CHAPTER 2
ETHICS IN ADVERTISING

2.1 Business in ethical perspective

The word 'ethics' comes from the Greek word 'ethikos'. It refers to one's moral character and the way in which society expects people to behave in accordance with accepted principles.

Business ethics is the behaviour that a business adheres to in its daily dealings with the world. The ethics of a particular business can be diverse. They apply not only to how the business interacts with the world at large, but also to their one-on-one dealings with a single customer.

Many businesses have gained a bad reputation just by being in business. To some people, businesses are interested in making money, and that is the bottom line. Making money is not wrong in itself. It is the manner in which some businesses conduct themselves that brings up the question of ethical behaviour.
Many global businesses, including most of the major brands that the public use can be seen not to think too highly of good business ethics. Many major brands have been fined millions for breaking ethical business laws. Money is the major deciding factor.

If a company does not adhere to business ethics and breaks the laws, they usually end up being fined. Many companies have broken anti-trust, ethical and environmental laws and received fines worth millions. The problem is that the amount of money these companies are making outweighs the fines applied. Billion dollar profits blind the companies to their lack of business ethics, and the dollar sign wins.

A business may be a multi-million seller, but does it use good business ethics and do people care? There are popular soft drinks and fast food restaurants that have been fined time and time again for unethical behaviour. Business ethics should eliminate exploitation, from the sweat shop children who are making sneakers to the coffee serving staff who are being ripped off in wages. Business ethics can be applied to everything from the trees cut down to make the paper that a business sells to the ramifications of importing coffee from certain countries.

2.1.1 Evolution of ethics

Business ethical norms reflect the norms of each historical period. As time passed, those norms evolved, and behaviour that was once generally accepted became objectionable. Business ethics and the resulting behaviour evolved as well. Business was involved in slavery, colonialism, and the cold war.

The term 'business ethics' came into common use in the United States in the early 1970s. By the mid-1980s at least 500 courses in business ethics reached 40,000 students, using some twenty textbooks and at least ten casebooks along supported by professional societies, centres and journals of business ethics. The
Society for Business Ethics was started in 1980. European business schools adopted business ethics after 1987 commencing with the European Business Ethics Network (EBEN). In 1982 the first single-authored books in the field appeared.

Firms started highlighting their ethical stature in the late 1980s and early 1990s, possibly trying to distance themselves from the business scandals of the day, such as the savings and loan crisis. The idea of business ethics caught the attention of academics, media and business firms by the end of the Cold War. However, legitimate criticism of business practices was attacked for infringing the "freedom" of entrepreneurs and critics were accused of support from communists. This scuttled the discourse of business ethics both in media and academia.

Ethics means a set of moral principles which govern a person’s behaviour or how the activity is conducted. And advertising means a mode of communication between a seller and a buyer.

Thus ethics in advertising means a set of well defined principles which govern the ways of communication taking place between the seller and the buyer. Ethics is the most important feature of the advertising industry. Though there are many benefits of advertising but then there are some points which don’t match the ethical norms of advertising. An ethical ad is the one which doesn’t lie, doesn’t make fake or false claims and is in the limit of decency.

Nowadays, ads are more exaggerated and a lot of puffing is used. It seems like the advertisers lack knowledge of ethical norms and principles. They just don’t understand and are unable to decide what is correct and what is wrong.

The main area of interest for advertisers is to increase their sales, gain more and more customers, and increase the demand for the product by presenting a well decorated, puffed and colourful ad. They claim that their product is the best, having unique qualities than the competitors, more cost effective, and more beneficial. But most of these ads are found to be false, misleading customers
and unethical. The best example of these types of ads is the one which shows evening snacks for the kids, they use colouring and gluing to make the product look glossy and attractive to the consumers who are watching the ads on television and convince them to buy the product without giving a second thought.

Ethics in Advertising is directly related to the purpose of advertising and the nature of advertising. Sometimes exaggerating the ad becomes necessary to prove the benefit of the product. For e.g. a sanitary napkin ad which shows that when the napkin was dropped in a river by some girls, the napkin soaked whole water of the river. Thus, the purpose of advertising was only to inform women about the product quality. Obviously, every woman knows that this cannot practically happen but the ad was accepted. This doesn’t show that the ad was unethical.

Ethics also depends on what we believe. If the advertisers make the ads on the belief that the customers will understand, persuade them to think, and then act on their ads, then this will lead to positive results and the ad may not be called unethical. But at the same time, if advertisers believe that they can fool their customers by showing any impractical things like just clicking fingers will make your home or office fully furnished or just buying a lottery ticket will make you a millionaire, then this is not going to work out for them and will be called as unethical.

Recently, the Vatican issued an article which says ads should follow three moral principles – Truthfulness, Social Responsibility and Upholding Human Dignity. Generally, big companies never lie as they have to prove their points to various ad regulating bodies. Truth is always said but not completely. Sometimes its better not to reveal the whole truth in the ad but at times truth has to be shown for betterment.
Pharmaceutical Advertising - they help creating awareness, but one catchy point here is that the advertisers show what the medicine can cure but never talk about the side effects of that same thing or the risks involved in intake of it.

Children - children are the major sellers of the ads and the product. They have the power to convince the buyers. But when advertisers are using children in their ad, they should remember not to show them alone doing their work on their own like brushing teeth, playing with toys, or infants holding their own milk bottles as everyone knows that no one will leave their kids unattended while doing all these activities. So showing parents also involved in all activities or things being advertised will be more logical.

Alcohol - till today, there hasn’t come any liquor ad which shows anyone drinking the original liquor. They use mineral water and sodas in their advertisements with their brand name. These types of ads are called surrogate ads. These types of ads are totally unethical when liquor ads are totally banned. Even if there are no advertisements for alcohol, people will continue drinking.

Cigarettes and Tobacco - these products should be never advertised as consumption of these things is directly and badly responsible for cancer and other severe health issues. These as are already banned in countries like India, Norway, Thailand, Finland and Singapore.

Ads for social causes - these types of ads are ethical and are accepted by the people. But ads like condoms and contraceptive pills should be limited, as these are sometimes unethical, and are more likely to lose morality and decency at places where there is no educational knowledge about all these products.

Looking at all these above mentioned points, advertisers should start taking responsibility of self regulating their ads by:

- design self regulatory codes in their companies including ethical norms, truth, decency, and legal points
- Keep tracking the activities and remove ads which don’t fulfil the codes.
• Inform the consumers about the self regulatory codes of the company
• Pay attention on the complaints coming from consumers about the product ads.
• Maintain transparency throughout the company and system.

When all the above points are implemented, they will result in:
• making the company answerable for all its activities
• Will reduce the chances of getting pointed out by the critics or any regulatory body.
• Will help gain confidence of the customers; make them trust the company and their products.

2.1.2 Ethical Principles especially relevant to Advertising

General

1. Principles of the moral order must be applied to the domain of media.
2. Human freedom has a purpose: making an authentic moral response. All attempts to inform and persuade must respect the purposes of human freedom if they are to be moral.
3. Morally good advertising therefore is that advertising that seeks to move people to choose and act rationally in morally good ways; morally evil advertising seeks to move people to do evil deeds that are self-destructive and destructive of authentic community
4. Means and techniques of advertising must also be considered: manipulative, exploitative, corrupt and corrupting methods of persuasion and motivation
5. Respect Truthfulness (deception objection)
   • Never directly intend to deceive
• Never use simply untrue advertising
• Do not distort the truth by implying things that are not so or withholding relevant facts
• "Puffery" is acceptable where it is consonant with recognized and accepted rhetorical and symbolic practice.

