CHAPTER 3

REGULATORY FRAMEWORK IN INDIA AND ABROAD

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3.1 INTRODUCTION TO ADVERTISING REGULATIONS

Advertising regulation refers to the laws and rules which states the different ways in which goods or services can be advertised in a particular region. Rules define the different aspects of advertising, such as when should be the advertising broadcasted, what should be its content, where it should be placed etc. In the United States, false advertising and health-related ads are regulated the most. Many communities have their own rules, particularly for outdoor advertising. In Sweden advertising related to children are prohibited. In some of the European countries sponsorship of children’s programs is not allowed, also advertisements aimed at children under the age of twelve are prohibited. As per another law no advertisements should be broadcasted five minutes before or after a children’s program. In the United Kingdom advertising of products like tobacco is banned on television, billboards or at sporting events. Similarly alcohol advertisers in the United Kingdom are not allowed to discuss in a campaign the relative benefits of drinking, in most instances therefore choosing to focus around the brand image and associative benefits instead of those aligned with consumption. There are many regulations throughout Europe as well [1]

In many non-Western countries, a wide-variety of linguistic (Bhatia 2000, pp. 217-218) and non-linguistic strategies (e.g. religion; Bhatia 2000, pp 280-282) are used to tease and weaken regulations. [2]
3.2 Regulatory Framework in INDIA

3.2.1 Introduction

3.2.2 Historical Perspective of Mass Media Laws

3.2.3 Laws Related to Print Media

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3.2.5 Code for Commercial Advertising on Doordarshan
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3.2.1 INTRODUCTION

The world of advertising seems too good to be true to many. It has glamour; it offers the best things in life and has quick-fix solutions to almost all problems that young consumers may face. Advertising has become such an inextricable part of our lives - thanks to television - that we can't really imagine life without it. Is there a way to determine how much advertising affects our lives and influences our purchase decisions, and goes even further to change our attitudes? Besides, who monitors the subliminal and surrogate advertising that we hardly ever notice and yet, which leaves an indelible mark on our minds? Are advertisers free to use any form of advertising and promotion to push their sales? Have you ever thought if there should be a line drawn between make-believe advertising and reality?

Mr. Pradeep Hejmadi's address during the TAM Seminar: “Digital is the next wave” on 27 August 2008 focused on the progression of digital TV from April 2006 to August 2008, with the total number of TV channels being beamed into Indian homes is over 500, and at least 100 more are in the queue[3], reaching from 71 million to 83 million cable and satellite homes [4] and, with the number of television homes booming from 117 million to 134 million since April 2006 to August 2008. [5] While DTH homes grew from 2.3 million homes to 6.5 million homes [6], outstripping cable and satellite in terms of growth percentages.

Advertising budgets climb up every year, McDonalds spends 2 billion dollars on advertising alone annually. Consumer goods companies spend anything between 5 to 15% of their turnover on
brand building and advertising. According to the analysis of FMCG sector, Hindustan Unilever Limited increased its advertising costs in 2008-09 by 48 per cent to 2,130.92 crore which was at 1,440.22 crore in 2007-08. Another FMCG major, ITC Limited, spent nearly 33 per cent more in 2008-09 than the previous year, whereas Britannia which spent about 17.47 per cent more on advertisements in 2008-09 as compared to the previous year recorded a growth of 20.44 per cent in the same period. Dabur spent nearly 14.85 per cent more on advertisements in 2008-09 as against the corresponding period of previous year. Colgate spends almost 18% of its 11 billion turnovers on advertising [7].

Mass Media systems vary from each other throughout the world. The system changes as per the economy of the region. Also other factors such as religion and culture of different societies also had affect on the mass media. For example In societies where communism and totalitarianism exists, like the former USSR and China there are limitations to media about its views about the government. On the other hand, in countries like USA, where Democracy exists, media has freedom of expressing their views.

If we look from the point of Indian perspective and its system of Parliamentary Democracy we will find that the Press has freedom to express but subject to certain reasonable restrictions imposed by the Constitution of India. Before the marked impact of globalisation, the mass media was totally controlled by the government therefore media was allowed to project only those things what the government wanted the public to see and in a way in which it wanted the public to see it. However, with the inception of
globalization and privatization, the situation has undergone a drastic change.

Before the discovery of communication satellites, communication was mainly in the form of national media, both public and private, in India and abroad. The ‘transnational media’ came into existence with the progress of communication technologies like Satellite delivery and ISDN (Integrated Services Digital Network), which resulted into local TV, global films and global information systems.

In such an era of media expansion, it becomes an absolute necessity to impose certain legal regulation on transmission and communication. In the due course of this article, we would discuss the various aspects of media and the relevant legal checks and bounds governing them.
3.2.2 HISTORICAL PERSPECTIVE OF MASS MEDIA LAWS

Mass Media laws in India have a long history and are deeply rooted in the country’s regal experience under British rule. The earliest regulatory measure was found in 1799 when Lord Wellesley promulgated the *Press Regulations*. According to this pre-censorship was imposed on an infant newspaper publishing industry. The proliferation of the *Press Act* was at the beginning of 1835, which loosen most of the brutal features of earlier legislations.

Thereafter on 18th June 1857, the government passed the ‘*Gagging Act*’, as per this act licensing for the owning or running of printing presses was made compulsory. Also as per this act the government got right to prohibit the publication or circulation of any newspaper, book or other printed material which may lead to any kind of disturbance to government authority. Also it has banned the publication or dissemination of statements or news stories which may result into the same.

The ‘*Press and Registration of Books Act*’ came in 1867 and is still in force. In 1878 Governor General Lord Lytton promulgated the ‘*Vernacular Press Act*. According to this act the government had fasten the disloyal publication and imposed corrective sanctions on printers and publishers. In 1908, Lord Minto propagated the ‘*Newspapers (Incitement to Offences) Act*, 1908 which had endorsed local authorities to take action against the editor of any newspaper that published matter supposed to constitute provocation to insurgence.
However, 26th of January 1950 was the most momentous day in the history of Media Regulations. As on this day the Constitution was brought into force. The grand experience of the Indians made them realise the essential significance of the ‘Freedom of Press’. Such freedom was therefore incorporated in the Constitution; to empower the Press to spread knowledge to the masses and the Constituent Assembly thus, decided to safeguard this ‘Freedom of Press’ as a fundamental right.

It is necessary to mention here that, this freedom under Article 19(1)(a) is not only cribbed, cabined and confined to newspapers and periodicals but also includes pamphlets, leaflets, handbills, circulars and every sort of publication which affords a vehicle of information and opinion. [9]

Thus, although the freedom of the press is guaranteed as a fundamental right, it is necessary for us to deal with the various laws governing the different areas of media so as to appreciate the vast expanse of media laws.

Table No.3.1 Historical Perspective of Mass Media Laws

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Year</th>
<th>Name of the Act</th>
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<tbody>
<tr>
<td>1</td>
<td>1799</td>
<td>Press Regulations Act</td>
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<td>1835</td>
<td>Press Act</td>
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<td>3</td>
<td>1857</td>
<td>Gagging Act</td>
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<td>4</td>
<td>1867</td>
<td>Press &amp; Registration of books Act</td>
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<td>5</td>
<td>1878</td>
<td>Vernacular Press Act</td>
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<td>6</td>
<td>1908</td>
<td>Newspapers Act</td>
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<tr>
<td>7</td>
<td>1950</td>
<td>Freedom of Press Act</td>
</tr>
</tbody>
</table>
3.2.3 LAWS RELATED TO PRINT MEDIA

“Our freedom depends in large part,
on the continuation of a free press,
which is the strongest guarantee of a
free society.”

- Richard M. Schmidt [10]

The very basis of a democratic form of government was the two acts namely The Freedom of Press and the Freedom of Expression. Every business enterprise is involved in the laws of the nation, the state and the community in which it operates. As compare to other businesses newspaper publishers find themselves more ‘hem in’ by legal restrictions. Even though the fact was the freedom of press was protected by the Indian constitution.

The various Acts, which have to be taken into consideration when dealing with the regulations imposed upon the Print Media, are:

• **The Press and Registration of Books Act, 1867** – This Act regulates printing presses and newspapers and makes registration compulsory for all printing presses with an appointed Authority.

• **The Press (Objectionable Matters) Act, 1951** – This act takes action against those printing and publication material which encourage crime and other objectionable matters.

• **The Newspaper (Prices and Pages) Act, 1956** – This act authorizes the Central Government to regulate the price of newspapers in relation to the number of pages and size and
also it regulates the allocation of space to be allowed for advertising matter.

• **Defence of India Act, 1962** – This Act came into force during the Emergency announced in 1962. This Act aimed at restricting the Freedom of the Press to a large extent keeping in mind the unrest established in India in lieu of the war against China. The Act authorized Central Government to issue rules with regard to prohibition of publication or communication harmful to the civil defence/military operations. The act looks after prevention of harmful reports and prohibition of printing or publishing of any matter in any newspaper.

• **Delivery of Books and Newspapers (Public Libraries) Act, 1954** According to this Act, the publishers of books and newspapers are required to deliver, free of cost, a copy of every published book to the National Library at Calcutta and one copy each to three other public libraries specified by the Central Government.

• **The Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955** – It lays down the minimum standards of service conditions for newspaper employees and journalists.

• **Civil Defence Act, 1968** - It allows the Government to make rules for the prohibition of printing and publication of any book, newspaper or other document prejudicial to the Civil Defence.
• **Press Council Act, 1978** – Under this Act, the Press Council was reconstituted (after 1976) to maintain and improve the standards of newspaper and news agencies in India.

**Table No.3.2 Laws Related to Print Media**

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Year</th>
<th>Name of the Act</th>
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<tbody>
<tr>
<td>1</td>
<td>1867</td>
<td>The Press and Registration of books Act</td>
</tr>
<tr>
<td>2</td>
<td>1951</td>
<td>The Press Act (Objectionable matters)</td>
</tr>
<tr>
<td>3</td>
<td>1954</td>
<td>Delivery of Books &amp; Newspapers Act</td>
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<tr>
<td>4</td>
<td>1955</td>
<td>The working journalists &amp; other newspaper employees Act</td>
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<tr>
<td>5</td>
<td>1956</td>
<td>The newspaper (Price And Pages) Act</td>
</tr>
<tr>
<td>6</td>
<td>1962</td>
<td>Defense of India Act</td>
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<tr>
<td>7</td>
<td>1968</td>
<td>Civil Defense Act</td>
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<tr>
<td>8</td>
<td>1978</td>
<td>Press Council Act</td>
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</tbody>
</table>
3.2.4 LAWS RELATED TO BROADCAST MEDIA

The broadcast media was under complete monopoly of the Government of India. Private organizations were involved only in commercial advertising and sponsorships of programmes. However, (in Secretary, Ministry of I&B v. CAB), the Supreme Court clearly changed from the abovementioned monopolistic approach and emphasized that, every citizen has a right to telecast and broadcast to the viewers/listeners any important event through electronic media, television or radio and also provided that the Government had no monopoly over such electronic media as such monopolistic power of the Government was not mentioned anywhere in the Constitution or in any other law prevailing in the country [11].

This judgment, thus, brought about a great change in the position prevailing in the broadcast media, and thus the sector became open to the citizens.

The Broadcasting Code, adopted by the Fourth Asian Broadcasting Conference in 1962 listing certain cardinal principles to be followed by the electronic media, is of prime importance so far as laws governing broadcast medium are concerned. Although, the Broadcast Code was predominantly set up to govern the All India Radio, the following key principles have ideally been practiced by all Broadcasting and Television Organization; viz: -

✓ To ensure the purpose of news presentation resulting into a fair and unbiased comment.
✓ To promote the progression of education and culture.
To raise and maintain high standards of politeness and etiquette in all programmes.

To provide programmes for the youngsters which will have variety and content, which will inculcate the principles of a good citizenship.

To promote communal harmony, religious forbearance and international understanding.

To treat the controversial public issues in an unbiased and calm manner.

To respect human rights and dignity.

- **Cable Television Networks Regulation Act, 1995**: This act basically regulates the operation of Cable Television in the territory of India and regulates the subscription rates and the total number of total subscribers receiving programmes transmitted in the basic tier. In pursuance of the Cable Television Network (Regulation) (Amendment) Bill, 2002, the Central Government may make it mandatory for every cable operator to transmit or retransmit programme of any pay channel through an addressable system as and when the Central Government so notifies. Such notification may also specify the number of free to air channels to be included in the package of channels forming the basic service tier.

Direct-to-Home Broadcasting – Direct-to-Home (DTH) Broadcasting Service, refers to distribution of multi-channel TV programmes in Ku Band by using a satellite system and by providing TV signals directly to the subscribers’ premises without passing through an intermediary such as a cable
operator. The Union Government has decided to permit Direct-to-Home TV service in Ku band in India.\[^{12}\]

Film – India is one of the largest producers of motion pictures in the world. The other major activities that encompass the film are production, distribution and exhibition. The industry has an all-India spread, employing thousands of people and entertaining millions each year. The various laws in force regulating the making and screening of films are:

- **The Cinematograph Act, 1952** – The Cinematograph Act of 1952 has been passed to make provisions for a certification of cinematographed films for exhibitions by means of Cinematograph. Under this Act, a Board of Film Censors (now renamed Central Board of Film Certification) with advisory panels at regional centres is empowered to examine every film and sanction it whether for unrestricted exhibition or for exhibition restricted to adults. The Board is also empowered to refuse to sanction a film for public exhibition.

- **The Copyright Act, 1957** – According to this Act, ‘copyright’ means the exclusive right to commercially exploit the original literary, dramatic, artistic, musical work, sound recordings or cinematographic films as per the wishes of the owner of copyright subject to the restrictions imposed in the Act.

The Act also makes it an offence for anyone to trade, lease, share out, demonstrate, acquire or view any unauthorised recordings and prescribes severe penalties, including imprisonment, fines as well as elimination of the tools used for
the purpose of such recording and exhibition. The Amendments to The Copyright Act also prohibit unauthorized transmission of films on the cable television.\textsuperscript{[13]}

- **Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981** – This legislation gives protection to those employed in the industry by imposing certain compulsion on film producers and theatre owners concerning the workers' condition of service.

- **Cine Workers Welfare Cess Act, 1981 and the Cine Workers Welfare Fund Act 1981** – They seek to create means of financial support to cine employees, the seasonal and unpredictable nature of whose employment often leaves them impoverished and helpless.

