To,

Prof. G. P. Pandey

Professor

Dept. of Mass Communication

Assam University,

Silchar.

Subject: Regarding publication of paper entitled “Patterns of Social Advertising in Print Media”.

Sir,

Your paper entitled as above in co-authorship with Mr. Sarvesh Dutt Tripathi, has been accepted for publication in “SANCHAR SHREE” in April-June, 2009 issue.

Thanking you!

Yours sincerely,

Dr. Ramesh Chandra Tripathi

Department of Journalism

&

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University Of Lucknow,

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APPENDIX

Law, Women And Advertisements

Advertisement is the most influential and powerful medium in the commercial society. The Advertising Standards Council’s Code for Self regulation defines an advertisement as a paid-for communication, addressed to the Public or a section of it, the purpose of which is to influence the opinions or behavior of those to whom it is addressed. Any communication which in the normal course would be recognized as an advertisement by the general public would be included in this definition even if it is carried free-of-charge for any reason. “Advertising is an expression intended for the promotion of a product or a service or concept.” The Report of EEC Committee on the Environment, Public Health and Consumer Protection defined advertising thus, “……the process of persuasion, using paid media, in which purchasers of goods, services or ideas sought. Its primary aim is to convince the consumer to obtain the advertiser’s product/service and/or his specific brand. Advertising is thus a commercial message designed to influence consumer behavior.” Advertising is communication. It seeks to convey information to the consumer about a product. It can take any form in any media.

Women and Advertisements

Women play a very important role in respect to Advertisements:

- As Victims-I subscribe to the view that women models in most cases are exploited.
- As viewers of advertisements in the media
- As, endorsers which again is a dignified way of promoting a product which is usually done by a well known woman.

Use of women to promote a concept or product is going on increasing. Women are used in TV commercials as weapon of persuasion. Women in many cultures make the majority of consumption decisions; hence they are important target of these advertisers. Positive Impact of Advertisements on Women includes Consumer education, Public Service Advertisements which educates women. Advertisements brings awareness about various issues women need to know. For example: the advertisements of
contraceptives inform women about safe sex. Advertisements also offer a career to women as models and fashion design. Advertisements do update women on the latest fashion trends; there by making them more stylish and elegant. But, most of the advertisements make women victims of cheap advertising techniques. The representing of women in indecent ways for whatever commercial ends, is the worst thing done. It can be curbed by the following means:

A-LAWS

The Indian Penal Code 1960 contains S. 292 which deals with the sale of obscene books, pamphlet, inter alia representation which shall be deemed to be “lascivious or appeals to the prurient interest”, which can include obscene advertisements. I am including Indian Penal Code as safety legislation to prevent the indecent representation of women in advertisements, because of one logic:

“Indecent Representation of women can be obscene”, which means that a law curbing obscenity can come of help.

“...The word, obscenity as the dictionaries tell us, denotes the quality of being obscene which means offensive to modesty or decency; lewd, filthy and repulsive. It cannot be denied that it is an important interest of society to suppress obscenity. There is, of course, some difference between obscenity and pornography in that the latter denotes writings, pictures etc. intended to arouse sexual desire while the former may include writings etc. not intended to do so but which have that tendency. Both, of course, offend against public decency and morals but pornography is obscenity in a more aggravated form”

In RANJIT D. UDESHI Vs STATE OF MAHARASHTRA, the test of obscenity was established. The appellant, a bookseller, sold a copy of the unexpurgated edition of “Lady Chatterley's Lover”. He was convicted under s. 292, Indian Penal Code, it was ruled that “in judging a work, stress should not be laid upon a word here and a word there, or a passage here and a passage there. Though the work as a whole must be considered, the obscene matter must be considered by itself and separately to find out whether it is so gross and its obscenity so decided that it is likely to deprave and corrupt those whose minds are open to influences of this sort. In this connection the interests of contemporary society and particularly the influence of the impugned book.
on it must not be overlooked. Where, obscenity and art are mixed, art must so preponderate as to throw the obscenity into a shadow or the obscenity so trivial and insignificant that it can have no effect and may be overlooked. It is necessary that a balance should be maintained between "freedom of speech and expression" and "public decency or morality"; but when the latter is substantially transgressed the former must give way." And in CHANDRAKANT KALYANDAS KAKODAR v. STATE OF MAHARASHTRA AND ORS, it held that there was no fixed rules to determine obscenity."The concept of obscenity would differ from country to country depending on the standards of morals of contemporary society.