6. Respect The Dignity Of Each Human Person (attacks autonomy objection)
• Do not exploit our "lower inclinations" to compromise our capacity to reflect or decide either through its content or through its impact: using appeals to lust, vanity, envy and greed, and other human weakness.
• Give special care to the weak and vulnerable: children, young people, the elderly, the poor, and the culturally disadvantaged
• Respect Social Responsibilities (promotes consumption, empties communication, objections)
• Example: Concern for the ecology advertising should not favor a lavish lifestyle which wastes resources and despoils the environment
• Example: Advertising should not reduce human progress to acquiring material goods and cultivating a lavish lifestyle

7. Ethical danger points in market research include:
• Invasion of privacy.
• Stereotyping.

8. Ethical pitfalls in advertising and promotional content include:
• Issues over truth and honesty. In the 1940s and 1950s, tobacco used to be advertised as promoting health. Today an advertiser who fails to tell the truth not only offends against morality but also against the law. However the law permits "puffery" (a legal term). The difference between
mere puffery and fraud is a slippery slope: "The problem... is the slippery slope by which variations on puffery can descend fairly quickly to lies." false advertising.

9. Issues with violence, sex and profanity. Sexual innuendo is a mainstay of advertising content (see sex in advertising), and yet is also regarded as a form of sexual harassment. Violence is an issue especially for children's advertising and advertising likely to be seen by children.

10. Taste and controversy. The advertising of certain products may strongly offend some people while being in the interests of others. Examples include: feminine hygiene products, haemorrhoid and constipation medication. The advertising of condoms has become acceptable in the interests of AIDS-prevention, but is nevertheless seen by some as promoting promiscuity. Some companies have actually marketed themselves on the basis of controversial advertising - see Benetton. Sony has also frequently attracted criticism for unethical content (portrayals of Jesus which infuriated religious groups; racial innuendo in marketing black and white versions of its PSP product; graffiti adverts in major US cities).

11. Negative advertising techniques, such as attack ads. In negative advertising, the advertiser highlights the disadvantages of competitor products rather than the advantages of their own. The methods are most familiar from the political sphere: see negative campaigning.

2.1.3 Major ethical issues in advertising in India

Advertisement acts as a communicating bridge between producer and consumer. With industrialization and expansion of market access, importance of advertising is steadily on the increase in modern society. Advertising, uses media as its vehicle, is a pervasive, powerful force shaping attitudes and behaviour in today's world. At times it goes beyond the traditional role of ‘fair and truthful’ information and portraits obscene, undesirable and unethical
scenes giving a detrimental result especially on the young population of the society. The various types of unethical advertisements like advertisements with obscenity and sexual overtone, endorsed by children, surrogate advertising, subliminal advertisements, false and misleading advertisements etc. The ethical aspect of Indian advertisement is extremely important for restoration of our Indian culture, norms, ethics and heritage.

The Upshot: But the outcome of such developments is that a number of ethical issues have arisen. While the globe is indeed becoming a smaller place, marketers have to bear in mind national, local and cultural sensitivities. Very often, in the hope of tapping a larger consumer base, marketers jump headlong in new markets without keeping in mind ethnic and social issues typical to certain areas.

In India, for example, a large multinational corporation ran an ad campaign that depicted a young woman who because of her dark facial complexion was unable to find jobs. But as the ad showed, as soon as the woman started using the facial whiteness cream manufactured by the corporation, she got the job of her choice. Needless to say, there was a big backlash against it and the ad campaign had to be scrapped. On an ethical standpoint, marketers have to exercise restraint in exploiting such social paradigms to their commercial advantage.

Surrogate Advertisements in India alcohol and cigarette advertisements were banned outright some years back. However, alcohol and cigarette companies alike are using the avenue of surrogate advertisements to press forward their case. Inserting subliminal messages in an advertisement is an inherently misleading action. It is an attempt to manipulate a person's thinking without the person realizing that any such manipulation is occurring. The west has had its fair share of subliminal advertisements related hullabaloos primarily because the advertisement, marketing and regulating media themselves have been quite active in raising such issues. False and Misleading Advertisements Then there is the issue of false and downright disingenuous advertisements. While in itself
this is an important ethical issue, an extension of this is the question of credibility. Nowadays, newspaper columns are rife with advertisements which blatantly compare features of brands with those of their competitors. Citing the opinion of 'experts', these advertisements claim their brands to be quantitatively and qualitatively better than those of their rivals. In India a leading car manufacturer had to recall its ad campaign when it incorrectly stated that one of its car models was superior to that of its competitor's.

Advertising is a highly visible business activity and any lapse in ethical standards can often be risky for the company. Some of the common examples of ethical issues in advertising are given below:

- Vulgarity / sexually suggestive used to gain consumers’ attention
- Misleading information and deception
- Puffery
- Stereotypes
- Racial issues
- Controversial products (e.g. alcohol, gambling, tobacco etc)
- Use of women
- Targeting kids
- Subliminal advertising
- Targeting health
- Hitting vulnerable minds – youth

The ethical issues selected for this study are as follows:

- Deceptive advertising
- Sexually suggestive ads
- Targeting kids
- Use of women
- Materialism
- Stereotyping
2.2 Impact of advertising on society

Advertising carries several responsibilities. Advertising informs the public so that they can be aware of products and make informed choices among different products or brands. Advertising also benefits businesses in assisting them to sell their products.

But while dispensing its role as a dream merchant, advertising has also been in the vortex of controversy of the many ills that it brings to society. It is accused of encouraging materialism and consumption, of stereotyping, of causing us to purchase items for which we have no need, of taking advantage of children, of manipulating our behaviour, using sex to sell, and generally contributing to the downfall of our social system.

Advertising does not function in a vacuum but in a market environment where several forces like consumer needs, business interests and government regulations are at work. It is a powerful force in terms of its persuasiveness and functions a critical social role. Moreover the high visibility and pervasiveness, it generates criticism and controversy. Much of this controversy springs from the fact that advertising is used more as a persuasive communication tool thereby creating serious impact on the tastes, values and lifestyles of society. As consumers, when we buy a product or service, it is likely a decision we take based on our needs and wants. However, today the trend has changed; our purchases depend heavily on the intensive advertising octopus that has gripped consumer buying behavior in its tentacles. The influence advertising has on the youth is enormous, it has taken away their will and ability to make decisions, has influenced the dress code and the food. When considering the fact that advertising has influenced decision making, it is portrayed when the youth are highly adamant to own the latest gimmicks circulating in the markets they eat. Another effect of advertising is portrayed on the youth’s attire. A few ads on the
mass media totally change the dress code of our youth even if it means stepping out of traditions and culture as long as it makes them look cool and stylish. In light of the above, advertisements as I see should be there to create awareness but should reduce its grip on consumers. It is becoming quite an unethical practice of advertisers to increase their intensity of exploiting consumers just to increase sales and profits.