Besides these, there are also a few local legislations, which affect the film medium; viz.

- **The Bombay Police Act, 1951** – It contains provisions empowering the police to regulate the exhibition of films in the state of Maharashtra (formerly Bombay).

- **Bombay Cinemas (Regulation) Act, 1953** – It provides a scheme for state licensing of cinema theatres and other places where motion pictures are exhibited.

- **The Bombay Entertainments Duty Act, 1923** – It imposes a tax on the public exhibition of motion pictures and other forms of entertainment.
### Table No.3.3 Laws Related to Broadcast Media

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Year</th>
<th>Name of the Act</th>
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<tbody>
<tr>
<td>1</td>
<td>1923</td>
<td>The Bombay Entertainments Duty Act</td>
</tr>
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<td>2</td>
<td>1951</td>
<td>The Bombay Police Act</td>
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<td>3</td>
<td>1952</td>
<td>Cinematograph Act</td>
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<tr>
<td>4</td>
<td>1953</td>
<td>Bombay Cinemas (Regulation) Act</td>
</tr>
<tr>
<td>5</td>
<td>1957</td>
<td>Copyright Act</td>
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<tr>
<td>6</td>
<td>1981</td>
<td>Cine Workers Welfare Cess Act</td>
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<tr>
<td>7</td>
<td>1981</td>
<td>Cine Workers Welfare Fund Act</td>
</tr>
<tr>
<td>8</td>
<td>1981</td>
<td>Cine Workers &amp; Cinema theatre Workers (Regulation of Employment) Act</td>
</tr>
<tr>
<td>9</td>
<td>1995</td>
<td>Cable Television Networks Regulation Act</td>
</tr>
</tbody>
</table>
3.2.5 CODE FOR COMMERCIAL ADVERTISING ON DOORDARSHAN

A. **Introduction:**
Advertising is an important and justifiable means for the seller to develop interest in his goods and services. 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 norms of viewer’s vulnerability.

The following standards of conduct are laid down in order to develop and promote healthy advertising practices in Doordarshan. Responsibility for the observance of these rules rests equally upon the Advertiser and the Advertising Agency.

All those engaged in advertising are strongly recommended to familiarize themselves with the legislation affecting advertising in this country, particularly the following Acts and the Rules framed under them.\(^{[15]}\)
Table No. 3.4 Code (Laws) for Commercial Advertising on Doordarshan

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Year</th>
<th>Name of the Act</th>
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<tbody>
<tr>
<td>1</td>
<td>1940</td>
<td>Drugs and Cosmetics Act</td>
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<td>2</td>
<td>1950</td>
<td>Drugs Control Act</td>
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<tr>
<td>3</td>
<td>1954</td>
<td>Drugs and Magic Remedies (Objectionable Advertisements) Act</td>
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<tr>
<td>4</td>
<td>1957</td>
<td>Copyright Act</td>
</tr>
<tr>
<td>5</td>
<td>1958</td>
<td>Trade and Merchandise Marks Act</td>
</tr>
<tr>
<td>6</td>
<td>1954</td>
<td>Prevention of Food Adulteration Act</td>
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<tr>
<td>7</td>
<td>1948</td>
<td>Pharmacy Act</td>
</tr>
<tr>
<td>8</td>
<td>1955</td>
<td>Prize Competition Act,</td>
</tr>
<tr>
<td>9</td>
<td>1950</td>
<td>Emblems and Names (Prevention of Improper Use) Act</td>
</tr>
<tr>
<td>10</td>
<td>1986</td>
<td>Consumer Protection Act</td>
</tr>
<tr>
<td>11</td>
<td>1986</td>
<td>Indecent Representation of Women (Prohibition) Act</td>
</tr>
</tbody>
</table>

B. General Rules- of Conduct in Advertising:

1. The advertising should be designed in such a way so as to obey the rules of the country and should not affront morality, decency and religious susceptibilities of the people.

2. No Advertisement shall be permitted which -
   a. Mocks any race, caste, colour, creed and nationality;
b. Is against any of the directive principles, or any other provision of the Constitution of India;
c. Tends to provoke people to crime, cause disorder or violence, or violation of law or praises violence or obscenity in any way;
d. Presents criminality as desirable;
e. Adversely affects friendly relations with foreign States;
f. Exploits the national emblem, or any part of the Constitution or the person or personality of a national leader or State Dignitary;
g. Relates to or promotes cigarettes and tobacco products, liquor, wines and other intoxicants;
h. In its depiction of women violates the constitutional guarantees to all citizens such as equality of status and opportunity and dignity of the individual. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasises passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The portrayal of men and women should not encourage mutual disrespect. Advertiser shall ensure that the portrayal of the female form is tasteful and aesthetic, and is within the well established norms of good taste and decency.

3. Advertisement message should not be presented as News.
4. Advertisement should not permit the objects which are mainly of a religious or political nature; advertisements must not be directed towards any religious or political end or have any relation to any industrial dispute.
5. Advertisement for services concerned with unlicensed employment services, astrologer should not be accepted. Also advertisements that claim anything about hypnotism, Betting tips and guide books etc, relating to horse racing or other games of chance are prohibited.

6. Doordarshan accepts the advertisements of educational institutions/colleges. However, it must be ensured that the institutions/colleges are genuine so as to ensure that students do not get misled. Doordarshan also accepts advertisements relating to holiday resorts and hotels. Doordarshan also accepts the advertisements relating to real estate including sale of flats/land, flats for rent both commercial and residential. However, to ensure that viewers do not get misled by false claims, it has been decided that all such advertisements must carry a statutory message at the end in the form of superimposition or caption as follows:

"VIEWERS ARE ADVISED TO CHECK THE GENUINENESS OF THE CLAIMS MADE"

Doordarshan has also allowed the telecast of Foreign products and foreign banks including financial services; Jewellery and precious stones; Mutual funds approved by SEBI; Hair dyes; Matrimonial agencies; Astrologers/Numerologists etc.

7. The items advertised should not be defected or have any deficiency as mentioned in Consumer Protection Act 1986.

8. Advertisement should not contain any references which are likely to lead the public to assume that the product advertised or any of its ingredients has some special or astonishing or supernatural property or quality, which is difficult of being proved, e.g. cure for baldness, skin whitener, etc.
9. No advertisement should contain the words ‘ Guarantee’ or Guaranteed’, etc. unless the full terms of the guarantee are available for inspection by the Director General, Doordarshan, and are clearly set out in the advertisement and are made available to the purchaser in writing at the point of sale or with the goods. In all cases terms must include details of the remedial action available to the purchaser. No advertisement shall contain a direct or implied reference to any guarantee which purports to take away or diminish the legal rights of a purchaser.

10. Scientific or statistical excerpts from technical literature etc. may be used only with a proper sense of responsibility to the ordinary viewer. Irrelevant data and scientific jargon shall not be used to make claims appear to have a scientific basis they do not possess. Statistics of limited validity should not be presented in a way as to make it appear that they are universally true.

11. Advertisers or their agents must be prepared to produce evidence to substantiate any claims or illustrations. The Director General reserves the right to ask for such proofs and get them examined to his full satisfaction. In case of goods covered by mandatory quality control orders, the advertiser shall produce quality certificate from the institutions recognised by the Government for this purpose.

12. Advertisements shall not contain disapproving or derogatory references to another product or service.

13. Imitation which may mislead viewers should be avoided.
14. Visual and verbal representation of actual and comparative prices and costs shall be accurate and shall not mislead on account of undue emphasis or distortion.

15. Testimonials must be genuine and used in such a manner that it should not mislead the viewers. Advertisers or advertising Agencies must be prepared to produce evidence in support of their claims.

16. The picture and the audible matter of the advertisement shall not be excessively 'loud'. This is to ensure that between the programme and the advertisement there is a smooth change-over avoiding jerkiness or shock to the viewers.

17. Information to consumer in matters of weight, quality or prices of products where given shall be accurate.

18. Advertisements indicating price comparisons or reductions must comply with relevant laws.

19. No advertisement shall be accepted which violates AIR and TV Broadcast Code which is reproduced below:

**General AIR/TV Code:**

a. Criticism of friendly countries;
b. Attack on religions or communities;
c. Anything obscene or defamatory;
d. Incitement to violence or anything against maintenance of law and order;
e. Anything amounting to contempt of court;
f. Aspersions against the integrity of the President and Judiciary;
g. Anything affecting the integrity of the Nation; and
h. Criticism by name of any person.
20. Any effects which might frighten the viewing public must not be incorporated in advertisements. For example the use of the following sound effects will not be permitted: Rapid gunfire or rifle shots Sirens, Bombardments, Screams, Raucous laughter etc.

21. Any pretence in advertising copy must be avoided and such copy shall not be accepted by Doordarshan Kendras. The 'simulation' of appearance or voice of a personality in connection with advertisements for commercial products is also prohibited unless bonafide evidence is available that such personality has given permission for the simulation and it is clearly understood that stations telecasting such announcements are indemnified by the advertiser or advertising agency against any possible legal action.

22. Advertising should not take advantage of the superstition or ignorance of the general public.

23. Advertisements of talismans, charms and character reading from photographs or such other matter as well as those which trade on the superstition of general public should not be permitted.

24. Advertising should be truthful and it should avoid distorting facts and misleading the public by means of implications and omissions. For instance, it shall not mislead the consumer by false statements, as to:
  - The character of the merchandise, i.e. its utility, materials, ingredients, origin etc.
  - The price of the merchandise, its value, its suitability or terms of purchase.
• The services accompanying purchase, including delivery, exchange, return, repair, upkeep etc.

25. Personal recommendations of the article or service are not permitted. The quality or the value of competing goods or the trustworthiness of statements made by others is prohibited.

26. Testimonials of any kind from experts etc. other than Government recognised standard agencies are prohibited.

27. Advertisement should not contain any claims which may result inevitably to disappointment in the minds of the public.

28. Methods of advertising designed to create confusion in the minds of the consumer regarding the products manufactured by two different producers is unfair and should not be used. For example: The imitation of the trademark or name of competitor or the packaging or labeling of goods; or The imitation of advertising devices, copy, layout or slogans.

29. Indecent, vulgar, suggestive, repulsive or offensive themes or treatment are prohibited in all advertisements. It is also applicable for those which advertise objectionable books, photographs or other matter and thereby lead to their sale and circulation.

30. No advertisement in respect of medicines and treatments shall be accepted which is in contravention of the Code relating to Standards for advertising of medicines and treatments exists.
C. Laws related to Advertising and Children

1. Any advertisement that suggests in any way that unless the children themselves buy or encourage other people to buy the products or services they will be failing in their duty or lacking in loyalty to any person or organization are not permitted.

2. Any advertisement which leads children to believe that if they do not own or use the product advertised they will be inferior in some way to other children are not accepted.

3. Those advertisement which challenges the safety of the children or creates unhealthy practices among them, should not be accepted, e.g. playing in the middle of the road, leaning dangerously out of a window, playing with match boxes and other goods which can cause accidents.

4. No advertisement should portray children begging or in undignified or indecent manner.
3.2.6 NON-EXISTENT ADVERTISING LAWS IN INDIA

In India, there are no specific advertising laws that relate to children and food-related advertisements in particular. A host of laws and Acts like the Cable TV Networks (Regulation) Act, 1995 and the Infant Milk Substitutes, Feeding Bottles and Infant Food Act deal with children-related advertising in a vague way. Not only are there advertisements that are targeted at children but a host of them that feature young children, even babies.

TV Channels generally do not follow any rules regarding advertising air time. Doordarshan poses a limit on advertising time which is a maximum of 7 1/2 minutes of advertisements in a 30 minute programme. Private TV channels are free to air as many advertisements they like. This is primarily the reason why on some private channels, a 30-minute TV programme gets stretched to 45 minutes or even more. [16]

There are also no specific rules for sponsorship of children’s TV programmes. Almost any advertisement can be aired during a children’s programme, exposing children to hard-sell techniques of the market. [17]

There are a number of ways by which advertisers’ impact young consumers, like by featuring their favourite film or sports stars endorsing the product, by instilling inferiority complex in consumer minds if they don’t use the advertised product, by luring young consumers with promotional offers like free gifts. You must have come across Wimpy's or Narula's offering free ice-creams to students who have excelled in their examinations, free collectible
coupons or tattoos inside chips packets, and other such advertising gimmicks. These tactics do not add any value to the product being offered but only lure consumers to buy a product they otherwise may not have bought. Negative advertising is another strategy that is being used very extensively by advertisers today. The on-going cola wars between Pepsi and Coke being a classic example. Consumers do not get any positive or useful information out of such advertisements that ridicule other brands and portray contests and ‘consumer testimonies’ that are so clearly manipulated and dramatised.
3.2.7 WHAT INDIAN ADVERTISING LAWS NEED?

India may have made great progress in the area of free trade, entry of multinationals in the country and in Information Technology but monitoring of the content of advertisements and marketing of products on television still remains very poor. Advertisers deliberately target young consumers for consumption of their nutritionally harmful products like fast-food. When the so-called health food is advertised, no nutritional information is given on screen regarding its benefits or precautions that may need to be taken while they are being consumed. Promotional offers are made to lure consumers into over-consumption. Almost every product that is being advertised on Indian television comes packaged with a promotional offer - be it a discount, a freebie, a chance to loot a jewellery store for one minute, lakhs of rupees and goodies as prizes, or the possibility of dining and holidaying with celebrities - the whole world is up for grabs on TV. Negative advertising is another strategy that is being used very extensively by advertisers today. The on-going cola wars between Pepsi and Coke being a classic example. Consumers do not get any positive or useful information out of such advertisements that ridicule other brands and portray contests and consumer testimonies that are so clearly manipulated and dramatised.

There is urgent need for voluntary and government pressure groups to seriously take note of the situation. The government needs to draft and implement laws that do not deal with advertising in general but are specific and relate to every aspect of advertising, especially those that target young children and pertain to food. All food advertisements should be made to adhere to dietary
recommendations for children. Portrayal and targeting of children below a certain age should be restricted. Also, children below the age of five cannot distinguish between advertisements featuring cartoons and actual cartoon programmes thus it is even more important that like in Sweden, advertising aimed at young children be banned. Promotional advertising is yet another strategy that works very well not only with children but also with adults. Offering free gifts and sponsoring popular events is part of promotional advertising. Nestle, Maggi sponsors excellence awards for children in schools and fast-food chains reward children with free treats for scoring good marks in examinations. Free posters, stickers, and other such goodies is also part of the game.

