CHAPTER 5

SOCIAL, ECONOMICAL, ETHICAL & REGULATORY ASPECTS OF

5.1 Social aspects of advertising
5.1.1 Advertisers' social responsibility
5.1.2 Social criticisms of advertising
5.2 Economical aspects of advertising
5.3 Ethical aspects of advertising
5.4 Regulatory aspects of advertising
5.4.1 Advertising Standards Council of India (ASCI)
5.4.2 Internet advertising & Regulatory issues
SOCIAL, ECONOMICAL, ETHICAL & REGULATORY ASPECTS OF ADVERTISING – AN INTRODUCTION

Advertising plays two broad roles in the socio-economic landscape of a country. At an economic level, advertising stimulates demand, educates consumers about new products, increases competition and improves standards of living by helping to bring new products to the consumer. At a social level, advertising plays upon, derives from and contributes to the social texture of a country. Advertising mirrors society and society mirrors advertising. Several social changes are brought about or aided by advertising. Advertising creates role models who can, in turn, create societal change. Above all these, there are lots of other factors such as cultural, ethical and regulatory aspects of advertising.

In a developing country like India, these questions are asked even more loudly, at times leading to regulatory action – like the ban on infant cereal advertising over television. While these issues persist, advertising is also used to sell the concept of family planning and other social service messages. How can one protect oneself from AIDS? How can one prevent and eradicate polio with the Pulse Polio campaign?

Advertising also helps promote several social causes, if used prudently. Regulatory authorities and, more importantly, self-regulatory authorities have started playing a more important role in helping advertising stay within the boundaries of what is ethically, morally correct.

Shocking, disgusting, and revolting' were the three austere words used by Supreme Court of India while describing the ‘surrogate' advertising approach used by the political parities for political mudslinging during Lok Sabha elections – 2004. On April 1, 2004 the apex court banned telecast of all political advertisements which offended ‘morality, decency, and religious susceptibility' of viewers and asked Election Commission of India to monitor all political advertisements. However, a couple of days before the apex court passed its judgment, the Indian Broadcasting Federation (IBF) passed its own 'self-regulation' and decided to refrain from airing advertisements containing personal attacks on political parities or leaders. All major channels decided to accept the self-regulation guidelines framed by IBF. This example clearly differentiates between 'legal' regulation (in this case Supreme Court decision) and 'self-
regulation’ (in this case decision by IBF). Today, world over there is an increasing debate about the importance of self-regulation and experts are working hard to maintain and enhance the public's confidence in advertising.

Advertising is both applauded and criticized not only for its role in selling products but also for its influence on the economy and on society. For years, critics have denigrated advertising for a wide range of sins – some real, some imagined.³

5.1 Social aspects of advertising

Consumers today are bombarded with several hundreds and millions of advertisements irrespective of whether they make ‘sense’ or ‘nonsense’. Though it is only a small number of advertisements that are offensive, false, misleading, unfair, or socially irresponsible, society needs to have a formal infrastructure to protect consumers and to make advertising ‘acceptable’.⁴

People like some ads feel offended by some ads. Advertising benefits society in a number of ways. It encourages the development of new and better products; it gives consumers a wider variety of choices; it helps keep prices down; and it encourages competition. Advertising also subsidizes the media, supports freedom of the press, and provides a means of disseminating public information about health and social issues.

5.1.1 Advertisers’ social responsibility

Social Responsibility is closely related to advertising ethics, but measures of social responsibility can change more rapidly than ethical positions. Environmental concerns are also inducing advertisers around the world to be more socially responsible. Many companies now advertise their socially responsible endeavors. Most advertisers today strive to maintain high ethical standards and socially responsible advertising practices. Once a free-swinging, unchecked business activity, advertising is today a closely scrutinized and heavily regulated profession. Advertising’s alleged past excesses and shortcomings (rightly or wrongly charged) have created layer upon layer of laws, regulations and regulatory bodies. Consumer groups, government, special-interest groups, and even other advertisers now review, check, control, and change advertising.⁵ The principles of the self-regulation system
are based on a sense of fair play to all. Marketing communications should be socially responsible and encourage fair competition. **They should undertake marketing communications that are legal, decent, honest and truthful.** Advertisement should be produced with a sense of responsibility to consumers and society. They should show acceptance of the principles of fair competition and business practice.

