

**GOVERNMENT OF INDIA
MINISTRY OF INFORMATION AND BROADCASTING**

**LOK SABHA
UNSTARRED QUESTION NO. 1037
TO BE ANSWERED ON 04/12/2015**

MISLEADING AND SURROGATE ADVERTISEMENTS

**1037. SHRI K.R.P. PRABAKARAN :
SHRI ANOOP MISHRA:
SHRI DUSHYANT CHAUTALA:
SHRI OM BIRLA:
SHRI GAJENDRA SINGH SHEKHAWAT:**

Will the Minister of **INFORMATION AND BROADCASTING**

be pleased to state:

- (a) whether the cases of misleading and surrogate advertisements have been on the rise in the electronic and print media in the country;
- (b) if so, the details thereof along with the details of complaints received by the Government including the action taken thereon during each of the last three years and the current year, media-wise;
- (c) whether the Government proposes to make companies more accountable regarding their claims made in the advertisements, if so, the details thereof and if not the reasons therefore;
- (d) whether the Government has issued any regulations/guidelines to electronic and print media in the matter and if so, the details thereof; and
- (e) the regulatory mechanism to be put in place to check such advertisements by companies to dupe people in buying their products?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF INFORMATION & BROADCASTING
[COL RAJYAVARDHAN RATHORE (Retd.)]**

(a) to (e): No such study has been brought to the notice of the Ministry. In so far as private satellite TV channels are concerned, all advertisements telecast on such channels are regulated in accordance with the Advertising Code prescribed in Rule 7 of the Cable Television Network Rules, 1994. Rule 7(2)(viii)(A) of the Advertising Code provides that no advertisement shall be permitted which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants; provided that a product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants, may be advertised on cable service subject to certain conditions prescribed thereunder. Rule 7 (5) of the Advertising Code provides that no advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or super-natural property or quality, which is difficult of being proved.

The Ministry has constituted a composite Inter Ministerial Committee (IMC) under the chairmanship of the Addl. Secretary (I&B) and comprising officers drawn from various Ministries concerned including a representative from the Advertising Standards Council of India, to take cognizance *sou-motu* or look into specific complaints regarding violation of the Programme Code and Advertising Code. The IMC functions in a recommendatory capacity. The final decision regarding penalties and its quantum is taken on the basis of the recommendations of IMC. The uplinking and downlinking guidelines carry the provisions for penalties. Ministry generally issues warnings or advisories to comply with the Programme/Advertising Codes or asks the channels to scroll apologies on their channel. Occasionally, the channels are also taken off air either temporarily for a limited period depending on the gravity of the violation. A list showing details of action taken against TV channels for telecasting advertisements in violation of Rule 7(2)(viii)(A) regarding surrogate advertisement and violation of Rule 7(5) regarding misleading advertisements is at **Annexure-I.**

In so far as Print Media is concerned, the Press Council of India (PCI), a statutory autonomous body has been set up under the Press Council Act, 1978 to maintain and improve the standards of newspapers and news agencies in India and also to inculcate principles of self-regulation among the press.

The PCI, in furtherance of its objective under Section 13(2) of the Act has formulated 'Norms of Journalistic Conduct' for adherence by the print media. The relevant Norm 36 on the subject 'Advertisements' is at **Annexure-II.** The PCI takes cognizance, *suo-motu* or on complaints, of the contents in print media which are in violation of the 'Norms of Journalistic Conduct'. The Press Council of India may warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist under the guidelines framed by them. A list of adjudications in print media is at **Annexure-III.**

ANNEXURE AS REFERRED TO IN REPLY TO PARTS (a) to (e) OF LOK SABHA UNSTARRED QUESTION NO. 1037 FOR 04.12.2015

A. Details of action taken against TV channels for telecast of advertisements in violation of Rule 7(2) (viii) (A) of the Advertising Code.

Sl. No.	Advertisements	Action Taken
1.	Advertisement of a liquor product by "NDTV Good Times" channel through telecast of the advertisement of 'Blenders Pride Music CDs'.	A Warning was issued to the channel on 06.04.2010.
2.	Advertisement of a liquor product by "Star Anando" channel through telecast of the advertisement of 'Blenders Pride Music CDs'.	A Warning was issued to the channel on 06.04.2010.
3.	Advertisement of products of 'Haywards-5000 Soda' and 'Kingfisher Packaged Drinking Water'	A directive was issued on 17.06.2010 to all TV channels to stop carrying any advertisements of a product that uses a brand or logo which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants.
4.	Advertisement of a product of 'McDowell's Soda'.	A directive was issued on 17.06.2010 to all TV channels to stop carrying any advertisements of a product that uses a brand or logo which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants.
5.	Advertisements of products using brand or logo used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants.	A directive was issued on 17.06.2010 to all TV channels to stop carrying any advertisements of a product that uses a brand or logo which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants.
6.	Advertisement of "McDowell's No.1 Platinum Soda" – The No.1 Spirit of Leadership.	The Advertising Standards Council of India (ASCI) was requested on 22.07.2011 to take up the matter with advertisers to take these advertisements off air. ASCI informed that the complaint has been upheld. It was also informed that the said advertisement has been withdrawn from all channels from 25 th July, 2011.
7.	Advertisement of Kingfisher Beer on ET NOW channel	A Warning was issued to the channel on 12.9.2012.
8.	Advertisement of VB Best Cold Beer on Star Cricket channel	A Warning was issued to the channel on 12.9.2012.
9.	Advertisement of FTV Vodka.	An Advisory has been issued to FTV channel on 17.1.2013.