In other parts of the world, there exist voluntary groups like the Adbusters and Mothers groups that watch and pressure governments to clamp down on aggressive and intrusive advertising. In May 2001, in New York, a voluntary mothers group released a report, “Watch out for Children”: A Mothers Appeal to Advertisers, urging advertisers to rein in their commercial tactics that were misleading children. The report demanded of the industry some very important self-regulatory ethics like; no advertising, marketing, or market research in schools; no targeting of advertising and marketing at children under the age of 8; and a stop on product placement in movies and media programs targeted at children and adolescents among other important points. Its time such a campaign was mooted in India as well.
3.2.8 WHY SELF-REGULATION IN ADVERTISING

In recent years the quantity of false, misleading and offensive advertising has increased which has resulted in consumers increased distrust in advertising, and a growing bitterness of it. Misleading, false advertising also leads to unfair competition. It could lead to market-place disaster or even legal action. In order to monitor and control advertising a number of different regulatory bodies have been established. Many countries have an Advertising Standards Authority, whose job it is to listen to complaints from the public, and establish whether or not a particular ad or campaign should be withdrawn.

In the UK, advertising regulation is governed by the Advertising Standards Authority. In the United States, the Federal Trade Commission is the highest authority on the subject.
3.2.9 REGULATORY BODIES IN INDIA

1. ADVERTISING AGENCIES ASSOCIATION OF INDIA [AAAI]

Advertising Agencies Association of India (AAAI) was established 67 years ago in 1945. 7 agencies came together to form advertising agencies association of India. Out of which four were from Calcutta and three were from Bombay. They D J Keymer, General Advertising Agency, J Walter Thomson Co. and Press Syndicate Adarts, Lintas and National Advertising Service from Calcutta and Bombay respectively. The office of AAAI was shifted to Bombay in 1961.

Earlier advertising in India used to have very limited purpose. Till 80’s government has focused on the social aspects like family planning programmes, nutrition, education, the modernization of agriculture and ushering in the green revolution through advertising. Any kind of competition was not encouraged by government till 80’s.

Earlier AAAI used to support Government in some of the crucial areas and Government also used to consult AAAI in the important matter. For example, on the request of AAAI Government endorsed foreign equity holding in ad agencies in the late 80’s.

Also AAAI used to protect business to regulate efficiency in the industry whenever required. AAAI’s contribution in regulating the industry was very significant. In 1987 when TV sponsored programmes became a reality, it was AAAI who determined the distribution of income between the placing agency and the creative agency. In 1988 and again in 1990, AAAI was actively involved in
determining the procedures and policies of the electronic media i.e Doordarshan.

In 1983, AAAI was involved in a serious dialogue with Indian Newspaper Society (INS) when the credit period was proposed to be reduced from 75 to 45 days. Finally agreed on 60 days, with the rider that "no changes would be made in the Accreditation Rules without mutual consultation and consent" of INS and AAAI. In 1991, when the proposal came to reduce this 60 days to 45 days, it was persuasively defended. Since then INS and AAAI meet regularly with respect to matters that concern both bodies.

AAAI was highly supportive to the formation of Advertising Standards Council of India (ASCI) because it felt the need for a self-regulating body in Advertising.

Similarly, AAAI encouraged the formation of Indian Broadcasting Foundation so that it could address the needs of TV channels. About 4 years back, AAAI signed a unique Agreement with IBF, which codified the working relationship between the members of IBF and AAAI in the matter of placing and paying for the ads. This initiative has been a resounding success for both sides.

AAAI enjoys a healthy relationship with Indian Society ofAdvertisers (ISA). Time and again, AAAI has been called upon by its members to resolve disputes with advertisers for which formal Arbitration proceedings have been conducted. AAAI also assists their members to collect payment from defaulting advertisers.

In summary, AAAI, over the last six decades, has stood by its members and have protected their business interests, be it in
dialogue with Government, media bodies or advertisers; AAAI has regulated its members in the orderly conduct of their business affairs, whenever the need arose; And last, but not the least, AAAI provided a platform for training of advertising professionals, recognition of creative work through its coveted Triple-A Awards and honouring outstanding advertising men through its AAAI-Premnarayen Award.

AAAI has thus come a long way from its humble beginnings 67 years ago. But as they say, the future is always more exciting than the past.

AAAI is alive to the changes that the future holds out and the next decade would be a stimulating period, ushering the advertising industry in newer challenges and opportunities. [18]
2. ADVERTISING STANDARDS COUNCIL OF INDIA [ASCI]

A. Introduction: [19]

Advertising Standards Council of India was set up in order to enforce an ethical regulating code. It was inspired by a similar code of the Advertising Standards Authority (ASA) UK. The Advertising Standards Council of India (ASCI) was established in Oct. 1985. ASCI is working as a non profit organization. ASCI have adopted a Code for Self-Regulation in Advertising. The basic objective of ASCI was to deliver honest advertising and fair competition in the market-place. It stands for the protection of the lawful interests of consumers and all those are concerned with advertising such as advertisers, media, advertising agencies and others who help in the creation or placement of advertisements. The increased acceptance of the ASCI codes will lead to,

1. Fewer false, misleading claims
2. Fewer unfair advertisements
3. Increasing respectability

In India, as in several advanced economies, there is only ONE BODY for Self-Regulation in Advertising – the ASCI, which is concerned with safeguarding the interests of consumers whilst monitoring/guiding the commercial communications of Practitioners in Advertising on behalf of advertisers. Also for the advertisements that are carried by the Media and in their endeavors to influence buying decisions of the consumers.
B. Objectives of ASCI [20]

1. To monitor, administer and promote standards of advertising practices in India with a view to:
   a) To ensure the truthfulness and honesty of representations and claims made through advertising and safeguarding against misleading advertising.
   b) To ensure that Advertising is not repulsive to generally accepted norms and standards of public decency.
   c) To protect against the haphazard use of advertising for the promotion of products or services which are generally regarded as unsafe to society or to individuals or which are totally unacceptable to society.
   d) To ensure that advertisements observe fairness in competition and the principles of generally accepted competitive behaviour.

2. To modify the code of advertising practices in India from time to time and implement, administer, promote and publicize such a code.

3. To provide facilities and machinery in the form of one or more Consumer Complaints Councils having such composition and with such powers as may be prescribed from time to time to examine complaints against advertisements in terms of the Code of Advertising practices and report thereon....

4. To give extensive publicity to the Code and to seek devotion from those who are engaged in advertising.

5. To print and publish pamphlets, leaflets, circulars or other literature or material which is needed for the promotion of the
Company and circulate it through any medium of communication.

C. Role & Functions of ASCI [21]

ASCI & its Consumer Complaints Council (CCC) deals with Complaints received from Consumers and Industry, against the advertisements which are False, Misleading, Indecent, Illegal, or which leads to Unsafe practices, or Unfair to competition, and consequently in contravention of the ASCI Code for Self-Regulation in Advertising.

ASCI is a voluntary self-regulatory council, registered as a non-profit Company. The various reputed members of the industry, different Advertisers, Media, Advertising Agencies and other Professional /Ancillary services connected with advertising practice are the principal members of ASCI.

The ASCI is a non Governmental body, and it does not formulate rules for the public or for the relevant industries.

D. Self- Regulation Guidelines on Advertising of Foods & Beverages directed at Children under 13 years of age. [22]

The dietary habits of Children and physical activities had an impact on their general health and well being therefore if they are encouraged to have a healthy and balanced diet, sound eating habits and appropriate physical activity it will result into a positive influence. Therefore the advertising of food and beverages which contains relatively high fat, sugar and salt should be monitored closely.
Guidelines

a. Advertisements should not mislead consumers to believe that consumption of product advertised will result directly in personal changes in intelligence, physical ability or exceptional recognition. If such claims are made in any advertisements it should be supported with adequate scientific authentication. All nutritional and health benefit claims in foods & beverage advertisements are required to be authenticated scientifically.

b. If a food product has been nutritionally designed as a meal replacement then only it should be portrayed as such.

c. Messages in advertising to children should be represented accurately so that children would be able to understand the same as per their ability to do so.

d. Advertisements should not show excessive consumption of Foods & Beverages and It should be occasionally. Advertising of promotional offers on Food & Beverage products should also not show excessive consumption.

e. Advertisements should not challenge the role of parental care and guidance in ensuring proper food choices are made by Children.

f. Visual presentation of foods and beverages in advertisement should not mislead the consumers of the material characteristics of the products advertised. [23]
3.3 INTERNATIONAL STATUS OF REGULATORY FRAMEWORK

3.3.1 Introduction to International Status of Regulatory Framework of Television Advertising.

3.3.2 Regulatory framework of TV advertising in CANADA
   A. Introduction
   B. Broadcast Code for Advertising to Children
   C. Children’s Code Clauses

3.3.3 Regulatory framework of TV advertising in U.S.
   A. Introduction
   B. Children’s Advertising Review Unit (CARU)
   C. Self-Regulatory Guidelines for advertising directed to children under 12:

3.3.4 Regulatory framework of TV advertising in Ireland
   A. Introduction
   B. General Code of Conduct

3.3.5 Regulatory framework of TV advertising in Netherlands
   A. Introduction
   B. The Netherlands Advertising Code
   C. General Principles applicable to advertising & children.
   D. Industry Specific Content provisions
   E. Industry Specific scheduling Provisions
   F. Industry Specific Sponsorship Restriction

3.3.6 Regulatory framework of TV advertising in UK
A. Introduction
B. Regulation of children’s Television Advertising
C. Scheduling Restrictions

3.3.7 Regulatory framework of TV advertising in Spain
E. Introduction
F. The Laws
G. Monitoring & Sanctions
H. Self Regulation

3.3.8 Regulatory framework of TV advertising in Sweden
A. Introduction
B. Radio & television Act
C. Enforcement & control
D. Guidelines for the interpretation of the television ban on advertising to children
3.3.1 INTRODUCTION TO INTERNATIONAL STATUS OF REGULATORY FRAMEWORK TO TV ADVERTISING

Advertising laws in India, or the lack of them, are in strong contrast with advertising standards in Europe or in the US where concerned parents and governments closely monitor what their children are learning and picking up from TV in the form of advertisements.

For example:

In Sweden and Norway, TV advertising and sponsorship of programmes aimed at children below the age of 12 are prohibited. [24]

In Greece, the advertising of toys on television is banned between 7.00 a.m. and 10.00 p.m., in Germany and Denmark there are bans on certain forms of toys. [25]

Any kind of advertising is not permitted in Austria and the Flemish part of Belgium 5 minutes before or after children’s programmes. [26]

In some of the countries like Germany and the Netherlands the sponsorship of children’s programmes is permitted whereas in the other countries like Denmark, Finland, Norway and Sweden it is prohibited. Advertisements during programmes for pre-school children are totally banned in Australia. [27]

Everywhere around the world, food advertisements constitute the major part of all advertising. The ‘Consumers International’ did an International Comparative Study on Food Advertising Aimed at Children in Europe and in Asia and it was found that it was largely the junk-food sector which advertised most aggressively:
In Europe major share of food advertisement is taken by confectionery, breakfast cereals (mainly sweetened) and fast food restaurants. In fact confectionery holds the largest share of nearly fifth of total food advertising. Other types of food products that were widely advertised were savoury snacks, dairy products, ready prepared foods, soft drinks, cakes and biscuits and desserts. Interestingly, like in India, all these advertised products are high in sugar and fat content. Fruit and vegetable advertisements are almost non-existent - both in India and in Europe.

A nutritional analysis for this study of foods advertised on television to children in the UK found that 62% of advertisements were for products high in fat, 50% were for products high in sugar and 61% for products high in salt. Overall, 95% of advertisements were for foods that were high in fat and/or sugar and/or salt - a finding broadly consistent with studies in other countries and in Asia.\[28\]

In most parts of the world, there are few or no specific rules concerning food advertising to children beyond the rules which must apply to all advertising. In India, even general rules pertaining to advertising are very lax. Also, there are no regulatory bodies that monitor TV advertisements. Apart from the Ministry of Information and Broadcasting that decides to intervene when it wants to, there are only voluntary groups like the Advertising Agencies Association of India, and the Advertising Standards Council of India, both of which are business organisations and can only put moral pressure on advertisers and companies to withdraw objectionable advertisements.
3.3.2 REGULATORY FRAMEWORK OF TV ADVERTISING IN CANADA [29, 30, 31, 32, 33]

A. Introduction:

When it comes to advertising to children, advertisers, advertising agencies and the media in Canada have treated this with a great deal of care and respect over the years, creating a number of safeguards to ensure that communication to children is responsible. The Children’s Code and the advertising preclearance process have served Canadian parents and children well for over thirty years. The commitment of Canada’s advertising industry, together with the interlocking regulatory and self-regulatory framework for advertising in Canada, ensures that broadcast advertising directed to children is both respectful and responsible. As a result, the Canadian system is considered to be a model around the world, and Canada is recognized as a leader in responsible regulation of children’s advertising.

B. Broadcast Code for Advertising to Children

The special characteristics of the children’s audience have long been recognized by Canadian broadcasters and advertisers. In 1971, the Canadian Association of Broadcasters’ Broadcast Code for Advertising to Children (Children’s Code) was created. As enunciated in the Background to the Children’s Code, its purpose is to “serve as a guide to advertisers and agencies in preparing commercial messages which adequately recognize the special characteristics of the children’s audience. Children, especially the
very young, live in a world that is part imaginary, part real and sometimes do not distinguish clearly between the two. Children’s advertising should respect and not abuse the power of the child’s imagination."

The Children’s Code was designed to complement the general principles for ethical advertising outlined in the Canadian Code of Advertising Standards which applies to all advertising. Both Codes are supplementary to all federal and provincial laws and regulations governing advertising, including those regulations and procedures established by the Canadian Radio, television and Telecommunications Commission (CRTC), Industry Canada, and Health Canada.

All children’s broadcast advertising (except in Quebec where advertising to children is prohibited) must conform to the provisions of the Children’s Code and be approved prior to broadcast (precleared) by the Children’s Clearance Committee, administered by ASC. The Children’s Code defines children as persons under 12 years of age.

Since 1974, broadcasters have agreed to adhere to the Children’s Code as a CRTC condition of broadcast license. As well, although 12-minutes per hour of advertising overall are permitted by regulation in Canada, broadcasters have voluntarily restricted themselves to an 8-minute limit within children’s programming.