2.2.1 Reflection of advertising on youth psyche, lifestyle, values and behaviour

Youth is best understood as a period of transition from the dependence of childhood to adulthood. Youth is a more fluid category than a fixed age-group. Around the world the term youth, adolescent, teenager, kid and young person are interchanged, often meaning the same thing occasionally differentiated.

However, age is the easiest way to define this group, particularly in relation to education and employment. Therefore “youth” is often indicated as a person between the age where he/she may leave compulsory education, and the age at which he/she finds his/her first employment. This latter age limit has been increasing, as higher levels of unemployment and the cost of setting up an independent household puts many young people into a prolonged period of dependency.

Since my study is focussing on youth itself it would be inappropriate to give a narrow age bracket or relating with people undergoing any education or college goers alone. There is a need to understand that presently youth comprises of college goers, individuals undergoing higher education, youth working in BPO’s, KPO’s, malls and retail sector and young professionals and executives. This means that youth today can be classified into one who are studying and one who are working. Both of them are backed by purchase capacity.

All over the globe the definition and category of youth varies with location, culture, education system, values etc. However the fact that they are the
backbone of every nation makes them a group which needs to be monitored and guided. The role of advertising has caused a grave concern for the youth and kids in India. By players like Nokia, Blackberry, LG, Lenovo, soft drink makers, Liquor manufacturers all have shifted their focus to youth alone.

Youth in India can be divided into three categories rural, urban and semi –urban. Data’s in different studies across the nation show that youth in India constitute 40- 50 % of the population. It was seen in the recent past that Indian youth is bombarded with variety of information through various advertisement being shown on variety of media. This exposure of youth with information on media became deadly when youth was backed by purchase power at an early age due to MNC culture. Before proper development of maturity and ethics with morality has lead them to a path full of ambiguity and illusion. The economic power of youth at an early age has made them chase and try their wild passions and fantasies which were not so easy earlier. Youth today believe in short cut to success and have developed a new sense of consciousness of having the best and branded items at their disposal. In this new lifestyle of flaunting and acquisition of branded and materialistic items they have lost their social and cultural responsibility. Promotion of products via advertisements has made them more brands conscious. If children are future of nation, its youth are its present resource. The dynamic role of youth in the growth and prosperity of any society is extremely vital. A class of youth which has emerged with lot of money but with no aim of goal just drifted aimlessly. Everything that was prevalent in western culture among youth has come to India through global advertising.

As per the 2001 Census of India, population age 15-24 years accounts for 195 million of the 1,029 million of India‘s population. In other words, every fifth person in India belongs to the age group 15-24 years. This population is identified by the United Nations Population Fund (United Nations, 2009) as youth or the youth population. By 2011, this age group is expected to grow to
240 million (Office of the Registrar General, 2006) and account for a slightly higher proportion of the total population than in 2001. The health, nutrition, and demographic situation of youth varies by their own characteristics, such as age, marital status, religion, and caste, as well as the characteristics of their households, such as the type of family and wealth status. In addition, education and media exposure are important catalysts for health and demographic change.

**Youth psyche**

In psychology the psyche is the totality of the human mind, conscious and unconsciousness. It is the way in which an individual adjusts or mediates the body’s response to the social and physical environment. For today’s young generation there is less black and white and grayer. For example the definition of good friend is amorphous, anyone can take the role. The “**har ek friend zaroori hota hai**” campaign by airtel used this idea how different friend play different role, is a reflection of youngsters take friends in their life. This has given a new definition to friends. Some students feel that manipulation is an asset. It helps in handling situations easily. Pragmatism is an important trait. Even if it comes to choosing a life partner. They look for a bit of everything. Brands has responded. Nestea talks of remixing moms for a bindaas generation. Airtel 3 G advertisement helping grandfather on facebook to take revenge from someone who kissed his wife. This generation is looking for bigger things in jobs, relationships, fashions or trends. We have moved from the society where we talks of childhood friends to a world where we add and delete friends. no guilt factor, no commitment, no justification just a delete button as on facebook.
Another surprising aspect is from online dating, to live in relationships, to flexi work hours, to hair colouring all are chosen with a possibility of ending soon. Brands like fast track which has tagline “move on” is again a reflection of youth psyche and lifestyle. Dove has also made a campaign for real beauty. Indian youth is at cross road today, he is not only educated but also has a very different lifestyle from his parents and grandparents. A culture synthesized from exposure to different lifestyles across the globe, more purchasing and disposable income and also thousands of avenues to spend and enjoy life. Life in the fast lane puts youth under pressure to perform well in all fields. It takes a heavy toll on their physical and mental well being. Family values and relationships have taken a new shape in their eyes. They are highly influenced by western music, food, fashion and culture and yet Indian at heart. The mantra for young today is YOLO (you only live once). They believe in experiencing everything in short span of time. They prefer personal life with work. They believe in living life to the fullest.

The world in 1980 was a very different place: we had no PCs, mobile phones, Sony Walkmans, CDs, satellite TV, or MTV not to mention the Internet as a consumer service and Virtual Reality. These and other technologies - such as pagers, answer-machines and video recorders - have become commonplace, bringing the world to us - a world where we can shift and arrange time, cross boundaries and experience other worlds, be more in touch and totally cut off, more interconnected but less private, aware / disjointed ... recreate ourselves. For young people, these are the norm: they are the computer generation at ease with the technology, its power and potential. The 18 - 30 age group have grown up with these changes. What to older generations is the new way of doing things; to this group is the norm. They are starting from a very different baseline in almost any area of life you care to mention. Just as the world they have grown up in is fundamentally different, so are the values they have developed in response to it. We have moved from a world
where the old certainties ruled to one where the unthinkable can happen; from static and clear cut boundaries - physical and mental - to fluid and flexible boundaries; a world where the pressures and tensions of change and destruction can be felt on a global, international, national and personal level; a time when the future is more obvious because of the approaching millennium, but its achievement more questioned because of environmental damage; a shift from the constraints of finite physical resources, to one of the infinite potential of renewable knowledge; a recognition of the inter-connectedness of everything on a personal and global level; a change in the mental models for thinking about that world from a mechanical model to an ecological one; a world in which individuals are set to take far more control over their own lives and we as a species have far more control and influence over the shape of the world than we ever had before. Set against these changes is perhaps the most fundamental of all, the shift in values which is what will define how we use our knowledge and influence.

Young people’s behaviour, attitudes and approach to life regularly receive a lot of criticism in the media. In many respects this is nothing new. What is new is that the criticisms are not just across the eternal generation gap which every generation has experienced, but across a divide that is growing and fundamentally challenging the status quo: the values gap. The values gap and the resulting criticism and misunderstandings are the result of the cumulative shift in values and priorities from generation to generation which has been occurring since the early 1950s, but most especially the changes in this latest generation. The older generations, the organisations they have developed and the mental models they rely on are anchored in values which have been shaped by a very different world. The challenge of the values gap can be seen in three core areas: the diversity of the individual, the end of absolutes and valuing the intangible which are outlined very briefly below. Creativity and self expression are a way of life for this generation and enable them to combine and move
between all aspects of their lives in a seamless transition. Music, art, video, film, VR, animation - all provide the opportunity to explore their own identity while also enabling them to be seen and heard. This generation have the confidence and the technology to liberate their creative energies in a way that far exceeds previous potential, both in terms of the technology to do it and the markets in which to sell the end result.

