assured that ASCI would be invited as part of a Committee before any further action is taken.

ASCI In the News

Your Council has been in the news throughout the year. ASCI has received extensive coverage from The Times of India, The Hindustan Times, Business Standard, Loksatta, Campaign India, Business India, Exchange4Media, Agencyfaqs, DNA, Indian Media Observer, NDTV Profit, and Advertising Express.

The items of coverage include:

- Surrogate Ads Face Blackout

- Bhaskar Das is the New ASCI Chairman.
- Watch how you target Your Kids
- Out of the Closet: ASCI's decisions on Innerwear Brands
- ASCI Frames Norms For Automotive Advertising
- ASCI Applies Brakes on Bike Zipping Ad Stunts
- Mumbai Escorts Under Scrutiny
- Admen: Thou shalt not take Kids for a Ride
- ASCI's Role in Self Regulation
- ASCI Wins EASA Best Practices Silver Award
- ASCI Launches Copy Advice
- Uniform Code For All Media Sought
- Companies Should Self Regulate Ads: EASA.
- ASCI Brings 35 Ads under its Scanner
- The Advertising Standards Council of India Gets Teeth

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

Financial Results

	This year Rs.	Previous year Rs.
Income	49,61,931	45,80,441
Expenditure	<u>26,12,178</u>	<u>22,35,953</u>
Excess of Income over expenditure for the year	23,49,753	23,44,488
Balance at the beginning of the year	<u>46,56,208</u>	<u>46,33,126</u>
	<u>70,05,961</u>	<u>69,77,614</u>
Less:		
(i) Accumulation under Section 11(1)(a) of the Income tax Act 1961	6,44,646	6,11,406
(ii) Accumulation under Section 11(2) of Income tax Act 1961	<u>18,00,000</u>	<u>17,10,000</u>
	<u>24,44,646</u>	<u>23,21,406</u>
Balance carried to Balance Sheet	Rs. <u>45,61,315</u>	<u>46,56,208</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 2008, 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 in respect of foreign exchange. There was an outgo of Rs. 34,331/- on EASA Membership fees.