In addition to governing the content of children’s broadcast advertising, the Children’s Code also addresses scheduling with particular attention to preschoolers, to ensure that commercial messages scheduled for viewing during the school day morning hours are directed to the family, parent or adults, rather than to children.
C. Children’s Code Clauses: The following are excerpts from the Children’s Code.

1. Definitions
   a) “Children’s advertising” refers to any paid commercial message that is carried in or immediately adjacent to a children’s program. Children’s advertising also includes any commercial message that is determined by the broadcaster as being directed to children and is carried in or immediately adjacent to any other program.

   b) Children - “Children” refers to persons under 12 years of age.

   c) A Child Directed Message - “A child directed message” is a commercial message on behalf of a product or service for which children are the only users or form a substantial part of the market as users, and the message (i.e. language, selling points, visuals) is presented in a manner that is directed primarily to children.

   d) Children’s Program - A “children’s program” is a program that is directed to the under-12 audience, as defined by the broadcaster.

   e) Commercial Message - A “commercial message” has the same meaning as that defined in the Television Broadcasting Regulations, 1987.
f) **Premium** - A “premium” is anything offered with or without additional cost, and is conditional upon the purchase of the advertiser’s regular product or service.

g) **The Code** - This Code shall be known as “The Broadcast Code for Advertising to Children” and shall hereinafter be referred to as “the Code”.

2. **Jurisdiction**

   All Children’s advertising must conform to the Code, be pre-cleared in accordance with the procedures set out from time to time by ASC and have the requisite ASC clearance number.

3. **Factual Presentation**

   a) No children’s advertising may employ any device or technique that attempts to transmit messages below the threshold of normal awareness.

   b) Written, sound, photographic and other visual presentations must not exaggerate service, product or premium characteristics, such as performance, speed, size, colour, durability, etc.

   c) The relative size of the product must be clearly established.

   d) When children’s advertising shows results from a drawing, construction, craft or modeling toy or kit, the results should be reasonably attainable by an average child.

   e) The words “new”, “introducing”, “introduces” or similar words may be used in the same context in any children’s advertising for a period of up to one year only.
4. Product Prohibitions
   a) Products not intended for use by children advertised either
directly or through promotions that are primarily child-oriented.
b) Drugs, proprietary medicines and vitamins in any
pharmaceutical form, with the exception of children’s fluoride
toothpastes.

5. Avoiding Undue Pressure
   a) Children’s advertising must not directly urge children to
purchase or urge them to ask their parents to make inquiries or
purchases.
b) Direct response techniques that invite the audience to purchase
products or services by mail or telephone are prohibited in
children’s advertising.
c) In children’s advertising which promotes premiums or contests,
the product must receive at least equal emphasis. Promotion of
the premium or contest must not exceed one-half of the
commercial time. In promoting contests which have an age
restriction that excludes children, this must be made clear orally
or visually.

6. Scheduling
   a) The same commercial message or more than one commercial
message promoting the same product cannot be aired more
than once in a half-hour children’s program. In children’s
programs of longer duration, the same commercial message or
more than one commercial message promoting the same
product must not appear more than once in any half-hour
period.
b) No station or network may carry more than four minutes of commercial messages in any one half-hour of children’s programming or more than an average of 8 minutes per hour in children’s programs of longer duration.

c) In children’s programs, only paid commercial messages are included in the four minutes per half-hour limitation. Promotions and public service announcements may occupy the time difference between the Code limit and the CRTC regulation limit. Broadcasters will, however, consider the appropriateness of the content of public service announcements before scheduling in children’s programs.

d) For the purposes of this section, the time devoted to the broadcasting of a children’s program includes any time devoted to a commercial message that is inserted within the program and/or immediately adjacent to the end of the program and also includes any time devoted to a child-directed commercial message inserted between the end of the program and the beginning of the following program.

7. Promotion by Program Characters, Advertiser-Generated Characters, and Personal Endorsements

a) Puppets, persons and characters (including cartoon characters) well-known to children and/or featured on children’s programs must not be used to endorse or personally promote products, premiums or services. The mere presence of such well-known puppets, persons or characters in a commercial message does not necessarily constitute endorsement or personal promotion. (For example, film clips or animation are acceptable as a mood or theme-setting short introduction to commercial messages.
before presenting the subject of the commercial message itself.) These puppets, persons and characters may not handle, consume, mention or endorse in any other way the product being advertised.

b) This prohibition does not apply to puppets, persons and characters created by an advertiser which may be used by advertisers to sell the products they were designed to sell as well as other products produced by the same advertiser or by other advertisers licensed to use these characters for promotional purposes.

c) Professional actors, actresses or announcers who are not identified with characters in programs appealing to children may be used as spokespersons in advertising directed to children.

d) Puppets, persons and characters well-known to children may present factual and relevant generic statements about nutrition, safety, education, etc. in children’s advertising.

8. Price and Purchase Terms

a) Price and purchase terms, when used, must be clear and complete. When parts or accessories that a child might reasonably suppose to be part of the normal purchase are available only at extra cost, this must be made clear in audio and video.

b) The cost must not be minimized as by the use of “only”, “just”, “bargain price”, “lowest price(s)” etc.

c) The statement in audio, “it has to be put together” or a similar phrase in language easily understood by children must be included when it might normally be assumed that the article would be delivered assembled.
d) When more than one toy is featured in a commercial message it must be made clear in audio and video, which toys are sold separately (this includes accessories).

9. Comparison Claims
a) Commercial messages shall not make comparisons with a competitor’s product or service when the effect is to diminish the value of other products or services.
b) In the case of toys or children’s possessions, comparisons should not be made with the previous year’s model, even when the statements or claims are valid.

10. Safety
a) Commercial messages, except specific safety messages, must not portray adults or children in clearly unsafe acts or situations (e.g. the use of flame or fire is not permitted in children’s advertising).
b) Commercial messages must not show products being used in an unsafe or dangerous manner. (e.g. tossing a food item into the air and attempting to catch it in the mouth, etc.)

11. Social Values
a) Children’s advertising must not encourage or portray a range of values that are inconsistent with the moral, ethical or legal standards of contemporary Canadian society.
b) Children’s advertising must not imply that possession or use of a product makes the owner superior or that without it the child will be open to ridicule or contempt. This prohibition does not
apply to true statements regarding educational or health benefits.

12. Substantiation Required
Where measurable claims are made regarding specific products - performance, safety, speed, durability, etc., the advertiser must be prepared on request to provide the Children’s Advertising Section with evidence supporting such claims, and/or a sample of the product.

13. Assessment
Each commercial message shall be judged on its individual merit.
3.3.3 REGULATORY FRAMEWORK OF TV ADVERTISING IN U.S. [34]

A. Introduction

The Children's Advertising Guidelines have been in existence since 1972 when they were published by the Association of National Advertisers, Inc. to encourage truthful and accurate advertising sensitive to the special nature of children. Subsequently, the advertising community established CARU to serve as an independent manager of the industry's self-regulatory program. CARU edited and republished the Self-Regulatory Guidelines for Children's Advertising in 1975, revising them periodically to address changes in the marketing and media landscapes. A major revision in 1996 added a new section addressing children's privacy and data collection on the Internet. The assistance of CARU's Advisory Board, and of other children's advertisers, their agencies and trade associations has been invaluable.

B. The Children’s Advertising Review Unit (CARU)

The Children's Advertising Review Unit (CARU) of the Council of Better Business Bureaus was established in 1974 by the National Advertising Review Council (NARC). The basic objective of CARU was to promote advertising accountable for children and to respond to public apprehensions. The basic activities of CARU’s include review and evaluation of child-directed advertising in all media, and online privacy practices because they affect children. Whenever the advertisings are found
to be misleading, imprecise or inconsistent with the Guidelines, CARU ask for changes through the voluntary collaboration of advertisers and Website operators.

Generally CARU reviews advertising in all media directed to children under 12 years of age.

CARU provides a general advisory service for advertisers and advertising agencies and also works as a source of informational material for children, parents and educators. CARU encourages advertisers to develop and promote the distribution of educational messages to children consistent with the Children’s Television Act of 1990.

C. Self-Regulatory Guidelines for advertising directed to children under 12:

1. Advertisers are asked to consider the understanding ability of children of the advertising message. Because children cannot evaluate the truthfulness of the advertisement to which they are exposed. Also advertisers should always take into account the level of knowledge, and maturity of the audience. Therefore, it is the duty of the Advertisers to protect children from their own vulnerabilities.

2. Advertisers should not exploit unfairly the imaginative quality of children as children are imaginative and that make-believe play constitutes an important part of the growing up process, Unreasonable expectations of product quality or performance should not be stimulated either directly or indirectly by advertising.

3. Products and content which are improper for children should not be advertised or promoted directly to children.
4. As advertising plays a significant part in educating the child, it is necessary for the advertisers to deliver accurate and truthful information in clear language as it affects the well-being of children.

5. As advertising has the potential to influence the behavior of children advertisers are advised to encash it wherever possible by focusing on the positive and beneficial social behavior, such as friendship, kindness, honesty, justice, generosity and respect for others.

6. Minority and other groups should be presented in positive and pro-social roles in advertisements. Also Social stereotyping and appeals to discrimination should be avoided.

7. Although many influences affect a child’s personal and social development, it remains the prime responsibility of the parents to provide guidance for children. Advertisers should contribute to this parent-child relationship in a constructive manner.

The function of the Guidelines is to outline those areas that need particular attention to help to avoid deceptive advertising messages to children. The intent is to help advertisers and deal sensitively and honestly with children and is not meant to divest them from the benefits of innovative advertising approaches. The Guidelines have been kept general with the belief that responsible advertising comes in many forms and that diversity should be encouraged.

- **Product Presentations and Claims**

  Children look at, listen to and remember many different elements in advertising. Therefore, advertisers need to examine the total advertising message to be certain that the net communication will not mislead or misinform children.
1. Copy, sound and visual presentations should not mislead children about product or performance characteristics. Such characteristics may include, but are not limited to, size, speed, method of operation, color, sound, durability and nutritional benefits.

2. The advertising presentation should not mislead children about benefits from use of the product. Such benefits may include, but are not limited to, the acquisition of strength, status, popularity, growth, proficiency and intelligence.

3. Care should be taken not to exploit a child’s imagination. Fantasy, including animation, is appropriate for younger as well as older children. However, it should not create unattainable performance expectations nor exploit the younger child’s difficulty in distinguishing between the real and the fanciful.

4. The performance and use of a product should be demonstrated in a way that can be duplicated by the child for whom the product is intended.

5. Products should be shown used in safe ways, in safe environments and in safe situations.

6. What is included and excluded in the initial purchase should be clearly established.

7. The amount of product featured should be within reasonable levels for the situation depicted.

8. Representation of food products should be made so as to encourage sound use of the product with a view toward healthy development of the child and development of good nutritional practices.
9. Advertisements that represent mealtime should clearly and adequately portray the role of the product within the framework of a balanced diet.

10. Snack foods should be clearly represented as such, and not as substitutes for meals.

11. Portrayals or encouragement of behavior inappropriate for children (e.g.: violence or sexuality) and presentations that could frighten or provoke anxiety in children should be avoided.

12. If objective claims are made in an advertisement directed to children, the advertiser should be able to supply adequate substantiation.

- **Sales Pressure**

Children are not as prepared as adults to make judicious, independent purchase decisions therefore, advertisers should avoid using extreme sales pressure in advertising presentations to children.

1. Children should not be advocated to ask parents or others to buy products. Advertisements should not suggest that a parent or adult who purchases a product or service for a child is better, more intelligent or more generous than one who does not. Advertising directed toward children should not create a sense of urgency or exclusivity, for example, by using words like "now" and "only".

2. Benefits attributed to the product or service should be inherent in its use. Advertisements should not convey the impression that possession of a product will result in more acceptance of a child by his or her peers. Conversely, it should not be implied that lack of a product will cause a child to be less accepted by his or her peers. Advertisements should not imply that purchase and
use of a product will confer upon the user the prestige, skills or other special qualities of characters appearing in advertising.

3. All price representations should be clearly and concisely set forth. Price minimizations such as "only" or "just" should not be used.

- **Disclosures and Disclaimers**

Children have a more limited vocabulary and less developed language skills than do adolescents and adults. They read less well, if at all, and rely more on information presented pictorially than verbally. Simplified wording, such as "You have to put it together" instead of "Assembly required," significantly increases comprehension.

1. All disclosures and disclaimers that are material to a child should be in language understandable by the child audience, legible and prominent. When technology permits, both audio and video disclosures are encouraged, as is the use of demonstrative disclosures.

2. Advertising for unassembled products should clearly indicate that they need to be put together to be used properly.

3. If any item essential to use of the product, such as batteries, is not included, this fact should be disclosed clearly.

4. Information about products purchased separately, such as accessories or individual items in a collection should be disclosed clearly.

5. If television advertising to children involves the use of a toll-free telephone number, it must be clearly stated, in both audio and video disclosures, that the child must get an adult's permission to call.
a. In print or online advertising, this disclosure must be clearly and prominently displayed.

b. In radio advertising, the audio disclosure must be clearly audible.

6. If an advertiser creates or sponsors an area in cyberspace, either through an online service or a Website, the name of the sponsoring company and/or brand should be prominently featured.

7. If videotapes, CD-ROMs, DVDs or software marketed to children contain advertising or promotions (e.g. trailers) this fact should be clearly disclosed on the packaging and the advertising itself should be separated from the program and clearly designated as advertising.

• **Comparative Claims**
Advertise which compares the advertised product to another product may be difficult for young children to understand and evaluate. Comparative claims should be based on real product advantages that are understandable to the child audience.

1. Comparative advertising should provide factual information.
   Comparisons should not falsely represent other products or previous versions of the same product.

2. Comparative claims should be presented in ways that children understand clearly.

3. Comparative claims should be supported by appropriate and adequate substantiation.

• **Endorsement and Promotion by Program or Editorial Characters**
Studies have shown that the mere appearance of a character with a product can significantly alter a child's perception of the product.
Advertising presentations by program/editorial characters may hamper a young child's ability to distinguish between program/editorial content and advertising.

1. All personal endorsements should reflect the actual experiences and beliefs of the endorser. Celebrities and real-life authority figures may be used as product endorsers, presenters, or testifiers. However, extra care should be taken to avoid creating any false impression that the use of the product enhanced the celebrity’s performance.