The value of youth has shifted today because of several external factors of the environment. Advertising by manufacturers and advent and establishment of MNC culture is one of the causes for the change in their value system. Ad of Miranda showing Rani Mukherjee having a prank with her father while teaching a lesson to the eve teaser. Advertisements of deodorants showing seductive scenes, ad of Miranda using the term Aamsutra resembling kaamsutra simply convey the message that this new emerging culture which is open and foreign is acceptable to us or we have surrendered to it.

This model however is at a loss in an environment like India, where everything and everyone is young. India has its largest consuming class population of about 50 million (urban, top three socio-economic classes) in the age-band of 25-45 yrs. But most of them behave more like teenagers who are just about turning 15. In reality, the Indian consumer is precisely 15 years old as that’s how long it has been since Indian markets have been liberalized. With a new found affordability and new avenues of consumption, everybody in India is young. This goes not just for the people but also for the brands. A society held back by scarcity and a self restrained value system built around it, is suddenly opening up to the pangs of desire. In their attempt to be attractive to these consumers with deep pocket, the brands have realized too that being ‘youthful’ is an easy way to go. The truth is that Pepsi in India is fast becoming a family drink and Levis is as much a brand for the intern as a CEO. In the continuity of youth as an age and youth as an attitude, the real youth of India has nothing that they can
call their own. The youth in India is thus being squeezed out by the youthful. And that’s leaving the Indian youth wanting for anchors that they can truly call their own. For today’s youth in India, the larger locus of morality has shifted from what was socially appropriate to what’s personally useful. What’s good or what’s bad is no more decided by what others would say, it’s decided by what you want. As the youth in our participation labs put it “we believe in being honest, but only to ourselves”. The value system of this generation is therefore constructed by themselves. The youth in today’s India is actually a ‘silver spoon’ generation. Compared to the earlier generations in India, they have it going really good for themselves. Not only have they been born to a time that’s relatively more affluent and buoyant, but they are also making the maximum of what they have whether it is in careers or in relationships. This generation has no baggage of yesterday and has no gaping need gaps as of today.

**Figure No. 2.2.1 Showing Youth and Link With Brands In Their Ecosystem**

A New Framework for Youth Brands

in his open system life web, helping him maximize his ecosystem. It asks us to be preoccupied not by what links the brand to the consumer but to be preoccupied by how the brand enables multiple links in the consumer’s life. This in turn
means that rather than a singular connect between the brand and the consumer, there are multiple links that the brand maximizes in the consumer’s life. Each brand will therefore have to play multiple deliveries that its category can offer. It’s critical therefore that basis its strengths and what the category enables, every brand chooses which links it will play and how it will do it in a new way.

2.2.2 Critical review of advertising practices

It is noticeable when viewing the latest TV commercials for Virgin Flights that ‘sex appeal’ must have been a bold heading on their manifesto. Shameless and gratuitous, it targets those virile, imaginative young men who fantasise about taking an attractive and exquisitely dressed hostess to the ‘mile high club’. It will work. At the close of the business year, or even first quarter, it will be interesting to see what Virgin Flights profit margins were.

The most imaginative commercials tend to be centred about copulating, pushing the boundaries to see how explicit you can be while still being shown on daytime viewing. Sex sells and regardless of how clichéd these erotic methods maybe, it is a guaranteed formula. Lynx’s ‘The Lynx Effect’ campaigns capitalise on this and even though they parody the ‘this smell will get you laid’ message it is still selling that message. While more upscale brands take it a little more seriously to appeal to the older and more “sophisticated” audience, the formula is evident, even if disguised by the covert artistic approach. Now that the internet is so interactive and accessible, the boundaries of censorship the allowance to breach boundaries have many brands leaving tantalising hints or draw clear attention to X-rated versions of the commercials.

This applies to otherwise censor bound TV shows and music viOne of the most important recent developments in advertising to kids has been the defining of a "tween" market (ages 8 to 12). No longer little children, and not yet teens, tweens are starting to develop their sense of identity
and are anxious to cultivate a sophisticated self-image. And marketers are discovering there's lots of money to be made by treating tweens like teenagers. The marketing industry is forcing tweens to grow up quickly. Industry research reveals that children 11 and older don't consider themselves children anymore. The Toy Manufacturers of America have changed their target market from birth to 14, to birth to ten years of age.

A 2000 report from the Federal Trade Commission in the U.S. revealed how Hollywood routinely recruits tweens (some as young as nine) to evaluate its story concepts, commercials, theatrical trailers and rough cuts for R-rated movies.

By treating pre-adolescents as independent, mature consumers, marketers have been very successful in removing the gatekeepers (parents) from the picture—leaving tweens vulnerable to potentially unhealthy messages about body image, sexuality, relationships and violence. Sex and the media’s amorous relationship continue to intensify.

Fashion marketers such as Calvin Klein, Abercrombie & Fitch and Guess use provocative marketing campaigns featuring young models. These ads are selling more than clothing to teens—they're also selling adult sexuality.

Studies show that while teens received most of their information about sex from the media: magazines, TV, the Web, radio and movies etc. The alcohol and beer industries were quick to recognize the value of the Internet as an effective tool for reaching young people. The Web offers marketers a medium that is a huge part of youth culture—with the added bonus that it's unregulated, with very little parental supervision.

Though many benefits are achieved through advertisements, the ad message is becoming more and more exaggerated. To achieve competitive advantage, advertising magnifies unimportant differences, resorts to clever, tricky product promises, and claims more and more unbelievable benefits. The customer finds many advertisements as false, deceptive, or misleading. Consumers are
uncertain regarding whether or not the performance of a product purchased will in fact meet their needs. If they find that the product lacks in quality, advantage, durability etc., as advertised they might not buy it again, and develop an aversion to every other product of that company.

Unethical advertising

Advertisement is considered unethical in the following situations;

1. When it has degraded or underestimated the substitute or rival's product.
2. When it gives false or misleading information on the value of the product.
3. When it fails to give useful information on the possible reaction or side effects of the product.
4. When it is immoral.
5. When it targets those who are vulnerable and have lesser maturity to decide what is right and wrong for them.
6. When advertisements show that use of certain type of products enhances style, prestige and status in society.
7. When ads use women in indecent manner to promote their products.
8. When ads relate products of harmful nature with youth, which gradually leads to change in taste, preference and opinion.

2.3 Gaps in existing regulatory framework in Indian advertising

Laws and their need is an inevitable part of any civic society, need of laws, rules regulations or norms has gained immense necessity due to invention of new technology, new ways of advertising and change in their approach and style. In recent past the focus of advertising industry has shifted towards “youth” the bulging strength of Indian sub continent. Since my study focuses on youth only it becomes necessary to research on this area. If we talk about level of maturity in context of legislation it is found that Indian legislation in this regard is quiet weak in comparison to other countries.
There is no single regulatory body in India for regulation of advertisements. Depending on the nature of the case, the power to regulate advertisements may be exercised by a vast amount of authorities- the courts, Central and State Governments, tribunals, police authorities etc. in addition to these authorities the Press Council of India established under Press Council of India Act 1978, is empowered to regulate advertisements.