**Marketing communications provide information that facilitates freedom of choice between competing goods and services.** The challenge for all parties involved in promotions — those in the industry, the government and consumer representatives — is knowing how much freedom and how much control should be allowed and, having decided this, who should enforce any restraints that are imposed. Regulations and restrictions may be imposed for reasons other than to avoid offending somebody or simply to ensure truthfulness. For example, restrictions are placed on cigarette, alcohol and drugs promotions because their consumption is deemed to be dangerous. Comparative advertising is constrained to avoid unfair trading practices, and rules are applied to product description and labeling to encourage accurate information and comparisons between competing brands. It has been suggested that marketing communications should be constrained to purely factual information and should avoid any reference to emotional and persuasive appeals. Yet freedom of information is not only freedom to convey facts. Even a cursory look around at packaging, public relations, sales promotions, television, press, internet and poster advertising will reveal that there is very little promotional effort put into purely informative promotions.

**Marketing communications is the most visible of all marketing activities and it is subject to constant inquiry by competitors, regulators, consumers and consumer groups.** Each year there are literally millions of advertisements and millions of other forms of promotions — printed, distributed, displayed and broadcast all around the world. In reality it is only a few of them that are offensive, misleading, unfair or false. Of course, when such marketing communications are brought to the public’s attention there are understandable and grave concerns. But the extent of such misconduct needs to be put context.
5.1.2 Social criticisms of advertising

Advertising is the most visible activity of business. By inviting people to try their products, companies also invite public criticism and attack if their products don't measure up. Proponents of advertising say it's safer to buy advertised products because, when manufacturers put their company name and reputation on the line, they try harder to fulfill their promises.

Advertising is widely criticized for the role it lays in selling products and for its influence on society. It's important to understand the common criticisms, debunk the myths about advertising, and acknowledge the problems advertising does have.

Critics of advertising tend to make one very big fundamental mistake; they blame the tool and not the user. There is nothing wrong with advertising, but there are advertisers who abuse or misuse advertising, deliberately or unintentionally. Consequently, there are consumerist organizations, consumer protection laws, and representatives of the advertising industry who seek to control abuses of advertising. Note that we refer to abuses of and not by advertising. Various criticisms have been leveled at modern advertising that it creates monopoly, encourages wastefulness, does not use the media to our cultural advantage, and creates desires that cannot be fulfilled, takes advantage of emotion and not reason, and that the high pressure of advertising is annoying. Advertising is however, an economic necessity in that it helps creating demand and sells the article. Unless an article can be sold there is no point in manufacturing it. The same arguments as in favour of salesmanship apply just as effectively in favour of advertising. The ultimate selling price tends to be lowered although looking at it superficially; the distribution cost may appear to rise. It is true that through skilful and forceful advertising, demand can be created so that one article is preferred to the exclusion of others. Sociologists contend that advertising causes unhappiness and frustrations by creating desires that cannot be fulfilled. It is true that the advertiser like the salesman has to satisfy a person into needing a product/service that is, the need has to be pointed out and converted into want. Therefore, by supplying that want the advertiser or the salesman gives the customer satisfaction. As against this, it is said that discontent leads to progress. If all of us were complacent and satisfied we would
no endeavor to improve ourselves or our method of living in this sense advertising in fact lifts up our desires to higher levels and accelerates progress. In spite of all these criticisms it is clear that consumers want and need advertising because it improves the quality of the product they buy. Further, it is available at a lower cost achieved through mass production.

The following are some of the social criticisms, which are being, discussed world over:

- Does advertising debase our language?
- Does advertising make us too materialistic?
- Does advertising make us buy things we don’t need?
- Is advertising offensive or in bad taste?
- Does advertising perpetuate stereotypes?
- Is advertising deceptive?