2. An endorser represented, either directly or indirectly, as an expert must possess qualifications appropriate to the particular expertise depicted in the endorsement.

3. Program personalities, live or animated, should not be used to sell products, premiums or services in or adjacent to programs primarily directed to children in which the same personality or character appears.

4. Products derived from or associated with program content primarily directed to children should not be advertised during or adjacent to that program.

5. In print media primarily designed for children, a character or personality associated with the editorial content of a publication should not be used to sell products, premiums or services in the same publication.

6. For print and interactive electronic media in which a product, service, or product/service-personality is featured in the editorial content (e.g., character driven magazines or Websites, product-driven magazines or Websites, and club newsletters) guideline 4 does not specifically apply. In these instances advertising content should nonetheless be clearly identified as such.
• **Premiums, Promotions and Sweepstakes**

The use of premiums, promotions and sweepstakes in advertising has the potential to enhance the appeal of a product to a child. Therefore, special attention should be paid to the advertising of these marketing techniques to guard against exploiting children’s immaturity.

**Premiums**

1. Children have difficulty distinguishing product from premium. If product advertising contains a premium message, care should be taken that the child's attention is focused primarily on the product. The premium message should be clearly secondary.

2. Conditions of a premium offer should be stated simply and clearly. "Mandatory" statements and disclosures should be stated in terms that can be understood by the child audience.

**Sweepstakes and Contests**

In advertising sweepstakes to children, care should be taken not to produce unrealistic expectations of the chances of winning, or inflated expectations of the prize(s) to be won.

• **Safety**

Imitation, exploration and experimentation are important activities to children. They are attracted to commercials in general and may imitate product demonstrations and other actions without regard to risk. Many childhood accidents and injuries occur in the home, often involving abuse or misuse of common household products.

1. Products inappropriate for use by children should not be advertised directly to children. Medications, drugs and supplemental vitamins should not be advertised to children.
2. Advertisements for children’s products should show them being used by children in the appropriate age range. For instance, young children should not be shown playing with toys safe only for older children.

3. Adults should be shown supervising children when products or activities could involve a safety risk.

4. Advertisements should not portray adults or children in unsafe situations, or in acts harmful to themselves or others. For example, when athletic activities (such as bicycle riding or skateboarding) are shown, proper precautions and safety equipment should be depicted.

5. Advertisements should avoid demonstrations that encourage dangerous or inappropriate use or misuse of the product. This is particularly important when the demonstration can be easily reproduced by children and features products accessible to them.
A. Introduction:
On 19 April 2004, the Broadcasting Commission of Ireland (BCI) launched its Children’s Advertising Code – Phase 3. This marked the third stage of a process designed to culminate in the creation of a code on children’s advertising in Ireland. The impetus to respond to this area of commercial activity comes from the Broadcasting Act, 2001 which requires the BCI to identify set standards to govern advertising and related practices aimed at children. The code is the first of its kind in Ireland.

B. General Code of Conduct

1. Social values
Children’s advertising shall reflect a range of values that are consistent with the moral and ethical standards and diversity of contemporary Irish society. It shall respect human dignity and not discriminate on grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race or membership of the Traveller community. Nor shall it be offensive to religious or political beliefs or encourage behaviour that is damaging to the environment. It shall respect the principle of equality and avoid sex stereotyping and any exploitation or demeaning of men, women or children.

2. Inexperience and credulity
   a) Inexperience and credulity
Children’s advertising shall not take advantage of the natural credulity and sense of loyalty of children. It must not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse their trust or exploit the lack of knowledge of children. It shall not exploit or without justifiable reason play on fear. These principles are given practical effect under the headings Factual Presentation and Price of Product.

b) Factual Presentation In particular, children’s advertising shall:

i. Give children an indication of the actual size of the product.

ii. Clearly indicate what parts, elements or accessories are included as part of the normal purchase of the product or service and which are only available at extra cost.

iii. Clearly indicate when batteries are required for the operation of the product and whether these are supplied with the product.

iv. Clearly indicate when a product has to be assembled and what age level is generally required to assemble and use the product.

v. Avoid the use of language, special effects or imaginative scenes that could confuse pre-school and young children those under 8 years of age] and have them believe that the product or service has capabilities and characteristics that it does not have in reality e.g. ‘magical’.

vi. In the case of toys or children’s possessions, avoid making direct comparisons between existing and ‘improved’
versions/models of the product, even when the statements or claims are valid.

vii. Ensure that ‘small print’ on children’s advertising is clear, simple and legible and remains on screen for a sufficient length of time to enable the child to read it. In the case of children’s advertising for products or services to pre school children, any on screen messages should be stated orally in order to ensure that children of this age understand the message.

c) Price of product/service

With regard to how the price of a product or service is presented in children’s advertising, the following rules shall apply:

i. The price, when given, shall be in euro and be inclusive of VAT or any other extra or related charges.

ii. The price shall be presented in a clear large font and where appropriate be voiced as part of the audio.

iii. If the price is dependent on the purchase of another item, then this must be made clear in the advert.

iv. If there are a number of products in the advert and the price of an item/or items is highlighted, then it must be made clear that the price refers to this item/items only.

v. The language used in presenting the price shall not minimize its cost, e.g. through the use of words such as ‘only’ or ‘just’. The advert shall not imply that the price of the product is affordable to all families.

vi. Expensive toys shall state the price in the advert. In this instance, expensive is defined as over €30 for the total price of the product or service being advertised.
vii. Children’s advertising that refers to ‘free gifts’ must include all qualifying conditions, e.g. any time limit, how many products need to be bought, how many wrappers need to be collected, etc.

3. **Undue pressure**

   a) Children’s advertising shall not directly encourage or exhort children to ask adults to buy them the products or services being advertised.
   
   b) Children’s advertising should not imply that possession or use of the product or service will make the child or his or her family superior, either physically, socially or psychologically. It should not imply that the child or his or her family will be inferior or open to ridicule or contempt if they do not possess the particular product or service.
   
   c) Children’s advertising must be particularly careful to avoid the implication that possession of a product or service will contribute to or detract from the child’s popularity or acquisition of friends.
   
   d) Children’s advertising should not make the child feel inferior, disloyal or doubtful about their self-image.
   
   e) Children’s advertising must not offer prizes or rewards to children for attracting new purchasers for the product or service.

4. **Special protection for children in advertising**

   In general, children may appear in children’s advertising if their appearance is as a natural element in the depicted environment or necessary to explain or demonstrate the use of the product or service. The following restrictions will apply:
a) Children endorsing products: Children shall only be used in children’s advertising to comment on or endorse products that they could reasonably be expected to use and would usually be interested in themselves.

b) Sexualisation of children: Children’s advertising shall not portray a child in a sexually provocative manner or provoke anxiety in children over their bodily appearance.

c) Privacy and provision of information: Children’s advertising shall, where possible, avoid the practice of asking children to send private information or details regarding themselves, their family or friends. When this practice is used, children’s advertising shall state that children must seek adult approval before sending the information and children’s advertising must ensure that children seek the permission of their parents/guardians. Where information has been given, extreme care must be taken to ensure that all personal details are fully protected and used in a socially responsible manner and in accordance with relevant legislation.

d) Adults pretending to be children: The use of adults pretending to be children in children’s advertising must not be offensive to the dignity of children.

5. General safety

a) Activity

1) Children’s advertising shall not encourage children to enter into unsafe situations or strange places or to talk to strangers.

2) Children’s advertising shall not show children in morally or physically dangerous situations or behaving dangerously in
the home or outside, except when the sole purpose of the advert is to promote safety.

3) Children’s advertising shall show children using safety rules when engaged in activities that require such and with adult supervision where appropriate, for example as passengers in vehicles, as pedestrians, cyclists, when rollerblading, skateboarding, swimming, water sports or horse riding.

4) Children’s advertising should not show children using or close to dangerous substances for example – matches, gas appliances, petrol, certain household substances or in possession of or administering medicines unless under direct adult supervision.

5) An open fire shall always have a fireguard clearly visible when a child is included in the scene.

6) Children’s advertising shall not show children in close proximity to dangerous equipment without direct adult supervision.

7) Children’s advertising shall not show children using the Internet without adult supervision.

8) Children shall not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety.

b) Behaviour

1) Children’s advertising shall not encourage children to engage in, or be portrayed engaging in, anti-social behaviour, in particular bullying, taunting or teasing of other children.

2) Children’s advertising should not disparage education or condone aggression or greed as admirable qualities.
6. Violence

Children’s advertising should not generally, as a principle, include violence or include scenes that will cause distress to children. In instances where the inclusion of violent scenes may be necessary as part of a public service message or in order to demonstrate the product, advertisers must have regard to the likely age group of the children watching and must schedule responsibly so as to ensure that such advertising does not cause distress, in particular to young children.

7. Diet and nutrition

a) Children’s advertising shall not portray or refer to celebrities, sports stars or children’s heroes, to promote food or drink products, unless the advert is part of a public health or education campaign.

b) Children’s advertising shall not encourage an unhealthy lifestyle or unhealthy eating and drinking habits such as excessive or compulsive eating.

c) Children’s advertising representing mealtime should clearly and adequately depict the role of the product within the framework of a balanced diet.

d) All children’s advertising for products or services coming within the recognised character of, or specifically concerned with confectionery, must show a toothbrush symbol on the screen. For example, cakes, biscuits, sweets and chocolate.

e) Children’s advertising must not contain any misleading or incorrect information about the nutritional value of the product.
f) All children’s advertising for fast food products, outlets and/or brands must display an acoustic or visual message stating that this type of food should be eaten in moderation and as part of a balanced diet. Fast food is defined as food coming under the recognised character of fast food and/or inexpensive cooked food that is prepared and served quickly.

g) Children’s advertising must not make unjustified comparisons between foods or imply that particular foods are a substitute or replacement for fruit and/or vegetables.

8. Parental responsibility
Parents and guardians have primary responsibility for children but advertisers should support the parent/guardian/child relationship by scheduling responsibly and by not undermining the authority, responsibility or judgement of parents or guardians in the content of the advertisement. This includes the use of plot lines that encourage children to deceive or manipulate adults into purchasing or providing the product or service advertised. Children’s advertising shall not suggest that a parent or adult who purchases or provides a product or service for the child is better, more intelligent or more generous than one who does not.

9. Programme characters
Characters and personalities from children’s programmes that are broadcast on indigenous services shall not be used to endorse or advertise products or services in children’s advertising. This provision does not apply to children’s advertising for products,
events or services, directly associated with the programme in which the characters and personalities normally appear.
In the case of children’s advertising for products, events or services directly associated with the children’s programme, then these two adverts must not be broadcast for two hours prior to the beginning and end of the programme in question.

10. Product prohibitions and restrictions
a) The Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services sets out prohibitions and restrictions on a range of products and services. These include medications, alcohol, tobacco and financial and legal products. These restrictions also apply to children’s advertising.

b) In addition to the restrictions and prohibitions listed in that document, the following products, services, treatments or establishments shall not be advertised in children’s advertising:

c) Betting and Gaming services or products (except the National Lottery as permitted by the National Lottery Act 1986).

d) Slimming products, services, treatments or establishments, (slimming being defined as weight reduction, limitation or control).

e) Introduction and dating services.

f) Services of a sexual nature.
11. Identification and separation
   a) Children’s advertising must be clearly distinguishable from
      programming content with respect to image, text and sound.
      It must not include excerpts from children’s programmes that
      might blur the distinction between advertising and
      programme content.
   b) Children’s advertising shall be clearly separated from
      programming content. Broadcasters are required to provide
      a visual or acoustic cue to the child during and around
      children’s programming to alert the child when a commercial
      break is beginning and ending. Such a cue shall not be
      sponsored or itself contain advertising material.

12. Insertion of advertising
   a) A children’s programme of less than 30 minutes scheduled
      duration may not be interrupted by advertising.
   b) Christmas themed children’s advertising may not be
      broadcast prior to November 1st each year. Christmas
      themed advertising refers to advertising that contains
      references, either visual or acoustic, to Christmas.

13. Scheduling children’s advertising
   a) A children’s programme is defined with reference to the
      profile of those watching or listening to that programme.
      Therefore, a children’s programme is one commonly referred
      to as such and/or a programme where over 50% of those
      watching the programme are under 18 years of age. The
      code recognises the principle of parental responsibility. In
      general terms, programmes broadcast after 10pm and where
viewers are warned that it contains adult content, if the audience profiling shows that over 50% of the audience is under 18, this programme will not be classified as a children’s programme as in this instance the primary responsibility for what the child is watching is seen to lie with the parents/guardians.

b) Broadcasters will use audience profiling to determine what a children’s programme is. In the case of long running programmes, broadcasters will take an average of the audience figures over a reasonable period of time in determining whether the programme is a children’s programme.

c) Broadcasters will use audience profiling to determine what a children’s programme is. In the case of long running programmes, broadcasters will take an average of the audience figures over a reasonable period of time in determining whether the programme is a children’s programme.

d) In the case of once off programming or short series, it may not be always possible to predict what will be the audience profile of those watching the programme. In these instances, broadcasters should refer to the indicative scheduling guidelines outlined below. These are indicative times during which particular age groups most usually watch television. In scheduling children’s advertising and making an assessment as to the appropriateness of the advertisement, broadcasters are requested to assess this in light of the likely age group watching at that time.
e) Regular programmes that ordinarily are not classified as children’s programmes may in exceptional circumstances attract an audience of which over 50% of those watching are children. Broadcasters are required to be mindful of the likelihood of this happening in view of upcoming storylines or programmes and schedule children’s advertising accordingly.

f) Indicative scheduling guidelines These guidelines are intended to provide an indicative framework for both advertisers and parents/guardians.

g) In scheduling children’s advertising, broadcasters shall consider the appropriateness of the advert or the likely distress that an advert may cause to a child, in particular to pre-school children. Scheduling of children’s advertising shall take cognisance of the appropriateness of the advert, not in and of itself, but is appropriateness at the time the advert is broadcast, considering the likely audience profile at that time. The primary means of determining the correct scheduling of children’s advertising will be based on audience profiling.

Where this is not possible, broadcasters shall refer to the following indicative guidelines:

1. If broadcasters consider that particular children’s advertising is inappropriate for pre-school children, then it should not be broadcast during and between children’s programmes that target that age group.