The Indecent Representation of Women (Prohibition) Act, 1986

The Act punishes the indecent representation of Women, which means "the depiction in any manner of the figure of a woman; her form or body or any part thereof in such way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals. It states that no person shall publish or cause to publish or cause to be published or arrange to take part in the publication or exhibition of any advertisement which contains indecent representation of women in any form. 'In the Act, advertisement' includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas. The Amendment suggested by the National Commission for Women suggests to amend the definition to "advertisement' includes any notice, circular, label, poster, wrapper or other document and also includes any visible representation made by means of any laser light, sound, smoke, gas, fibre, optic electronic or other media" It states that no person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any. The Commission has also suggested the addition of the word "Derogatory" along with "indecent".

In Section 6 on Penalty, the words 'and with fine which may extend to two thousand rupees' shall be substituted with the words 'and with fine which may extend to ten thousand rupees' and the words 'in the event of a second or subsequent conviction with imprisonment for a term of not less than six months but which may extend to five years
and also with a fine not less than ten thousand rupees but which may extend to one lakh rupees' shall be substituted with the words 'in the event of second or subsequent conviction with imprisonment for a term of not less than six months but which may extend to five years and also with a fine not less than fifty thousand rupees but which may extend to five lakh rupees'.

In the Kamasutra Advertisement, Milind Soman and Madhu Sapre too had faced similar mix of charges. Similar charges were raised against the Editor of Anandabazar Patrika, Aveek Sarkar, and the Publisher in a trial court in Kolkata relating to the reproduction of a nude photograph of former tennis player Boris Becker and his fiancée in Sportsworld magazine, published by the group in May 1993. According to the National Crime Records Bureau claims a decrease of cases of Indecent Representation of women -decreased by 46.5% (from 2,917 in 2005 to 1,562 in 2006). While it is Andhra Pradesh that has recorded 86.2 percent of cases at in the National level under the Act.In April 2006, a Madurai court issued non-bailable warrants against Sen and Shilpa Shetty for "posing in an obscene manner" in photographs published by a Tamil newspaper. The report stated that the two actresses had failed to comply with earlier summonses for the same reason, hence the issuance of the warrants. The petitioner submitted that the paper had published "very sexy blow-ups and medium blow-ups" in its issues December 2005 and January 2006 issues, and which allegedly violated the Indecent Representation of Women (Prohibition) Act 1986, Young Persons (Harmful Publications) Act 1956, and the Indian Penal Code Section 292 (Sale of Obscene Books). The petitioner further demanded that the images should be confiscated under the terms of the Press and Registration of Book Act 1867.

The Information Technology Act, 2000

Section 67 of the IT Act is the most serious legislative measure against pornography. The section reads as under: Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend
to one lakh rupees and in the event of a second or subsequent conviction with
imprisonment of either description for a term which may extend to ten years and also
with fine which may extend to two lakh rupees. The important ingredients of an
offence under section 67 are publishing, or transmitting, or causing to be published,
pornographic material in the electronic form.

The wordings of section 67 are wide enough to cover all perpetrators of cyber
pornography, be it the Internet service providers, web hosting entities or the persons
behind the actual website. The Act prescribes imprisonment of either description for a
term which may extend to 5 years and with fine which may extend to Rs. 1 lakh in the
case of first conviction and in the event of a second or subsequent conviction with
imprisonment of either description for a term which may extend to 10 years and also
with fine which may extend to Rs. 2 lakh.

S.67 thus, aids in the control of advertisements which has found its life in the new
media- the Internet. Other female friendly laws include the PNDT Act, S.22 reads thus-
S.22. Prohibition of advertisement relating to pre-natal determination of sex and
punishment for contravention.- (1) No person, organization, Genetic Counseling
Centre, Genetic Laboratory or Genetic Clinic shall issue or cause to be issued any
advertisement in any manner regarding facilities of pre-natal determination of sex
available at such Centre, Laboratory, Clinic or any other place.

(2) No person or organization shall publish or distribute or cause to be published or
distributed any advertisement in any manner regarding facilities of pre-natal
determination of sex available at any Genetic Counseling Centre, Genetic Laboratory,
Genetic Clinic or any other place.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2)
shall be punishable with imprisonment for a term which may extend to three years and
with fine which may extend to ten thousand rupees.

In Young Person's (Harmful Publications ) Act,1956, harmful publications "means
any book, magazine, pamphlet, leaflet, newspaper or other like publication which
consists of stories told with the aid of pictures or without the aid of pictures or wholly
in pictures, being stories portraying wholly or mainly-

(i) the commission of offences; or

(ii) acts of violence or cruelty; or

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incidents of a repulsive or horrible nature in such a way that the publication as a whole would tend to corrupt a young person into whose hands it might fall, whether by inciting or encouraging him to commit offences or acts of violence or cruelty or in any other manner whatsoever. Liability is on all who sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, any harmful publication, or for purposes of sale, hire, distribution, public exhibition or circulation, prints, makes or produces or has in his possession any harmful publication, or advertises or makes known by any means whatsoever that any harmful publication can be procured from or through any person. He shall be punishable with imprisonment which may extend to six months, or with fine, or with.