2.3.1 Laws to regulate Indian advertising

The Following are the statutory provisions which regulate advertisements in India

1. **Indian penal Code 1860** - As per the provisions of Indian Penal Code, 1860 certain advertisements are considered as criminal offences. Sec. 292(2) (d) of Indian Penal Code, 1860, makes it a punishable offence to publish, distribute, sell, hire or circulate any obscene advertisement. Sec. 294-A of Indian Penal Code, 1860 says publication of any advertisement related to any lottery other than a state lottery is a punishable offence.

2. **The Young Persons (Harmful Publications) Act 1956** makes it a punishable offence to advertise a harmful publication. To be more
précised harmful publication indicates such publications which would tend to corrupt a young person whether by inciting or encouraging him to commit offences. The Act also proclaims that whoever advertises or makes known by any means that any harmful publication can be procured from or through any person, and then he shall be punished with imprisonment or with fine, or with both.

3. The Emblems and Names (Prevention of Improper Use) Act, 1950 prohibits the use of certain emblems and names of national or international significance for commercial purposes.


5. The Indecent Representation of Women (Prohibition) Act 1986 prohibits the publication of advertisements containing an indecent representation of women or in publications, writings, paintings, figures or in any other manner and for matters connected therewith or incidental thereto.

6. The Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994 prohibits advertisements related to prenatal determination of sex. The Act provides for the prohibition of advertisements of any kind for anybody or person pertaining to facilities for pre-natal diagnosis of sex available at any centre or place.

7. The Transplantation of Human Organ Act 1994 makes it a punishable offence to issue advertisements inviting persons to supply human organs for payment.

8. The Drugs and Cosmetics Act 1940 makes it an offence to use any report of a test or analysis made by central drugs laboratory for the
purpose of advertising any drug or cosmetics. The Act gives similar restrictions to advertisements for traditional drugs such as Ayurvedic, Siddha and Unani.

9. **The Prize Competition Act 1955** prohibits the publication or distribution of advertisements of prize competition where the prize offered exceeds Rs1000/- in any month.

10. **The Motor Vehicles Act 1998** entitles the State Government to empower police to remove advertisements which can obscure a traffic sign or misleading advertisements which appears to be a traffic sign or which distract the concentration or attention of a driver.

11. **The Prize Chits and Money Circulation Schemes (Banning) Act 1978** prohibits the printing or publication of advertisements of prize chits and money circulation schemes.

12. **The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003** prohibits the advertisements of cigarettes and other tobacco products. The Act states that no person shall advertise for the distribution, sale or supply of cigarettes, and also shall not take part in the publication of such advertisement, unless the specified warning is included in such advertisement.

13. **The Representation of People Act 1951** prohibits political advertising 48 hours prior to polling time. While detailing the provisions of the Representation of the People (Amendment) Act, 1951 (RPA)[19], it is observed that during the period of forty-eight hours before the conclusion of the poll for any elections in that polling area, a person shall not display to the public any election matter by means of cinematograph, television or other similar apparatus. The statute even provides penalty for anyone including the advertisers who contravene the above provision with imprisonment or fine or with both.
14. **The Cable Television Networks (Regulation) Act 1995** prohibits the transmission of advertisements on the cable network which are not in conformity with the Advertisement Code.

15. In the exercise of the powers conferred by section 30 of the **Securities and Exchange Board of India (SEBI) Act 1992** the Board makes the regulations on the code of conduct for Stock-brokers to be known as SEBI Stock-brokers and Sub-brokers Rules in 1992. The provisions of the Rules specified that a stock-broker or sub-broker is prohibited from advertising his business publicly unless permitted by the stock exchange, including in their internet sites, by its subsidiaries, group companies etc. The Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse).

16. **The Lotteries (Regulation) Act 1998** it is seen that a State Government has the discretionary powers to organize, conduct or promote a lottery, including advertising thereof subject to some conditions specified in the Statute. It is also provided that the State Government may prohibit within itself the sale of tickets of a lottery organized, conducted or promoted by every other state; if any contravention on the above the Central Government may, by order published in the Official Gazette, prohibit a lottery organized, conducted or promoted thereof. The penalty clause of the Act is such that if any person acts as an agent or promoter or trader in any lottery organized, conducted or promoted in contravention of the provisions of the Act or sells, distributes or purchases the ticket of such lottery, he shall be punishable with imprisonment or with fine or with both.

17. **The Competition Act 2002** provides prohibition of certain agreements in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India.
The provisions of Trademarks Act 1999 clearly emphasize that the following are considered as trademark infringement if it is advertised in such a way as to:

a) Take unfair advantage of and is contrary to honest practices in industrial or commercial matters; or

b) is detrimental to its distinctive character; or

c) is against the reputation of the trade mark.

Thus if used properly and without any mollified intention, then comparative advertisement can prove beneficial otherwise that may mislead consumers resulting into irreparable loss as well as legal battles.

It is an undisputed fact that advertisement plays a vital role in building up any business. The aim of advertisement is to attract the sales and enhance the visibility of the products and services of the company among the consumers. Through an advertisement, a company can build an image which it wants to make in the minds of the people. Therefore, nowadays, companies spend a huge amount of their resources on advertising and promotional strategies. Now there is even a new medium for advertisers to explore, the Internet!!!

Thus it is evident from the above quoted Acts that there are no specific legislations governing advertising in India, other than ASCI even which is not up to the mark to govern advertising spectrum. The changing context of liberalization and globalization required better regulation and strengthening of the institutional support. Even the IT Act is currently under severe scrutiny, as its scope leaves a lot to be desired. The fast growing internet transactions has unnerved evils, including those relating to online advertising. It is evident that all that is needed a codified uniform legislation for Advertising Laws and it’s time for India to lead the road ahead!

Till date advertisement issues are usually taken care of by civil courts in India which are itself overloaded with pending cases. To provide speedy redressal a uniform code should be made by the legislature.
Some territories for example Indonesia, India and China do not have comprehensive legislation specifically for data protection and advertising also as a whole. Sweden as a nation has most pragmatic and comprehensive laws in dealing with issues in this regard. Some US stats are also considered favourable on legislation but on the whole they are on the complex side of the axis. Saudi Arabia is having the weakest legislation as it is a closed system and are open to accepting changes easily. India is also on the higher side of complexity. The complexity/risk factor shown in the graph (see next page) represents a lack of predictability in the enforcement of rules and is based on:

b. The activity of national regulatory authorities and courts.
c. The applicability of sanctions
d. Lack of explicit regulation (even in the case of a mature legislation) by service providers of targeted advertising.
e. Complexity of situations, for example different local legislation in the same market, such as state laws in the US. The rapid growth of targeted online advertisements has also caught the attention of policymakers and
regulators. Market players must proceed with prudence and respect for privacy in bringing new advertising and data-management services to market. Otherwise regulatory concerns may impede this promising development.

2.3.2 Regulation of advertising in India

Like in many other countries, advertising messages in India are governed by self – regulatory and government bodies and acts. Regulation of advertising content in India has evolved in the last few decades and new acts have also come up.