2. If broadcasters consider that particular children’s advertising is inappropriate or likely to cause distress for children from 5-10 years of age then it should be broadcast post 9pm. This
would avoid viewing by the majority of those in this age group.

3. If broadcasters consider that children’s advertising contains material, of a sexual or violent nature not suitable for children under 15, then a post 11pm restriction must be considered.

14. **Assessment**

Each example of children’s advertising or advert will be assessed on its own merit. This means that each advert will be assessed based on its content but also the context in which it appears. That means the time it is broadcast, the type of programme that is on when it is broadcast and the likely profile of the audience that is watching when it is broadcast.
3.3.5 REGULATORY FRAMEWORK OF TV ADVERTISING IN NETHERLANDS [38]

A. Introduction:

The regulation of children’s television advertising falls within the framework of the TWF (Television without frontier) directive. The media law & the media degree of 1987 & their subsequent amendments outline regulations governing the production & transmission of radio & television programmes & advertising provisions, both for terrestrial(public broadcaster) & cable & satellite channels (Commercial television) [39]. The media law lays down specific provisions for children’s television advertising only when regulating sponsorship on public broadcasters. The media law allows public broadcasters to sponsor individual programmes but bans the sponsorship of news & current affairs programmes, consumer information programmes & programmes which are specifically aimed at young people under the age of twelve on the other hand it does not specify this restriction for commercial broadcasters, who are allowed to sell sponsorship of individual programmes particularly aimed at children under twelve. The media Decree further details the provision in the media law, both for public & private broadcasters. Public broadcasters are strictly regulated: programmes aimed at children younger than 12 years old may never be interrupted by advertising. [40]
B. The Netherlands Advertising Code:

Advertising to children in the Netherlands is subject to both law & the self regulatory provisions of the Netherlands Advertising Code (NRC) [41]. It applies to both public & private broadcasters.

In NRC a minor is defined as a person under eighteen years of age, & a child is defined as a person under twelve years of age. The rules that affect minors & children in the NRC are divided between two sections, covering both general principles & product specific guidelines.

C. General Principles applicable to advertising & children:

1. Without justifiable cause, advertising should not arouse feelings of fear or superstition.
2. Advertising should not be misleading, in particular about the price, content, origin, composition, properties, possibilities or effectiveness of the products concerned.
3. Advertising should be as clear & complete as possible in terms of such factors as its nature & form & the public at which it is aimed.
4. The party selling the products should be indicated clearly.
5. The code clarifies that the minors’ mental grasp & expectations, in particular regarding the pleasure derived from playing with the product, & the performance of the product, must be taken into account.
6. Advertising should be recognizable by its layout or presentation & must take particular care of the public for which it is intended.
7. Advertising on television should not cause any mental or physical harm to minors. In order to protect minors, advertising should not encourage minors to buy a particular product by taking advantage of their inexperience or credulity, it should not encourage minors to persuade their parents or others to buy advertised product, it should not take advantage of the special confidence which they have in parents, teachers or others & it should not without reason, depict minor in dangerous situations.

D. Industry Specific Content provisions

The provisions in these codes refer to minors & children on other media such as cinema & outdoors.

1. Advertising code for Alcoholic beverages[^42]: advertising of alcoholic drinks should not be aimed specifically at minors, advertisements should neither show young people drinking & encouraging the consumption of alcoholic beverages, nor show the idols drinking or encouraging consumption of alcoholic beverages. Also advertisement should not suggest that the consumption of alcoholic beverage is a sign of maturity. For all alcoholic advertisements broadcast on television must include a warning message, such as “enjoy, but be sensible”[^43], & each brand must carry an educational slogan at least once a year. The slogan has to be clearly visible & encourage the consumer to adopt a responsible attitude or warning them against misuse.

2. Code for telephone information services[^44]: Telephone services providing information which is implicitly or explicitly of
an erotic, sexual or pornographic nature should not be aimed at or make use of minors.

3. **Advertising code for casino games**[^45]: great care should be exercised in advertisements for casino games that can affect vulnerable groups in particular minors, advertising should not be aimed specifically at minors & minors should not be depicted in such advertising.

4. **Advertising code for Confectionary**[^46]: confectionary is defined as all food stuffs & delicacies that do not form a part of regular meals & which are consumed between meals. Advertising should not encourage excessive consumption nor suggest that it can replace a meal, also it should not show situations in which it is consumed immediately after brushing teeth before going to bed. i.e. confectionary consumption should not be encouraged at such times.

E. **Industry Specific Scheduling Provisions**

Two categories of products are subject to special scheduling guidelines in connection with minors; these are alcoholic drinks & casino games. In this regard no advertisement for alcoholic drinks may appear immediately before & after television programmes which are intended for or are known to be watched primarily by minors. Also no advertisement for casino games shall be placed in or through media or parts of the media specifically intended for minors for example: special television programmes.[^47]
F. Industry Specific sponsorship restriction

These two categories are also subject to sponsorship restrictions in connection with children. Members of the alcoholic drinks sector should not sponsor television programmes specifically intended for vulnerable groups, particularly minors.
3.3.6 REGULATORY FRAMEWORK OF TV ADVERTISING IN UK [48]

A. Introduction

The Independent Television Commission (ITC) is the regulatory body responsible for licensing & regulating commercially funded television channels in UK, whether terrestrial or through cable & satellite. It also licenses & regulates digital terrestrial television services. The BBC is governed by a royal Charter & applies a set of internal rules for its public service television & radio services. Misleading advertising is regulated by the 1988 Consumer Protection Act," The Control of Misleading Advertisements Regulations", which implemented the Misleading Advertising Directive [49].

The ITC requires all of the television companies that it licenses to comply with the codes. Broadcasters have to demonstrate to the ITC that they have satisfactory arrangements in place in order to ensure that all television advertising transmitted by them is prevetted & complies with the ITC code. Rules for the cable & satellite channels are different than these for the terrestrial television.

The public broadcaster BBC does not carry advertising or sponsorship. However, BBC World- Wide Television, which is commercially funded, is permitted to take advertising. Broadcasters are responsible for the advertising they transmit,& the ITC has control over the broadcaster, not the advertiser. If any licensed broadcaster fails to comply with the conditions set out in the
broadcasting Act or in the ITC codes, the later can impose penalties, which range from warnings to the shortening or revocation of the license [50].

B. Regulation of Children’s Television Advertising:

The rules 7 regulations governing children’s television advertising in the UK are laid down in the ITC codes: The code of advertising standards & Practice (CASP), & the rules on advertising Breaks(RAB). Children are defined as those of 15 years or under, & children Programmes are those primarily designed for this audience. The CASP states that advertisers should take particular care over advertisements that are likely to be seen by large numbers of children, or in which children are employed.

1. Provisions on Content: under this category the CASP lays down provisions that aim at the protection of children from harmful situations or product, & to prevent misleadingness. No product or service may be advertised, & no method of advertising may be used that might result in harm the children physically, mentally or morally, & no method of advertising may be employed which takes advantage of the natural credulity & sense of loyalty of children.

a. Avoiding exploitation of children’s lack of experience:
   i. In children’s advertising a certain degree of fantasy is permitted, but the portrayal of toys & other children’s products must be accurate.
   ii. The true size of the product must be made easy to judge.
   iii. When advertisement show results from a drawing, construction, craft or modeling toy or kit, the results
shown must be reasonably attainable by the average child.

iv. The advertisement must not exaggerate ease of assembly. Captions or superimposed text must be clearly legible & held long enough for the full message to be read by the average viewer.

v. Advertisers should take care in advertising premium offers in which the premium items are not supplied with the product.

b. Children’s safety, prevention of emulation & exploitation:

According to CASP any advertisement in which children are to be seen or heard must be considered from a safety point of view.

i. General safety provisions require that children are not seen in dangerous situations.

ii. Children must not shown using matches, or any gas, petrol, paraffin, mechanical or mains powered appliance, nor can they be shown driving or riding agricultural machines, the open fires shown in advertisement must always have a fireguard clearly visible. Children must not be shown being administered or self administering medicines or vitamins or other dietary supplements unless the product is suitable for children.

iii. Advertisement must not portray children in a sexually provocative manner & if children appear naked or partially undressed particular discretion is required.

iv. Children must not be seen & heard in an advertisement for alcoholic drink. No advertisement for alcoholic drink
may feature people whose example children are likely to follow or who has a particular appeal to them.

v. Children should not be shown entering strange places, or in lonely places. No advertisement should encourage children to converse with strangers.

vi. Children under eight should not appear in advertisements for peanuts & nuts.

vii. Children must not be shown asking their parents, friends or relatives to buy them things.

c. Specific restrictions by product category to avoid harm, emulation or exploitation e.g. toys, food & medicine:

i. General Guidelines
   a. Advertisement should not show children neglecting their daily hygiene requirements.
   b. No advertisement may imply a lack of loyalty on the children’s part if they fail to buy a product or service.
   c. No advertisement may lead children to believe that if they do not have or use the product or service they will be inferior to other children, or liable to ridicule.
   d. Advertisement must not induce children to purchase or to pester adults to purchase.

ii. Toys: Advertisements of toys replicas of tools or household appliances must avoid scenes that might encourage children to play with the real thing in kitchen. Potentially dangerous toys such as air guns, sharp knives, or other guns firing projectiles capable of causing injury, may not be advertised.
iii. **Food:** The code of advertising Standards & practice lays down rules regarding advertising of food & Medicine for promoting good dietary habits. These are as follows.

a. Advertisement must not encourage excessive consumption of any food.

b. Advertisement must not damage good dietary habits, or discourage consumption of food that is generally accepted as good dietary option, such as fruits & vegetables.

c. Confectionary & snacks products should only be presented as an occasional pleasure.

d. Particular attention must be paid to advertisements of snacks & confectionary addressed to children in respect of oral health.

e. Advertisements for alcoholic drinks must not be directed at people under eighteen & there are content guidelines that aim at the protection of youngsters.

f. Specific nutritional claims or health claims must be supported by sound scientific evidence & must not give a misleading impression of the nutritional or health benefits of the food as a whole.

iv. **Medicine:** Advertisements for medicines must comply with other relevant regulations, such as the medicines act 1968 or the medicines (Advertising) regulations 1994. medicines are defined as products that carry a product license. Dietary supplements are defined as isolated, highly purified or concentrated products sold in forms similar to medicines, e.g. vitamins or minerals.
a. No advertisements for a medicinal product may be directed at people under the age of 16 or use treatments likely to be of particular appeal to them.
b. Advertisements should not show medicines & treatments being administered to children unless the product is suitable for them.
c. The correct children’s dose must be stated.
d. Medicines, disinfectants, antiseptics & caustic or poisonous substances must not be shown within the reach of children without parental supervision.
e. Advertisement for slimming products cannot be addressed to people under eighteen.

2. Scheduling Restrictions: this category of restrictions concerns material that is potentially distressing or frightening to children, or more sexually explicit. Advertising is not permitted in a programme for children of less than an hour of scheduled transmission.

i. Breaks adjacent to children’s programmes: The ITC rule ensures that none of the advertising that appears around programmes that children watch will be unsuitable for children. Content material that is deemed to be harmful or inappropriate for children will fall under this restriction. Products like medicines, vitamins, dietary supplements, matches, liqueur chocolates, trailers of films, premium rate phone services, lotteries, religious advertising etc. should not be advertised adjacent to children’s programmes.

ii. Timing restrictions or “watershed”: 
a. **Not before 19h00:** this watershed concerns advertising that cannot be transmitted in or adjacent to programmes directed to very young children. The restriction tries to avoid very young children getting frightened by any specific image. Other restricted products are condoms & sanitary protection.

b. **Not before 21h00:** this watershed is directed at preventing images or situations that children should not see. Advertising content after 21h00 is supposed to be adult material, as well as programming after that specific time.

iii. **Advertisement subject to watershed:** advertisements for medicines specially formulated for children & advertisements in which children are shown having any medicine, vitamin or other dietary supplement. Advertisements in which personalities or characters who regularly appear in children programmes present or endorse products of special interest to children. Advertisements for branded contraceptives & sanitary protection products cannot be advertised during specific watersheds & at weekends & on major public & school holidays.

3. **Restrictions on Sponsorship:** Sponsorship of children’s programmes is allowed in UK. The ITC code of programme sponsorship gives further guidance for the sponsorship of children’s programmes. The control of sponsorship is a direct responsibility of the ITC, since the BACC is only concerned with spot advertising it may suggest timing restrictions, but the final decision is left on the broadcaster.
3.3.7 REGULATORY FRAMEWORK OF TV ADVERTISING IN SPAIN

A. Introduction

Spain has two levels of television legislation: state and regional. The Spanish legislature has chosen not to set up a specific regulatory framework for the public state television channels. The State has delegated, to the regional Parliaments, the authority to legislate and monitor the regional mass media and this includes the regulation of advertising. A parallel level of regulation has been established by the concept of self-regulation. The Self-regulation Code of Advertising develops certain guidelines of conduct for advertising in general, and for that targeted at children in particular. Other codes of self-discipline include those signed by consumers’ associations and some sectors of industry such as toy manufacturers and brewers. On the other hand, legislators do not have a definition of *child*. Media and advertising laws refer to “minors”, but the exact age limits within which a person should be considered a minor have not been defined. When referring to audiences, however, the target group “children” is measured from four to twelve years of age. The target group “youngsters” is from twelve to sixteen years of age.

B. The Laws

Spanish regulation of TV advertising aimed at children is brought together in two laws: the General Law on Advertising of 11 November 1988, which regulates matters concerning advertising,
and Law 25/94 of 12 July 1994, which incorporates into the Spanish legal system. Both laws regulate the content as well as the frequency and quantity of advertising permitted on Spanish television.

1. General Law on Advertising (LGP)

The LGP declares illegal any advertisement that threatens the dignity of any individual or infringes the values and rights recognised in the Constitution, especially when concerned with questions of children, youngsters and women; misleading, unfair or subliminal advertising or that which sets standards for certain products and services [54]. The LGP prohibits televised advertising for tobacco, and of alcoholic beverages.

The law provides for the protection of minors with regard to advertising states that, “Televised advertisements will not contain images or messages that may harm minors either morally or physically”.