As advertising proliferated, criticism of it intensified. Detractors say advertising debases the language, makes people too materialistic, and manipulates them into buying products they don’t need. Further, they say, advertising is offensive, in bad taste, and even deceptive. Proponents admit that advertising has been and sometimes still is misused. However, they point out that the criticism is often unjustified and excessive and that advertisers responded by avoiding stereotypes, controlling the proliferation of ads, and making ads more informative and entertaining. **Advertisers know the best way to sell their products is to appeal to genuine consumers needs and be honest in their claims.**

Under growing pressure from consumers, special-interest groups, and government regulation, advertisers developed higher standards, ethical conduct and social responsibility. **Advertising is regulated by union, state, and local government agencies; business-monitoring organizations, and media, and consumer groups; and also by advertisers.**

### 5.2 Economical aspects of advertising

The economic impact of advertising can be likened to the opening shot in billiards – a chain reaction that affects the company as well as its competitors, customers, and the business community. On a broader scale, advertising is often
considered the trigger on a country’s mass-distribution system, enabling manufacturers to produce the products people want in high volume, at low prices, with standardized quality. People may argue through, about how advertising adds value to products, affects prices, encourages or discourages competition, promotes consumer demand, narrows or widens consumer choice, and affects business cycles.

Although controversy surrounds some of these economic issues, few dispute the abundance principle: in an economy that produces more goods and services than can be consumed, advertising gives consumers more perfect information about the choices available to them, encourages more sellers to compete more effectively, and thereby serves the self-interest of both consumers and marketers.9

5.3 Ethical aspects of advertising

Ethics is a choice between good and bad, between right and wrong. It is governed by a set of principles of morality at a given time and at a given place. Ethics is related to group behaviour in ultimate analysis, setting thus norms for an individual to follow in consistence with the group norms. Advertising, too, has ethical values. Advertising communication is a mix of art and facts subservient to ethical principles. In order to be consumer-oriented, an advertisement will have to be truthful and ethical. It should not mislead the consumers. If it so happens, the credibility is lost.

Numerous laws determine what advertisers can and cannot do. That’s where ethics and social responsibility come into play. An advertiser can act unethically or socially irresponsibly and not break any laws. Ethical advertising means doing what the advertiser believes is morally right for a given situation. Social responsibility means doing what society views as best for the welfare of people in general or for a specific group of people.10

There would be few who would argue against the need for marketing communications to be seen as socially acceptable, but the issue of acceptability and responsibility are, in part, socially determined ethical ones. There can be extreme difficulty in defining what is, and what is not, ethical especially when the notion of social acceptability changes over time and varies from one culture or
country to another. Not all individuals can even agree on what might create offence.

Today, everywhere there is give-and-take of culture. No matter how hard the traditionalists try, there is no stopping the tidal wave of pop-culture. Adopting Chinese cuisine does not imply selling our souls to the Chinese civilization. The give-and-take of culture, which advertising brings about in its contemporized form is a symbol of universal togetherness. But when we strip these Western culture enthusiasts of their borrowed veneer of Westernization we, discover a conservative Indian who believes in traditional values.

Culture is a basic part of human nature. It also determines a person’s wants and behaviour. Culture is learned. There is socialization of a child right from the time it comes into this world. The child acquires a basic set of values, perceptions preferences and behaviour. The socialization is done through the institutions of family, school, church, friends etc. Advertising also shapes our cultural values. The other maxim is also true; the cultural values shape up our advertising. In fact, both inter-act with each other. We have several cultural values as Indians. We want to be successful. We want to be efficient. We are oriented towards our family. We seek comfort from external environment. For the sake of our family, we can postpone our own gratification. We like to be youthful etc.

Advertising has affected no the core cultural values but the subsidiary cultural values. Advertisement is a mirror of the society in which it operates. It reflects the cultural values of that society. Some argue that advertising debases our cultural standards. There are many factors which affect culture ads get affected by them – schools, colleges, families, museums, churches etc. Successful advertising is consistent with the cultural values of a given society. Yes, it can transfer some cultural values of one society to another society at a given point of time. Its cross-cultural impact will depend upon the universalisation of appeal.