All major industry bodies connected with advertising creation, exposure and sponsorship that is the advertisers, Agencies and media like Advertising Agencies Association of India, Indian Society of Advertisers, Indian Newspaper Society, and Indian Broadcasting Foundation influence advertising practice through their respective code of standards. However the most prominent body when it comes to regulation in India is ASCI.

Absence of a single comprehensive legislation had created a lot of confusion in the advertising industry. In 1985, a self regulatory mechanism of ensuring ethical advertising practices was established in the form of the Advertising Standards Council of India (ASCI), a non statutory tribunal. It is an independent body under the aegis of Advertising Agencies Association of India (AAAI) ASCI entertained and disposed of complaints based on its Code of Advertising Practice (ASCI Code). Gradually, the ASCI Code received huge recognition from the advertising industry.

Under the ASCI Code, complaints against the advertisements can be made by any person who considers them to be false, misleading, offensive, or unfair. The complaints are evaluated by an independent Consumer Complaints Council (CCC). CCC decides on complaints from the general public including government officials, consumer groups, etc., complaints from one advertiser
against another and even suo moto complaints from the member of the ASCI Board, CCC, or the Secretariat. The CCC usually decides upon the complaints within a period of 4 to 6 weeks once the party concerned is afforded an opportunity of presenting its case.

Is the Advertising Standards Council of India (ASCI) still effective when it comes to comparative ads? Considering the last time the comparative ads of Rin and Tide had both makers of the brands (HUL and P&G) rushing to courts in the country, can ASCI prevent companies from again resorting to court action? ASCI may have recently completed 25 years of self-regulation in the country but it may take a while before the ad regulatory body gets enough teeth to mete out instant justice.

For companies the main consideration behind going on the litigation route is that there is a good chance that the Courts may see fit to grant an interim relief by way of staying the broadcast/publication of the offending advertisement till the matter is disposed of by the latter. In contrast a ruling by a professional body such as the ASCI takes almost 45 days.

As seen recently, companies are quite ready to go to court rather than wait for a body such as ASCI to take its own course as the ad has to run for at least a week before any corrective action can be taken. When asked about the recent comparative ad between Rin and Tide at a recent ASCI seminar, Mr Vindi Banga, the outgoing President, Foods, Home & Personal Care, Unilever Plc., said that he was unaware of the comparative ads that were aired by HUL and P&G.

However, ASCI do have a provision for comparative ads. As Mr Shantanu Khosla, MD, P&G, says, “Comparative ads are permitted under ASCI.” However, the content of these ads on whether it is actually demoralising its competitor's brand is not something the ASCI can necessarily control and does not even come und Companies tend to go to Court only when they want an immediate stopping of the competitor's advertisement. A court can give an
injunction to stop the advertisement dead in its tracks. ASCI has to give a
hearing to the party complained against and the case is then put up before the
Consumer Complaints Council. Thus, it often means that the decision is given
about six weeks after the complaint is lodged. However, it is very infrequently
(probably once every year) that an ASCI member goes to Court.”
Though ASCI has been instrumental in making advertisers and agencies modify
or withdraw objectionable advertisements, it has no legal authority to force the
decisions. In the year 2006 government gave legal recognition with amendment
made in cable Television Network Act making it compulsory for television
commercials to abide y the ASCI code. Ministry of Information and
Broadcasting is the principal body which formulates and administers regulations
pertaining to information and broadcasting over print and audio visual media
including making sure that the advertisers safeguard public interest and
government policies. MIB has a code for commercial broadcasting for two of its
media units All India radio and Doordarshan that prevents them to accept
objectionable advertisements. There are several Acts which checks and
regulates advertising. when cable TV Network Act prohibited tobacco and other
liquor advertisements liquor companies adopted surrogate advertising. Later on
in 2002 government decided to ban surrogate advertising, this generated a big
debate as TV channels felt the loss of revenue. While liquor companies and
manufacturers argued this would result in loss in brand extensions. Some prefer
that restriction on the timing should be imposed for surrogate advertising while
government is adamant to make a complete ban.
The number of complaints at ASCI seems be on the rise which depicts a rise in
the objectionable ads, though this could also be due to increased consumer
awareness. Government recent “ jago grahak jago “ campaign has also created
awareness among consumers.

2.3.3 Advertisement under the scanner of ASCI and CCC
Some advertisements which have been checked by ASCI from 2006 onwards from different sectors are showed in the table below.