Cable Television Networks (Regulation) Act, 1995

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. The Advertisement Code is set out under Rule 7 of the Cable Television Network Rules, 1994. Contravention of these provisions attracts liabilities. The Advertisement Code states that no advertisement shall be permitted which derides any race, caste, color, creed and nationality. In Rule 7 (2) (vi) it states that no advertisement shall be permitted which, “in its depiction of women violates Constitutional guarantee to all citizens. In particular, no advertisement shall be permitted which portrays a derogatory image of women. Women must not be portrayed in a manner that emphasizes passive, submissive qualities and encourages them to play a subordinate, secondary role in family and society. The Cable operator shall ensure that the portrayal of the female form, in programmes carried in his cable service is tasteful and aesthetic and is with well established norms of good taste and decency.” The Act further states that no advertisement which exploits social evils like dowry and child marriage must be permitted.

B-Women have inherent RIGHT TO DIGNITY

The expression 'life' assured in Article 21 of the Constitution does not connote mere animal existence or continued drudgery through life. It has a much wider meaning
which includes right to livelihood, better standard of living, hygienic conditions in the workplace and leisure." Quality of life covered by Article 21 is something more than the dynamic meaning attached to life and liberty. Right to life includes right to human dignity. Right to live with human dignity enshrined in Article 21 derives life breath from the directive principles of State policy. In Maneka Gandhi V Union of India, it was ruled that right to life is not merely confined to physical existence but also includes within its ambit the right to live with human dignity. In Francis Coralie V Union of Territory of Delhi it was held that means something more than just physical survival and is not confined to protection of any faculty or limb through which life is enjoyed or the soul communicates with the outside world, but includes "the right to live with human dignity". Women are human beings. So every right pertaining to human beings is not alien to women. Women have right to live a dignified life. In Chandra Raja Kumari V, Police Commissioner, Hyd, it had been held that right to live includes right to live with human dignity or decency and therefore holding of beauty contests is repugnant to dignity or decency of women and offends Art 21 of the Constitution. The Universal Declaration of Human Rights, International Covenant on Civil and Political Rights has recognized that human beings have dignity inseparable from them. Thus, the right to dignity being an inseparable part of right to life guaranteed under the Indian Constitution under Art.21 makes the enforcement of the laws possible by the initiation of a writ petition in the Supreme Court or High Courts under Art.32 and Art.226 respectively.

Article 32 guarantees the enforcement of fundamental rights conferred by Part III of the Constitution by issuing appropriate directions, orders or writs.

C- Governments

Government policies can influence the effective implementation of safeguards to the dignity of representation of women. For e.g. see this news item- After Sushma Swaraj, her colleague, Sumitra Mahajan, is now bent on cleaning up the media. The government is planning to extend the ban on "indecent representation" of women in print to the electronic media and the Internet. It is also going to amend the Indecent Representation of Women (Prohibition) Act, passed more than a decade ago, to give it more teeth. "The main aim is to widen the scope of the Act and its applicability so that
it covers depiction of women as sexual objects or in humiliating servility to men in any kind of written, verbal or visual form,” recommends the note prepared by the Department of Women and Child Development.

**D-Statutory Bodies**

The National Commission for Women has the power to initiate actions against the indecent Representation of Women. The National Commission for Women's Vision, Strategies and Programmes for the year 2005-2006 had among other goals the goal to curb indecent representation of Women by the media. The NCW had recommended for amendments in the Indecent Representation OF Women (Prohibition) Act, 1986. It has vast powers and do have the duty to safeguard the dignity of women portrayed in a bad light in the media, especially advertisements.

**Human Rights Commission**

The National Human Rights Commission and the State Human Rights Commission can look into violations of dignity of women, even in advertisements. S. 2 (d) of the Protection Of Human Rights Act, 1993, defines human rights as the rights relating to life, liberty, equality, and dignity of an individual guaranteed in the Constitution or embodied in the international Covenants and enforceable by Courts in India. The NHRC has taken cognizance of certain infringements of dignity of women in advertisements.

**The Press Council of India**

The Press Council Of India is a statutory body established by the Press Council Of India Act, 1978, for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India. S. 14 of the Act gives the power to censure.