Advertising has improved our standards of living. We have accepted some new ideas like microwave cooking, electric shaving; bucket washing through detergent powder etc. through advertising. Advertising has created new markets. It has contributed to our standards of living substantially.
In the increasingly ‘global village’ in which we live, where technology facilitates worldwide communications, the issues of social acceptance become more and more complex to determine and to police. This is particularly so for the international broadcast media of television, radio, television and the Internet because people in different countries hold different views of what they consider to be ethical and acceptable. In particular, issues of taste and decency can create extreme difficulties.\(^{11}\)

Where a piece of promotion is clearly telling lies or is deliberately misleading, the ethics are somewhat more clear-cut. We expect promoters to tell the truth. We do not wish ourselves or others to be misled. Not only are there voluntary, self-regulation codes governing truthfulness but also there are many legal regulations that protect the unwary from the unscrupulous. Too burdensome a system of regulatory control, however, would not be satisfactory.

5.4 Regulatory aspects of Advertising

Regulation of marketing communications is a fundamental part of marketing communications practice. No one should operate in the industry without some awareness and understanding of the details although it is ultimately, a complex field. Regulations fall, broadly, into two categories: legal regulation and self-regulation.\(^{12}\) The extent to which any one country relies on one or the other or a balance between the two varies significantly. There are advantages and disadvantages of each. In India, there is a well-developed system of self-regulation imposed, enforced and funded by the marketing communications industry itself.

There are variety of legal statutes – acts, regulations, orders and amendments – covering the myriad applications of marketing communications topics from recruitment advertising to door-to-door selling, from competitors and lotteries to price offers and sales. The laws influence and control the use of claims, designs, logos, trademarks and many other features that could be used in marketing communications. They influence all forms of business practices and marketing communications is no less affected.\(^ {13}\)

Self-regulation follows the same tenets as legal controls and covers areas that would be difficult to police through legal enforcement. Various Codes of
Practice and professional codes of conduct are produced that all members of the marketing communications industry are expected to abide by. Unfortunately some do not, but these represent the very small minority. By and large, the self-regulation system is said to work very efficiently in India and in many other countries around the world. One such self-regulation system viz. Advertising Standards Council of India (ASCI) is working for the benefits of both advertisers and general public in India.\textsuperscript{14}

\textbf{5.4.1 Advertising Standards Council of India (ASCI)}

ASCI\textsuperscript{15} was established in October 1985 as a not-for-profit company (it is not a government body) and is managed by a board of governors consisting of 16 members from advertisers, advertising agencies, media, and allied professions like consumer research etc. The fundamental principles of code of self-regulation are:

- Truthfulness and honesty of representations and claims.
- Non-offensive and maintaining public decency.
- Fairness in competition.

In order to enforce an ethical code, we in India now have the Advertising Standards Council of India (ASCI). It is a non-profit organization set up by 43 founder members who are involved with advertising in one way or other. It puts forward a regulating code. ASCI propose to adjudicate on whether an advertisement is offensive and its decision will be binding on its members. It proposes to deal with the government if there are any disputes.

\textbf{Codes:}

It is inspired by a similar code of the Advertising Standards Authority (ASA), U.K. It seeks to achieve the acceptance of fair advertising practices in the best interest of the ultimate consumers.

\textbf{Guidelines:}

- To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against misleading advertising.
- To ensure that advertisements are not offensive to generally accepted standards of public decency.
• To safeguard against indiscriminate use of advertising for promotion of products, which are regarded as hazardous to society or to individuals to a degree, or of a type, this is unacceptable to society at large.

• To ensure that advertisements observe fairness in competition so that the consumers need to be informed on choices in the market place and the canons of generally accepted competitive behaviour in business are both served.

Procedures:

1. Member sub-committee of ASCI consisting of people from various walks of life – medicine, law, and media – hears a complaint from a member of the public, examines it in the light of the code, asks the advertiser or agency to comment and submit substantiation. On upholding the complaint by ASCI, it asks the advertiser to withdraw the ad. The procedure takes two months.