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Advertiser / Agency / Media / Media House Mktg &amp; Advtg</th>
<th>Claim / Description of Ad / TVC</th>
<th>Complaint</th>
<th>ASCI Code / CCC Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Aswini Homeo &amp; Ayurvedic Products Ltd (Aswini Homeo Arnica Hair Oil) Media House Mktg &amp; Advtg DD6 Oriya (2/2010), ETV Oriya (2/2010), Vijay TV Tamil (1/2010)</td>
<td>TVC shows - “a person whose hair was earlier not growing. Post application of the product, not only has it increased to normal rate, but has actually grown at double the normal rate of hair growth. The hair growth shown is 6 inches in 6 months (i.e. 2.5cm/month)”. Claim – “hair fall control in 4 months”. Claim – “Dandruff control in 6 months”.</td>
<td>As per accredited scientific research and findings, the normal rate of hair growth is around 1 cm/month. Ad is featured based on only data of one individual which is not statistically significant. No scientific data or support is indicated in support of this claim.</td>
<td>April 2010 Claims, “hair fall control in 4 months”, and “Dandruff control in 6 months”, were not substantiated with clinical tests/trials reports. TVC modified.</td>
</tr>
<tr>
<td>2.</td>
<td>Bajaj Allianz Life Insurance Co Ltd (Bajaj Allianz Shield Plus) Disney XD(*) (2/2010)</td>
<td>TVC of Bajaj Allianz makes a comparison with a Fixed Deposit in any Bank, in a taunting and indecent manner, as if Fixed Deposit has no merits for a client and is not worth. Further the TVC says that Fixed Deposit does not give any tax benefit.</td>
<td>This is not correct since the Fixed deposit done for a period of 5 years and above qualify for Income tax benefit under section 80 (C). The advertisement appears to degrade Fixed Deposit schemes, whereas it has its own merits and meets the requirements of a customer depending upon his needs. (One similar complaint received against the same TVC)</td>
<td>April 2010 Chapters IV.1 (d) and IV.1 (e). As the TVC compares the advantages of Insurance products with Fixed Deposit scheme, there is likelihood of the consumer being misled as a result of the comparison. Also, the advertisement unfairly denigrates other products directly. Suo motu complaint Claim made in the TVC of “170% minimum guaranteed”, needs to be substantiated. (Complaint Not Upheld at June CCC meeting). TVC withdrawn.</td>
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<td>3.</td>
<td>Godrej Sara Lee Ltd(*) (Good Knight Aerosol) Chutti TV Secretary General July 13th, 2010</td>
<td>TVC shows - “Aerosol as a fragrant and the actors are inhaling it”. This is highly objectionable as one must not inhale a pesticide even if it is safe. The canister for the aerosol resembles that of ‘Hit’ spray for cockroaches and other pests. These insecticides are far more dangerous and should not be inhaled directly. The TVC is being aired on children’s channel and is giving new ideas to children in order to endanger their lives</td>
<td>April 2010 Chapter III.2 (b). Visual depiction of “a girl inhaling a mosquito repellent spray” shows a dangerous act which is likely to encourage minors to emulate them in a manner which could cause harm or injury. TVC modified.</td>
<td></td>
</tr>
<tr>
<td>Sr. No</td>
<td>Advertiser/Agency/Media</td>
<td>Claim / Description of Ad/ TVC</td>
<td>Complaint</td>
<td>Decision</td>
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<td>4.</td>
<td>Coca-Cola India P. Ltd. (<em>)(Thumbs Up) Star Sports(</em>) (2/2008)</td>
<td>Visuals - “an actor with a lady occupant driving a car in a very rash and negligent manner for a ‘Thumbs Up bottle’. He then meets with an accident and is shown in the hospital, with a fractured leg and sipping a bottle of ‘Thumbs Up’.</td>
<td>(Complaint received in 3/2008) Any individual inspired by this Ad, if attempts to perform such daredevil acts/feat, there is a very likelihood that he will lose his life/limb, and therefore this Ad should be prohibited.</td>
<td>April 2008 Chapter III.3 of the ASCI Code. Clauses A and B of the Guidelines on Advertisements for Automotive Vehicles. Actions portrayed in the visuals depicted in the TVC, show dangerous practices and manifest a disregard for safety without justifiable reason. Ad portrays violation of the Traffic Rules, and shows speed in a manner which encourages unsafe or reckless driving, which could harm the driver, passengers and/or general public. TVC modified.</td>
</tr>
<tr>
<td>5.</td>
<td>Hindustan Unilever Ltd. (*)(Lux) Cartoon Network (2/2008)</td>
<td>Ad is in a cartoon format, the contents, portrayal and background audio is of adult content.</td>
<td>(Complaint received in 3/2008) Ad telecast on the said channel is watched by children in the age group of 3 to 10. Ad bombards images of sexual nature, which is likely to create a negative impact on the young minds.</td>
<td>April 2008 Chapter II. As the TVC was aired on Cartoon Network, a channel watched by children, the contents, depiction of visuals in a cartoon format, was considered offensive to generally accepted standards of public decency. TVC discontinued since 15/3/2008.</td>
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<td>6.</td>
<td>Bajaj Auto Ltd. (Bajaj Pulsar) Ogilvy &amp; Mather (<em>) Star Gold(</em>) (3/2008)</td>
<td>Visuals - “some bikers performing extremely dangerous stunts on motorbikes followed by the Ad slogan - 'Pulsar Mania'. The ‘safety warning’ for stunts being performed by experts, appears at the bottom of the Ad in an almost transparent font.</td>
<td>(Complaint received in 3/2008). Keeping in mind the several instances in the past where such stunt Ads have caused youngsters to get carried away and try these dangerous acts leading to injuries and even deaths, the ‘warning’ given in the Ad is not prominent enough to avoid danger which may result out of the fantasies of a young child after watching the Ad. (Two similar complaints received against the same TVC).</td>
<td>April 2008 Chapter III.3. Actions portrayed in the visuals depicted in the TVC, show dangerous practices and manifest a disregard for safety without justifiable reason. TVC modified.</td>
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<td>7.</td>
<td>HT Media Ltd. (<em>) (Hindustan’s No.1 newspaper) Ogilvy &amp; Mather(</em>) Hindustan Times(*)</td>
<td>Claim - Hindustan is “Jharkhand’s No.1 newspaper since inception”.</td>
<td>(Complaint received in 3/2008). No authentic source of information has been published in the Ad for establishing the claim of it being the No.1 newspaper of Jharkhand. Claim needs to be substantiated. Ad is</td>
<td>April 2008 Chapters I.1 and I.4. Claim not substantiated adequately. Also, the source of information on the basis of which this</td>
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<tr>
<td>Claim No.</td>
<td>Company Name &amp; Product</td>
<td>Media</td>
<td>TVC Claims</td>
<td>Pack Claims</td>
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<td>10.</td>
<td>Novartis India Ltd.(<em>) (Calcium Sandoz Soft Chew) Grey Worldwide P. Ltd.(</em>) Star Plus(*), Pogo channel. Promotion message on the product pack.</td>
<td>TVC claims - “Bones become stronger by eating toffee if toffee is Calcium Sandoz Soft Chew”. Product pack claims - “A proprietary ayurvedic medicine”. Pack claim - “Keep this and all drugs out of reach of children”. Pack uses the word “Chocolate”</td>
<td>(Complaint received in 4/2008). Advertiser needs to substantiate this claim by providing – (1) Independent research data, (2) Data supporting the myth that added sugar and artificial flavor, present in toffee, doesn’t have adverse effect on children health, (3) Data regarding short and long term side effects of consuming this product, especially on children. This appears to contradict the claim made in the TVC which shows it as a toffee for all children. Advertiser should provide clarification as to why a toffee which makes the bone of the children strong, be kept out of their reach. This suggests that the product is a chocolate rather than a medicine, and this may tempt the youngsters to consume this product more and more.</td>
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<td>11.</td>
<td>Gillette India Ltd.(*) (Gillette Victor Plus Blade) Jaya TV (4/2008)</td>
<td>Voice over – “blade lasts for 3 weeks”. Fine print - “on the basis of one shave every 3 days”</td>
<td>(Complaint received in 5/2008). The consumer is led to believe that the blade lasts for 21 shaves whereas it lasts for only 7 shaves. Fine print appears on the screen for a short time that one cannot read it fully. Ad is misleading.</td>
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<td>12.</td>
<td>Hindustan Unilever Ltd(<em>) (Ponds Flawless White) Zee TV(</em>), Star TV(<em>), Sony(</em>) (2/2008)</td>