S.14(1) “Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold
an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be “

The Press Council of India has been established with the objects of preserving the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in the country. It is to further these objects, that the council is required among other things, to help newspapers and news agencies to maintain independence; to build up a code of conduct for newspapers agencies and journalists in accordance with high professional standards to ensure on their part the maintenance of high standards of public taste and to foster a due sense of the rights and responsibilities of citizenship and to foster the growth of a sense of responsibility and public service among all those engaged in the profession of journalism. In the Code “-Newspapers should not publish an advertisement containing anything which is unlawful or illegal, or is contrary to good taste or to journalistic ethics or proprieties” in the section elaborately dealing with advertisements, which by the inclusion of the term, “good taste” is to be noted. It also states that “...The editors should insist on their right to have the final say in the acceptance or rejection of advertisements, specially those which border on or cross the line between decency and obscenity. An editor shall be responsible for all matters, including advertisements published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.”

In Ajay Goswami V. Union of India , is a relevant case which drew provisions from the Indian Penal Code, Indecent Representation of Women (Prohibition) Act etc to challenge the obscene content in newspapers. It also stated that the press Council’s power to censure needs to be reviewed. The Petitioner is a lawyer. Respondent No.1 is Union of India, respondent No.2 is a statutory body, respondent Nos. 3 & 4 are the leading national daily newspapers and respondent No.5 & 6 are news agencies. ‘The petitioner’s grievance is that the freedom of speech and expression enjoyed by the newspaper industry is not keeping balance with the protection of children from harmful and disturbing materials. However, the writ petition was dismissed but directed the Government to consider the request of the Press Council to amend the section in public interest.
E-Other Bodies

Other organizations and bodies including NGOs can play an important role in curbing the menace of indecent representation of Women in Advertisements. As a result of a collaborative effort between the National Commission for Women, the various State Commissions in different parts of the country and several non-government organizations working for the empowerment of women, media watch groups are being set up in various cities for continuous and sustained monitoring of portrayal of women in the media.

F-SELF REGULATION:

Self-regulation is a universally applicable code of practice, drawn up on a co-operative basis by the industry it is designed to control, and expressed in clear, unambiguous terms; wide publicity for the code to the business concerned and to its customers and potential customers; an efficient and consistent monitoring, complaints handling and arbitration procedure which can be followed to investigate and adjudicate apparent breaches of the code and which is provided by the industry concerned. Some self-regulatory codes in the marketing field may be more limited in their application, because they apply only to those companies in membership of the sponsoring trade association. In India we have the Advertising Standards Council of India. Advertising Standards Council of India is a self regulatory voluntary organization of the advertising industry. The Role and Functioning of the ASCI & its CCC are in dealing with Complaints received from Consumers and Industry, against Advertisements which are considered as False, Misleading, Indecent, Illegal, leading to Unsafe practices, or Unfair to competition, and consequently in contravention of the ASCI Code for Self-Regulation in Advertising

G-People and Society

The public can play an important role in curbing the indecent representations of women in advertisements, by objecting to it and by choosing not to remain silent. Cultural as well as religious constraints too cannot be over looked totally by the agencies. The media is the watch dog of justice. Media is accountable to the people. Media can play an important role in protesting the indecent representation of women in the media.
Journalists have to make people aware of the laws helping them in this goal, through their writings.

In conclusion, I would like to point out that a mass awakening only can make a change in the attitude of advertisements towards women. Public service Advertisements are doing their part- thanks to the Governments and NGOs. But women organizations, police, politicians, social workers, legal activists- all have to join hands to fight those indulging in indecent representation of women in advertisements. Much have to be researched in this field to bring forth a comprehensive piece of legislation or amendments in the existing laws to deal with the vulgar portrayal of women in advertisements. Transnational companies and their advertisements do have a negative persuasive effect on the viewers of our country, especially youngsters. The advertisements portraying women in a vulgar way, whether it be in hoardings or other in other media, is tolerated and over looked by the people. For. e.g. there is a duty attached to officers under different acts like the Indecent Representation of Women (Prohibition) Act,1986 which can be resorted to remove hoardings with women pictured in a vulgar way. In these circumstances a writ of mandamus can be resorted to. By various cases, the Supreme Court has recognized that the advertisements were in the nature of “commercial speech”, thereby liable to be protected under Art 19(1) (a). But it must be remembered that it is not a blanket protection because of the restrictions which includes inter alia grounds of morality and decency. He also points out that the models as well as the advertising agencies do have a right to livelihood and profession, but the so called social workers and activists and lawyers and media persons should come up to enlighten the society at large about the legal consequences of indecent acts.