To this end the following principles must be respected:

i. Minors should not be directly encouraged to purchase a product or a service, exploiting their inexperience or credulity, nor to persuade their parents or guardians or the parents or guardians of third parties to purchase the products or services concerned.

ii. Under no circumstances should the special trust that children have in their parents, teachers or other persons be exploited.

iii. Children should not, without good reason, be exposed to dangerous situations.”

iv. The Law provides for the protection of minors with respect to programmes broadcast and more specifically prohibits the broadcasting of scenes or messages of any type that may seriously endanger the physical, mental or moral development
of minors; similarly, the broadcasting of programmes which foster hate, contempt or discrimination for reasons of birth, race, sex, religion, nationality, opinion or any other personal or social circumstance are prohibited.

v. The law establishes a time limit for the broadcasting of programmes likely to endanger physical, mental or moral development of minors, and particularly those that contain scenes of pornography or gratuitous violence. The broadcasting of the aforementioned programmes may only take place in the time segment 22:00 to and should be the object of prior warning.

vi. Also another law declares illegal any advertisement that may encourage behaviour that endangers the health or safety of any individual, or which does not respect a reasonable level of human dignity or political and religious beliefs or discriminates on grounds of birth, race, sex, religion, nationality, opinion or any other personal or social circumstance.

vii. Any advertisement that incites violence or anti-social behaviour, that exploits fear or superstition, or that may foster abusive, careless, negligent or aggressive behaviour, or that incites cruelty to persons or animals, will also be deemed illegal.

viii. Another article addresses the advertising of alcoholic beverages, stipulates that advertisements for the aforementioned beverages must not be specifically directed at minors, or show any minor consuming such drinks.

ix. With regard to the frequency and insertion of commercial breaks, the Law limits itself to adapting the provisions laid out in the aforementioned TWF Directive dealing with children’s programmes with duration of less than 30 minutes. Such
programmes, in accordance with the Directive, may not be interrupted by commercial breaks” [55].

x. The time limit for advertising in general, for all the broadcasters, is capped by the Law at twelve minutes accounting for a maximum of fifteen per cent of total daily programme [56].

xi. The Law does not make any particular specifications as to the manner in which the sponsorship of programmes for children and youngsters should be regulated, nor does it establish a specific set of rules for individual products, except for tobacco and medicines delivered only under prescription, which may not be advertised or act as sponsors.

2. Regional Laws for the Protection of Minors

The autonomous regions have developed their own laws regulating the broadcasting of programmes and advertisements in the media that they own. The provisions which affect advertising aimed at minors or the participation of minors in advertising are to be found in regional laws providing for the protection of minors [57].

i. In the Catalan broadcasters, children and adolescents may not perform in advertisements promoting the sale of alcoholic beverages.

ii. In the Madrid autonomous broadcasters, all advertisements for children’s products must mention the price of the product being advertised.

iii. Any dramatisation used for advertising purposes which involves the participation of minors must avoid messages which encourage compulsive consumption.

iv. The advertising of establishments offering lotteries, betting and services and shows of an erotic or pornographic nature is
prohibited in the Madrid audio-visual media in the time segments when special protection for children applies.

v. In the broadcasters of the Basque Country, advertisements may not associate the consumption of alcohol with the use of vehicles or arms.

vi. The broadcasting of advertisements for alcoholic beverages (and tobacco) from radio and television transmission centers located in the Basque Country is prohibited during the time band from 20:00 to 22:00.

3. Broadcasters’ Internal Regulations for Advertising

i. Television: In Spain regulations took into account the provisions contained in the European text with regard to advertisements aimed at children. Standards were set for the advertising of toys and the participation of children in advertisements.

- Advertisements broadcast by TVE may not encourage minors to purchase any product or to contract any service by exploiting their inexperience or their credulity, nor to persuade their parents or third parties to do so.

- Advertisements on ‘I’VE may not exploit the special trust that minors have in their parents, teachers or other persons.

- Advertisements may not expose minors to dangerous situations or situations likely to provoke violent, unjust or self-interested attitudes or attitudes that contravene educational principles.
Advertisements for toys which involve the extolling of warmongering or violence or which are the reproduction of weapons will be rejected. In the same way, advertisements for toys which use methods which may be dangerous for children will be rejected. In advertisements containing a demonstration of toys for constructing, modeling, or similar activities, the simplicity of making the objects shown will not be exaggerated.

In demonstrations of the use of toys, it will be made very clear whether the toy is operated manually or mechanically, thus avoiding confusing children with any special effects that the advertisements may have. There must be no confusion between parts that are sold with the toy and those that are sold separately. When the toys are intended for children of specific ages, these will be clearly indicated.

Toys must be presented in the advertisement in a way that gives a true impression of their size. The advertisers will guarantee that the toys which are the object of the advertisement comply with the established regulations.

Children may not be the main actors in advertisements, except for products intended exclusively or primarily for children or those related to health, hygiene, clothing, literature, food, sports products, educational games and children’s games.

The children will speak and act in a natural manner and will not express opinions that are inappropriate for their age.
Advertisements for alcoholic beverages will not be specifically aimed at minors or present minors as the protagonists or consuming the aforementioned beverages.

TVE’s regulatory norms do not stipulate any rules for the frequency or positioning of advertising aimed at children. Nor do they regulate in any way the sponsoring of programmes for children or youngsters, or specific categories of products which are aimed at children.

ii. Private Broadcasters

Private television stations do not have regulations, but are in agreement with a document interpreting Law as far as references to content; quantity and frequency are concerned [58]. The document does not specify the criteria that should be used for the interpretation of the provisions laid out in Article 16, on the protection of minors with regard to advertising. It only goes as far as repeating that advertisements described in the aforementioned article are prohibited.

C. Monitoring and Sanctions

The Spanish media are not regulated by any independent organisation. Public services television is monitored by a Parliamentary Commission, which is dependent on the political make up of Parliament, and the public broadcaster’s Board of Directors also supervises the content of its programmes. Both the Board of Directors and the General Manager may be called before the Parliamentary Commission to explain certain actions especially in matters related to the protection of minors. Public television TVE has an internal committee for the monitoring of advertisements (the Advertising Advisory Commission). This
Commission replaces the former Censorship Committee. Given that Law considers the television company to be the only party responsible for the content of the advertisement being broadcast, TVE is conscious of its duty to fulfill the provisions laid out in the Law, as well as those stipulated in TVE's internal regulatory norms. The Commission meets twice a week and expresses its opinion on each and every one of the campaigns which are accepted. Traditionally, publicists and the other broadcasters have respected the TVE Commission’s judgments and sometimes follow its advice. The Law on Private Television of 3 May, which was the legal text providing regulation for private broadcasters until 1994, only specified the yearly advertising limit that is, ten per cent of the total annual programme time. In 1998 the contract was awarded to the company Znfoadex, and since 1999 to SOFRES. The General Secretariat for Communication requires the consulting firm to provide the information necessary to be able to fulfill its monitoring, checking and inspection duties for the television broadcasting service. The consulting firm supplies information about programmes and advertisements, in accordance with the provisions laid out in Law of 12 July on the Adaptation of the Directive. In particular, information relating to the broadcasting of prohibited advertisements, advertisements for alcoholic beverages, broadcasts that do not respect the regulations on the selection and positioning of advertisements, and those which fail to observe Articles 13 and 14, must be presented in an objective manner.
D. Self Regulation

In 1995 the Advertising Self-Regulation Body (*Autocontrol*) was created to defend and monitor advertising practices within the Spanish market. Amongst the aims of *Autocontrol* is the drawing up of ethical codes of practice for advertising in a general capacity as well as in a sector capacity, and to resolve any conflicts that may arise from the creation of a particular advertisement. *Autocontrol* is a member of EASA (the European Advertising Standards Alliance). *Autocontrol* encourages the use of mediation for a solution, avoiding the Courts dictating resolutions independently of the association [60]. Such resolutions are binding to the members; for those not in the association the resolutions have a moral value that may be effective. The *Autocontrol* Court is an independent court that resolves conflicts that have not been solved through mediation. *Autocontrol* brings together agencies, associations, federations, media and media groups and advertisers amongst those the presence of toy manufactures and baby food producers.

The ethical rules within the Advertising Code of Conduct are divided into basic principles of authenticity, demand for truthfulness, rules for certain advertising forms and techniques and the protection of children and adolescents. The section dedicated to children does not specify their ages.

- Advertising should be extremely sensitive. It should not exploit the naïveté, immaturity, inexperience or natural credulity of children or adolescents, nor abuse their sense of loyalty.
• Advertising that ought to influence children and adolescents should not contain statements or images that might cause them mental, moral or physical damage.

• Advertisers should take special care that their publicity does not mislead or deceive children about the actual size, value, nature, durability or performance of the product. If other articles, such as batteries, are required for their use or to achieve the results demonstrated or described, for example paint (colour), it should be explicitly stated.

• Advertisers should not overestimate the level of skill or age limit of the children who could enjoy or use these products.
3.3.8 REGULATORY FRAMEWORK OF TV ADVERTISING IN SWEDEN [61]

A. Introduction

The key text in the advertising field is the Marketing Practices Act (MPA) which also implements the European Directive on Misleading advertising [62]. It came into force in 1996, amending the previous Act of 1971. “The object of the MPA is to promote the interests of consumers and of trade and industry in connection with the marketing of products and to counteract marketing which is unfair to consumers and businessmen” [63]. The MPA states some criteria for the identification of misleading advertising:

- All statements and claims in advertising must be truthful
- Companies must be able to substantiate their claims.
- Misleading or unfair advertising can be prohibited
- Especially important facts for consumers must be included in advertisements.

These are supplemented by nine other sections with specific bans, restrictions or requirements: identification of advertising, misleading advertising, misleading packaging counterfeiting, different kinds of sales, inertia selling, fraudulent invoicing and sales promotions. There are special regulations on the marketing of tobacco, alcoholic beverages and consumer credit. If a company violates these rules, it may be ordered to pay a “market disturbance” charge of up to five million Skr. (pounds 380,000) but not more than ten per cent of the company’s turnover. Unfair marketing may also result in the obligation of the company to compensate for damage to consumers or other companies.
In the mid-1980’s, a number of industries set up sectorial bodies applying their own specific codes. Other bodies are of a more general nature, such as the marknads Etika Radet (MER). The MER or Council on Marketing Ethics was set up in 1989 by the ICC Sweden and the Trade and Industry Committee on Market Law. It is the central self-regulatory body. The MER delivers statements on individual cases that are used as examples for what is, or should be, considered “good business practice”. The MER applies the ICC Codes. Although Sweden has vast legislation for advertising and marketing, self-regulation is well recognised and appreciated by the Government. Self-regulation also plays an important role in interpreting the Marketing practices Act (MPA)\(^{[64]}\).

**B. Radio and Television Act**

The Radio and Television Law of 1996 does not allow television advertising directed at children under the age of twelve\(^{[65]}\). Also, all advertising directly before and after children’s programmes is forbidden. The RTA lays down provisions for commercial advertisements and other announcements. “Commercial advertisements in a television transmission may not have the purpose of attracting the attention of children under the age of twelve.”

Persons or characters that play a prominent role in programmes primarily intended for children under the age of twelve may not appear in commercial advertisements in a television transmission”\(^{[66]}\).

The prohibition in the RTA applies only to spot advertising and not to non-commercial messages, such as information on traffic safety
or even to sponsorship credits. The law draws up certain scheduling restrictions. Commercial advertisements may not occur immediately after or before, or within a part of a programme that is principally intended for children under the age of twelve, except when it is a sponsorship credit.

The RTA allows sponsorship of programmes, except for news and public affairs programmes. Programmes cannot be sponsored by anyone whose main activity is the sale or manufacture of tobacco products and alcoholic drinks. Children’s programmes can be sponsored on commercial television. However, TV4 has a license agreement not to sponsor programmes that are directed to children, or that are transmitted when children can be expected to be watching. Those medicines available only under prescription cannot be advertised, except by use of sponsorship. Other prohibitions include those on alcoholic beverages and tobacco products. Some sections of the RTA refer to the Broadcasting Commission for monitoring by retroactive inspections whether the programmes transmitted comply with the provisions in the RTA.

The RTA refers the violation of the ban on advertising to children to the Marketing Practices Act:

Marketing Prime time is defined in the RTA as from 19h00 to 24h00. At these times; TV4 cannot schedule children’s programmes. Commercially defined prime time is from 18h00 to 10h00. Total advertising time is restricted to a maximum of ten percent of daily airtime, with a maximum of eight minutes per hour. This maximum may be extended to ten minutes per hour between 19h00 to 24h00.

The MPA does not cover matters of sexual discrimination or gender stereotyping in advertising. A self-regulatory body, the Council on
Sexual Discrimination in Advertising, set up by the Advertisers Association and the Agencies Association together.

C. Enforcement and control

i. The Broadcasting Commission
The Broadcasting Commission oversees compliance with the Radio and Television Act. The Broadcasting Commission considers programme content broadcast after 21h00 not to be for children under twelve. Until the new RTA of 1996, the Commission also controlled compliance with the ban on advertising to children under twelve. The supervision of the ban has now been taken over by the Swedish Consumer Agency and the Consumer Ombudsman (CO). These will utilise the case law established by the Broadcasting Commission, but they have expressed a wish to apply stricter rules [71]. In the past, the Broadcasting Commission had found cases where the national commercial broadcaster TV4 had violated the prohibition on advertising to children under twelve, and stated that an advertisement, in order to be considered affected by the ban, should be seen as aimed principally at children. In their interpretation of the ban, the CO and the Swedish Consumer Agency have until now followed the Broadcasting Commission criteria.

ii. The Consumer Agency and Consumer Ombudsman
The Consumer Ombudsman together with the (Swedish Consumer Agency) comprises the central governmental body responsible for consumer affairs. Both bodies enforce
consumer market legislation in most areas. One of these areas is television advertising.

The Swedish Consumer Agency and the Consumer Ombudsman ensure that the market complies with the laws applicable in the consumer field, such as misleading or unfair advertising. The Consumer Ombudsman’s office controls advertisements after their transmission; that is, a team of three or four people record and watch advertisements that have been broadcast and control their compliance with the ban. The Consumer Agency also issues guidelines after consultation with the business sector concerned, for example, about marketing practices, information in advertising or product safety. The Consumer Ombudsman supervises the compliance with the bans on advertising to children under twelve and on medicines available only under prescription, as well as the prohibition on persons who play a prominent role in programmes primarily dealing with news and news commentaries to appearing in advertisements.