<td>TVC shows - “a girl who applies the cream on her face gets a beaming and glowing face 7 days after usage and this is shown by a comparative visual showing her face before and after the usage of the cream. A beauty expert claims that, “only the Ponds Flawless White cream can make your skin flawless white”</td>
<td>(Complaint received in 6/2008). Claim is highly exaggerated and unsubstantiated and has the potential of misleading the gullible consumers. A translation of the term ‘Flawless White’ would mean that the usage of the cream can completely erase dark spots, scars, lines and wrinkles, and removes any and all other facial skin imperfections. The comparative visual can only lead an innocent consumer into believing that by merely using the cream for 7 days, she would get a beaming and glowing flawless white skin.</td>
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<td>Cheil Communications India Pvt Ltd(<em>) (Samsung Guru 200 mobile) Zoom channel(</em>) (6/2008)</td>
<td>TVC shows “a tourist guide recording songs from FM to impress some foreign tourists. As told through the voice-over, “Ab FM se record kijiye or jab chahe suniye”. The phone comes with an FM recording feature.</td>
<td>(Complaint received in 6/2008) Ad not only promotes music piracy, but actually teaches people to ‘steal music’. (Three similar complaints received against the same TVC).</td>
<td>September 2008 Chapter III.4. Ad promotes infringement of Copyrights, which is an illegal act. Ad in breach of the law since the Ad was in apparent violation of The Copyright Act. TVC withdrawn.</td>
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<tr>
<td>Sr. No</td>
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<td>3</td>
<td>Samsung India Electronics Pvt Ltd(<em>) (Samsung LCD TV) Mumbai Mirror(</em>) (4/2006)</td>
<td>Ad states - “Crystal vase….Rs.2200. Samsung LCD TV with crystal clear picture …just Rs.2166. at an EMI of just Rs.2166”.</td>
<td>(Complaint received in 5/2006) Ad is incomplete as it does not mention the number of EMIs. The Ad is misleading as it suggests that the cost of the Samsung LCD TV is less than the cost of a Crystal vase.</td>
<td>June 2006 Chapter I.4. Ad misleading by omission. Advertiser assured that the Ad will be modified appropriately prior to releasing it again.</td>
</tr>
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<td>4</td>
<td>Bajaj Auto Ltd (Bajaj Platina Bike) Lowe(*) Ten Sports (6/2006)</td>
<td>Visuals - “A boy riding a bike and a girl driving a car. The girl keeps flicking her car headlights at the boy who zigzags all over the road (going into the lane for oncoming traffic). In the end, the boy gets behind the car and starts flicking his bike’s headlights at it”</td>
<td>(Complaint received in 6/2006) Ad depicts road safety and traffic rules as something that can be broken or need not be taken seriously.</td>
<td>August 2006 Chapter III.3. Action sequences, depicted in the TVC, show dangerous practices and manifest a disregard for safety without justifiable reason. TVC discontinued.</td>
</tr>
<tr>
<td>5</td>
<td>Cadbury India Ltd(<em>) (Cadbury Bournvita) Ogilvy &amp; Mather(</em>) The Times of India(*) (8/2006)</td>
<td>Headline - “Real Achievers grow up on Bournvita”. Claim - “With Super Chargers”.</td>
<td>(Complaint registered in 9/2006) This needs to be substantiated with certificates or testimonials from the persons mentioned in the Ad. Claim on the label of the product pack depicted in the Ad, needs clarification as to the nature of ingredients supporting such a claim.</td>
<td>October 2006 Chapter I.4. Ad headline was misleading by gross exaggeration, in the absence of authentic evidence of the prolonged consumption over the growing years, of the individuals cited in the Ad. Ad discontinued.</td>
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<tr>
<td>S. No.</td>
<td>Advertiser/Agency/Media</td>
<td>Claim/Description of Advertisement/TVC</td>
<td>Complaint</td>
<td>ASCI Code/CCC Decision</td>
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<td>6.</td>
<td>McDowell &amp; Company Ltd(<em>) (now United Spirits Ltd) (DSP Black) Mudra Comms(</em>) Bombay Times(*)</td>
<td>Ad states - “Night is Young. Night is Black”, “Come Alive”, “DSP Black – Black Nights CDs” (in fine print).</td>
<td>(Complaint registered in 9/2006) Ad is misleading by its ambiguity, and is suggestive of a liquor brand (appears to be a replica of the label of a branded liquor product).</td>
<td>October 2006 Chapters I.4, III.4 and III.6(a). Mention of “CDs” in an inconspicuous and unreadable manner delinked from any of the pertinent claims or visuals, misleading by its ambiguity. Replica of label of a branded liquor product, considered as promoting the sale or consumption of liquor, Ad having appeared in Bombay Times, published in Maharashtra. Scale of advertising does not appear to be sustainable in respect of the quantity quoted in the agreement provided in support of the business contracted. Ad modified.</td>
</tr>
<tr>
<td>7.</td>
<td>Godrej Consumer Products P. Ltd(<em>) (Godrej Fair Glow Soap) Quadrant Comm Zee Marathi(</em>)</td>
<td>Visuals - “Parents of the girl are shown as dark skinned, with their names as ‘Mr. Kale and Mrs. Kale’ and the daughter is shown as fair because she has used the Godrej Fair Glow soap”.</td>
<td>(Complaint received in 9/2006) Ad is offensive.</td>
<td>November 2006 Chapter II. Visual depicted, was discriminatory in its implication. Ad considered being repulsive and likely to give rise to widespread offence, particularly amongst women. Ad campaign concluded. Advertiser informed that TVC will not be repeated.</td>
</tr>
<tr>
<td>8.</td>
<td>Heinz India P. Ltd(<em>) (Complan) Star Plus(</em>)</td>
<td>“Complan has 100% milk protein &amp; 23 vital nutrients, which help children grow by …. ” Claim of height increase – “this much” (visually depicted)</td>
<td>(Complaint received in 10/2006) Complainant has been regularly giving his child ‘Complan’ for the last one year, but his height has not increased, to an extent as shown in the commercial. Claim needs to be substantiated.</td>
<td>November 2006 Chapters I.1 and I.4. Claim, “this much”, as visually depicted, which implied ‘twice as much increase in height’, as a result of daily consumption of Complan in prescribed quantities, was misleading by gross exaggeration. In the absence of valid substantiating data, supported by tests/ trials conducted amongst related subject groups in India, wherein height increase (not general growth) was the focus of such studies, claim not substantiated. Complaint related to the observed lack of perceptible increase in height of an individual boy, in relation to the visually depicted height increase in support of the claim, was Not Upheld, in the absence of valid supporting data in the complaint. TVC modified.</td>
</tr>
<tr>
<td>9.</td>
<td>Marico Ltd(*) (Hair &amp; Care Hair Oil) DD1</td>
<td>Claim (in Hindi) – “Baalon ka tootna fifty percent tak kam kare”. Super: “Up to 50% less breakage”.</td>
<td>(Complaint received in 11/2006) Claim amounts to misleading unwary customers into believing that the product has a comparative</td>
<td>December 2006 Chapters I.1 and I.4. Claim not substantiated adequately. Ad misleading by ambiguity, in respect of perceptible differentiation between hair breakage and hair fall. Advertiser assured</td>
</tr>
<tr>
<td>10</td>
<td>Business Today (India’s No.1 Business Magazine) CNBC TV18(*)</td>
<td>Claim - “India’s No.1 Business Magazine”. (Complaint received in 10/2006) This is a completely untrue claim and actually misleads viewers, to believe that Business Today is the No. 1 Business magazine. The fact is that ‘Business world’ is India’s No.1 Business magazine, as per NRS 2006. ‘Business world’ is also the only ABC certified business magazine for circulation numbers.</td>
<td>December 2006 Exparte (absence of comments from the Advertiser). Chapter I.1. Claim not substantiated. Claim modified.</td>
<td></td>
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<td>12</td>
<td>Hero Honda Motors Ltd(<em>) (Hero Honda CBZ X-treme) J. Walter Thompson(</em>) Star Sports(<em>) (1/2007) Zee TV(</em>) (1/2007)</td>
<td>Visuals – “a biker going near the cliff and performing stunts on a single wheel of the motorbike”. (Complaint received in 1/2007) Ad shows a dangerous act which if emulated by inexperienced riders, may cause injury. (1 similar complaint received against the same TVC)</td>
<td>February 2007 Chapter III.3. Action as depicted in the TVC, showed a dangerous act which if emulated by inexperienced riders, could cause injury. Such actions show disregard for safety without justifiable reason. TVC modified.</td>
<td></td>
</tr>
</tbody>
</table>
REFERENCES


23. www.ascionline.org

24. www.babymilkaction.org

25. www.bpni.org