David Thomas, P&G, at a recent seminar has suggested the following five steps to strengthen ASCI:

1. There should be an impeccable image of advertising
2. What we need is a single clearly defined and well-publicized code.
3. The decisions are to be taken quickly. By the time ASCI takes a decision, the ad has already achieved what it sought to achieve.
4. ASCI should be strengthened financially.
5. ASCI should have power to reinforce decisions.

Social, Ethical, & Regulatory aspects of Advertising stem from internal or self-regulation as well as from external control by union, state, and local regulatory agencies. For many years the advertising industry has promoted the use of voluntary self-regulation to regulate advertising and limit government interference with and control over advertising. Self-regulation of advertising emanates from all segments of the advertising industry, including advertiser and their agencies, business and advertising association and the media.

The primary self-regulatory mechanism for national advertising has been very effective in achieving its goal of voluntary regulation of advertising. Various media also have their own advertising guidelines. The major television networks maintain the most stringent review process and restrictions. Traditionally, the Union government has been the most important source of external regulation. A
number of laws also govern the use of other promotional mix elements, such as sales promotion and direct marketing.

Currently there are no specific laws governing marketing practices on the Internet. However, two major areas of concern with regard to marketing on the Internet are privacy and online marketing to children.

5.4.2 Internet advertising & Regulatory issues

Internet promotions are proving to be very difficult to control throughout the world. Of course, all the existing legal regulations apply to Internet promotions as they apply to any other media, but interpretations of such controls are open to some questions when applied to this new medium, particularly given its global distribution. In India, it falls to the Advertising Standards council of India (ASCI) to regulate the Internet along with other electronic media such as promotions on CD ROMs and computer and video games. The same Codes of Practices apply to these new media as they apply to all other areas of the ASCI's work. Can the ASCI regulate the Internet globally? No, of course they cannot. What the ASCI seek to do is to work in conjunction with other international self-regulatory bodies that, collectively, cooperate to enforce their regulatory influences. Time will tell how effective they are able to be.

The rapid growth of the Internet as a marketing tool is creating a new area of concern for regulators. Currently, marketing on the Internet is not subject to any formal government regulations, and many consumer and industry groups are concerned that some marketers will use the new medium to get around regulations and restrictions on other promotional areas. Two major areas of concern with regard to marketing on the Internet are privacy issues and online marketing to children.

With regard to privacy, several consumer and industry groups have proposed significant restrictions in the way marketers use the World Wide Web to get information from consumers, the types of information they can get, and what they do with this information. The restrictions that have been proposed include:

- Banning unsolicited e-mail that cannot be automatically screened out. The Direct Marketing Association and the Interactive Services Association propose requiring marketers who send unsolicited e-mail messages to use coding that will allow mail systems to automatically remove such messages.
• Disclosing fully and prominently both the marketer's identity and the use for which information is being gathered in every communication.
• Giving consumers the right to bar marketers from selling or sharing any information collected from them as well as to review the personal information collected.

While these proposals are aimed at protecting the privacy right of adults, one of the biggest concerns is how to restrict marketers whose activities or websites are targeted at children.\(^6\) A number of children's advocacy groups have been critical of online marketing to children. In 1996 the Center for Media Education, in cooperation with the National Parent – Teachers Association (PTA), the Consumer Federation of America, and several other groups, issued a report entitled the “Web of Deception”. The report criticized marketers' online activities in a number of areas, including seeking household information from kids, sending direct mail, offering prizes, using advertising characters to reach children, and mixing advertising and non-advertising content in websites.

Having reviewed the social, economical, ethical & regulatory aspects of advertising, this thesis now turns to primary data analysis. Chapter six details out analysis of primary data with the help of descriptive statistics and also using ‘Microsoft Excel’ on ‘Windows 98’ & ‘SPSS 11.5 version’ – data analysis software. Testing of hypothesis, results and scope for future research have been presented in chapter seven and summary of findings, suggestions and conclusions have been presented in chapter eight.

130
Endnotes & References:


8 Ibid. p.569.


15 The Advertising Standards Council of India, ASCI Secretariat, 205, Bombay Market, Tardeo Road, Mumbai – 400 034, e-mail: asci@vsnl.com