D. Guidelines for the interpretation of the television ban on advertising to children

In December 1998, the Business Committee on Market Law and the Consumer Ombudsman agreed on the interpretation guidelines for the television ban on advertising to children. The Business Committee on Market Law is an umbrella organisation that groups twenty bodies, e.g. the Advertisers Association, the Agencies Association, the Marketing Association, the Federation of Swedish Industries, the Federation of Wholesalers and Retailers etc. It is a forum for public policy in the fields of consumer protection and
market law. The document is intended as guidance for advertisers, advertising producers, filmmakers and broadcasting companies involved in the design and production of television advertisements. As stated previously, the RTA prohibits advertisements aimed at children under the age of twelve, as well as the transmission of such advertisements before and after children’s programmes. This ban is of a general nature and is applicable to all television advertisements, irrespective of the product being advertised. There is a range of factors affecting the assessment of whether an advertisement is aimed at capturing the attention of children under twelve. When determining whether a specific advertisement has such purpose the guidelines require that all relevant circumstances shall be taken into consideration. The most important element is how the advertisement is designed and in what context it is broadcast. The list of examples in the guidelines is intended as an aid for making the assessment.

i. **The ban on scheduling around children programmes and the use of certain persons and characters:**

The ban covers natural persons, imaginary characters, cartoon characters, where these may be regarded as having a prominent role in children’s programmes. A prominent role is that of the presenter of a programme or a character that appears in a recurrent fashion in children’s programmes. Such persons or characters from children’s programmes are not to be used in advertisements for at least a year.
ii. The ban on children advertising

The section sets out a number of factors that may lead to an advertisement being regarded as intended to capture the attention of children under twelve. The guidelines strengthen the importance of the way in which various factors work together. Factors that have to be considered are:

- The product or service being advertised.
- The content of the advertisement and the way and format in which it has been elaborated.
- The broadcast context of the commercial, that is the exact time of the retransmission.

Products may be used by adults as well as by children. The ban does not refer to any particular type of product. It becomes applicable only when the advertisement is directed at children under twelve. Because of their design, many toys and games may be regarded as being aimed at children. Other products, such as food, drinks and confectionery may also appeal to children under twelve. The more obviously a product is for under-twelve’s, the more important it is that the format and the time at which it is broadcast do not suggest that it is being aimed at that target group. The perceived intention to influence children to pester parents or adults is enough on its own to make advertisements fall within the scope of the ban.

The proportion of children watching after 21h00 is larger for sports broadcasts or when family viewing is transmitted, especially on Fridays and at weekends. In such cases where an advertiser is judged to be at risk with regard to the prohibition, commercial broadcaster TV4 would broadcast such advertisements only after that time. The guidelines propose some examples of products and
how to go about advertising them. For example, the advertisement of a chocolate bar sold in bags with cartoons on it must not show the cartoon in any animated form, but only a neutral shot of the bag.

Another example is breakfast cereals. Most children’s breakfast cereals have names and packaging that appeal to children. In some cases, the packaging also includes small toys. To feature cartoon characters or to have the film in cartoon format should lead to the advertisement being broadcast at home in a context where there is less risk of children watching it. A third case of problematic advertising is computer games. The ones directed at children sometimes contain cartoon characters. Advertisements with cartoon characters from a game are not recommended and it is not advisable to have this advertising transmitted during or around sports or family viewing programmes. Services and entertainment that appeal to children, such as the zoo, are often an attraction to the whole family. The advertisement must thus appeal to parents and not to children. Aiming the film at the family as a whole may be permitted however, it is not advisable to show the film in connection with sports or family programmes. These guidelines are described as being helpful for producers, advertisers and broadcasters.
3.4 COMPARISON OF DIFFERENT REGULATORY FACTORS OF CHILDREN’S ADVERTISING IN VARIOUS COUNTRIES

3.4.1 Introduction

3.4.2 Definition of child in various countries

3.4.3 Code for Scheduling advertising during children’s programme

3.4.4 Code for the Food advertising to children.

3.4.5 Code for the Tobacco & Alcohol Advertising.

3.4.6 Self regulatory bodies in various countries
3.4.1 INTRODUCTION

In this section I had tried to compare and understand how legislation and codes of conduct operate in various countries as it is a very multifaceted task, since they need to be understood within the country perspective. The specific frameworks affecting children are often entrenched within wider frameworks governing the whole population. There are often differences within as well as between countries. As seen above the codes related to various factors of children’s advertising vary from country to country. As discussed earlier there are countries like Australia where the approach to media regulation is one of co-regulation involving both self-regulation and statutory requirements. There are, however, slightly different systems of industry regulation for different aspects of advertising and media content. The government is reviewing policy and regulatory frameworks in 2011[72].

Moreover there are two Canadian systems. In Quebec, commercial advertising to children under 13 is banned. In the other five provinces of Canada there is a strong system of self-regulation including pre-clearance of all broadcast advertisements directed at children. Both systems take a proactive approach to educating children about media literacy[73].

In country like Norwegian government’s approach is twofold: to reduce the commercial pressure on young people, and to equip children and their parents to withstand commercial pressures. Advertising to children under 13 years, and all alcohol advertising on television and billboards is banned. However, channels from abroad do broadcast adverts to children in Norway. Complaints can
be made directly to the broadcasters, the Press Council or the government body that supervises broadcasting \[74\].

In the South African constitution, all citizens under the age of 18 are considered to be children. However, many children are heads of households because of the HIV and Aids pandemic. Different media adhere to different regulations. Broadcasters may not transmit material that is unsuitable for children at times when large numbers of them may be expected to be in the audience \[75\].
3.4.2 DEFINITION OF CHILD IN VARIOUS COUNTRIES

The term child refers to different age groups in different countries. In India there is no one definition for a 'child'. The Census of India defines children as being below the age of 14. Social scientists include females in the age-group 15-19 years under the category of ‘girl-child’. The legal conception of a child tends to vary. While the age of majority is 18 years for girls and 21 years for boys, under the Indian Majority Act a child is defined differently for different purposes under various other laws as discussed earlier [76]. In countries like US, Canada, Sweden, Spain & Netherland child is defined as person of 12 years and younger. In Australia the age limit for child is increased to 14 years. In UK child refers to the person of age 16 years & younger whereas in Ireland and South Africa child refers to a person of age 18 years & younger [77].
### Table No.3.5 Definition of Child in various countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Definition of Child</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>18 years &amp; younger</td>
</tr>
<tr>
<td>Canada</td>
<td>12 years &amp; younger</td>
</tr>
<tr>
<td>US</td>
<td>12 years &amp; younger</td>
</tr>
<tr>
<td>UK</td>
<td>16 years &amp; younger</td>
</tr>
<tr>
<td>Ireland</td>
<td>18 years &amp; younger</td>
</tr>
<tr>
<td>Netherlands</td>
<td>12 years &amp; younger</td>
</tr>
<tr>
<td>Spain</td>
<td>12 years &amp; younger</td>
</tr>
<tr>
<td>Sweden</td>
<td>12 years &amp; younger</td>
</tr>
<tr>
<td>Australia</td>
<td>14 years &amp; younger</td>
</tr>
<tr>
<td>South Africa</td>
<td>18 years &amp; younger</td>
</tr>
<tr>
<td>Brazil</td>
<td>12 years &amp; younger</td>
</tr>
</tbody>
</table>
3.4.3 CODE FOR SCHEDULING ADVERTISING DURING CHILDREN’S PROGRAMME

The code for scheduling of advertising during children’s program varies from country to country. In India the timing of advertising allowed during the program is about 15 minutes per hour which is the highest amongst the all other countries studied.

In Canada the same commercial message or more than one commercial message promoting the same product cannot be aired more than once in a half-hour children’s program. In children’s programs of longer duration, the same commercial message or more than one commercial message promoting the same product must not appear more than once in any half-hour period. Also as per Canadian code of conduct no station or network may carry more than four minutes of commercial messages in any one half-hour of children’s programming or more than an average of 8 minutes per hour in children’s programs of longer duration [78].

In countries like US, UK and Netherland there is no specific restriction of the time of advertisement per hour during the children’s program but there are certain guidelines about which products should be and should not be advertised during or before and after the children’s program. In other countries like Spain, Sweden, Pakistan, Indonesia, South Africa the time varies from 6-12 minutes per hour [79].
Table No. 3.6 Advertising Time per Hour of Children’s Programme

<table>
<thead>
<tr>
<th>Country</th>
<th>Minutes of advertising per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>15 Minutes</td>
</tr>
<tr>
<td>Canada</td>
<td>12 Minutes</td>
</tr>
<tr>
<td>US</td>
<td>Not defined</td>
</tr>
<tr>
<td>UK</td>
<td>Not defined</td>
</tr>
<tr>
<td>Ireland</td>
<td>No add in 30 min programme</td>
</tr>
<tr>
<td>Netherland</td>
<td>Not defined</td>
</tr>
<tr>
<td>Spain</td>
<td>12 Minutes</td>
</tr>
<tr>
<td>Sweden</td>
<td>8 Minutes</td>
</tr>
<tr>
<td>Pakistan</td>
<td>6-9 Minutes</td>
</tr>
<tr>
<td>Philippines</td>
<td>20 Minutes</td>
</tr>
<tr>
<td>South Korea</td>
<td>6 Minutes</td>
</tr>
<tr>
<td>Indonesia</td>
<td>15 Minutes</td>
</tr>
<tr>
<td>Malaysia</td>
<td>20 Minutes</td>
</tr>
</tbody>
</table>
3.4.4 CODE FOR THE FOOD ADVERTISING TO CHILDREN

The growing epidemic of childhood overweight and obesity is a major public health concern. As multiple factors influence eating behaviors and food choices of children, one potent force is food advertising \(^8^0\). Therefore it is very important to study the laws related to the food advertising to children. These laws vary slightly from country to country. There are some countries where food advertising is strictly monitored. Also there are countries like India where there are no specific regulations related to food advertising to children. Whereas there are certain countries where not only the food advertising but also the advertising related to various other factors such as alcohol and tobacco, as well as the advertising related to toys & games are prohibited.

Table No. 3.7 Advertising laws related to Food Advertising to Children

<table>
<thead>
<tr>
<th>Name of Country</th>
<th>Law Related to Food Advertising to Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>There are no specific advertising laws that relate to children &amp; food related advertisements in particular.</td>
</tr>
<tr>
<td>Canada</td>
<td>Highly regulated under the food &amp; Drugs act &amp; regulations of the Canadian food inspection agency’s guidelines.</td>
</tr>
<tr>
<td>US</td>
<td>Food advertisement should encourage the healthy development of the child &amp; development of good nutritional practices also the snack foods should</td>
</tr>
</tbody>
</table>
not be represented as substitute for meals.

<table>
<thead>
<tr>
<th>Country</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>UK</td>
<td>In UK the code of advertising Standards &amp; practice lays down rules regarding advertising of food &amp; Medicine for promoting good dietary habits such as advertisement must not encourage excessive consumption of any food, it must not damage good dietary habits, or discourage consumption of food that is generally accepted as good dietary option, such as fruits &amp; vegetables etc.</td>
</tr>
<tr>
<td>Ireland</td>
<td>Lots of guidelines related to food advertising to children are exists in Ireland such as, advertising should not promote unhealthy eating &amp; drinking habits, also it should not be focused as a substitute or replacement for fruit &amp; vegetables etc.</td>
</tr>
<tr>
<td>Netherland</td>
<td>In Netherland Advertising code for Confectionary exists which monitors the food related advertising to children where confectionary is defined as all food stuffs &amp; delicacies that do not form a part of regular meals &amp; which are consumed between meals. Advertising should not encourage excessive consumption nor suggest that it can replace a meal.</td>
</tr>
<tr>
<td>Spain</td>
<td>No Specific regulations related to food advertising to children.</td>
</tr>
<tr>
<td>Sweden</td>
<td>There are laws which ban the television advertising to children if it is about the various products such as food, drinks, tobacco or the toys.</td>
</tr>
</tbody>
</table>
3.4.5 SELF REGULATORY BODIES IN VARIOUS COUNTRIES

The control of advertising generally occurs in two main forms, that of self-regulation by the industry or regulation that is statutory in nature and controlled by the state (Cassim & Langton, 1996). Statutory regulation refers to those rules/statutes that are enforced by the government for the purpose of providing consumers protection against harmful advertising (Boddewyn, 1985; Woker, 1999). The regulation of advertising to children can be a country’s legal regulatory framework & self-regulation by industry people or a combination of the two. The most common method of regulation is that of self-regulation (Boddewyn, 1985; Boddewyn, 1992). Self-regulation is ‘control exercised by an advertiser’s peers, including those in the agencies and media used’ (Boddewyn, 1992: 5). Most countries have established regulatory control systems in place that complement their legal systems to ensure consumer protection. These operate on the basis of self-regulation. This is where the industry is responsible for controlling the conduct of its own members, and voluntarily regulates the content of the industry’s advertising (Harker & Cassim, 2002). ‘Self-regulation is the system by which the advertising industry can actively police itself’ (Gray, 2005: 20). Self-regulation that operates within a framework of legislation delivers the most efficient regulation of advertising (Gray, 2005).
Table No. 3.8 Self Regulatory Bodies in Different Countries

<table>
<thead>
<tr>
<th>Name of the Country</th>
<th>Regulatory Body</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>Advertising standard council of India (ASCI)</td>
</tr>
<tr>
<td>Canada</td>
<td>No self regulatory body</td>
</tr>
<tr>
<td>US</td>
<td>Children’s advertising review unit (CARU)</td>
</tr>
<tr>
<td>UK</td>
<td>Advertising standards authority of united kingdom (ASAUK)</td>
</tr>
<tr>
<td>Ireland</td>
<td>Advertising standards authority of Ireland (ASAI)</td>
</tr>
<tr>
<td>Netherland</td>
<td>Netherland’s Advertising Code (NRC)</td>
</tr>
<tr>
<td>Spain</td>
<td>Autocontrol</td>
</tr>
<tr>
<td>Sweden</td>
<td>Swedish Consumer Council</td>
</tr>
<tr>
<td>Australia</td>
<td>Australian Association of National Advertisers (AANA)</td>
</tr>
<tr>
<td>South Africa</td>
<td>Advertising standards authority of south Africa (ASASA)</td>
</tr>
<tr>
<td>Brazil</td>
<td>The National Council for Advertising Self-Regulation (CONAR)</td>
</tr>
</tbody>
</table>
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