B. Details of action taken year-wise in respect of misleading advertisements as per the Advertising Code.

Year 2011

Sl.No.	Advertisements	Action Taken
1.	Petition was received from Shri Saurabh Joshi complaining against telecast of alleged misleading advertisements of the products like 'Badha Mukti Yantra', 'Dhan Laxmi Yantra', etc. on TV channels claiming to release oneself from bad spell or give success in life, etc.	The complaint was referred to Advertising Standards Council of India (ASCI) which upheld the complaint. Hence Ministry issued an advisory to Indian Broadcasting Foundation (IBF) and News Broadcasters Association (NBA)
2.	Telecast of alleged misleading advertisements of (i) Gymnedine as remedy for diabetes and (ii) Power Prash as remedy for sexual impotency on TV channels	ASCI upheld the complaint. The Ministry issued an advisory to Indian Broadcasting Foundation and News Broadcasters Association on 12.3.2012.
3.	Telecast of an alleged misleading advertisement of 'Shri Dhan Laxmi Yantra' on 'Filmy' TV channel.	ASCI upheld the complaint.
4.	Complaint from Pratibha Naithani against telecast of following alleged misleading advertisements on TV channels: i) Ratan Rahashya ii) Lal Kitab Amrit iii) Power Prash iv) Madhu Muktam v) Deemark Shakti Prash	ASCI upheld the complaint and has informed that the advertisements have stopped appearing on the channels. An Advisory has been issued to all TV channels on 7.6.2013.

Year 2012

Sl.No.	Advertisements	Action Taken
1.	Telecast of Advertorial 'Third Eye of Nirmal Baba' on TV channels	The matter was referred to IBF and NBA. They advised their member channels to stop the programmes relating to Nirmal Baba.
2.	Petition from Shri V Lal against an alleged misleading advertisement of Garnier Fructis Shampoo.	The complaint was referred to Advertising Standards Council of India (ASCI) but was not upheld.
3.	Complaint from Pradeep Kumar Roy against an alleged misleading advertisement of Bhavishya Jeevan Amrit telecast on CNEB News channel.	The advertisement stopped appearing on the channel. An Advisory has been issued to the channel on 7.6.2013

Year 2013

Sl.No.	Advertisements	Action Taken
1.	The advertisement of Madhunashni asserted that the product advertised has special miraculous qualities to cure ailments and improve one's life and give results in specified time.	ASCI upheld the complaint.
2.	The advertisement of 'Easy Slim Tea' claims that "Have Easy Slim Tea and lose weight – don't need to exercise, don't need to eat healthy", "Lose weight become healthy", "Prevent extra marital affairs" The ad promotes bad health advice which can be dangerous.	ASCI upheld the complaint.
3.	The advertisement of Musli Power Xtra asserts that the product advertised has special miraculous qualities to cure ailments and improve one's life and give results in specified time.	ASCI upheld the complaint.
4.	The advertisement of Madhur Milap asserts that the product advertised has special miraculous qualities to cure ailments and improve one's life and give results in specified time.	ASCI upheld the complaint.

Year 2014

Sl .No.	Advertisement	Action Taken
1.	The complaint against advertisement of Zaitoon Tara Edible Oil was deliberated by Consumer Complaints Council (CCC) of ASCI who concluded that the claim, "Edible oil prevents cancer, diabetics, acidity, cholesterol, etc." was not substantiated and was misleading, thus in breach of the law, particularly the Drug & Magic Remedies Act. The complaint was Upheld but advertiser did not comply with orders of CCC	The Ministry directed on 26.06.2014 all TV channels advising them not to carry the said advertisement.
2.	The Ministry received complaints against advertisement of 48 products in different categories which were deliberated upon by Consumer Complaints Council (CCC) of ASCI concluding that the claim made by the advertisers were misleading and contravened the prescribed Codes, but advertisers did not comply with orders of CCC.	The Ministry directed on 21.08.2014 all TV channels advising them not to carry the said advertisements.

Year 2015

Sl .No.	Advertisement	Action Taken
	NIL	NIL

**ANNEXURE AS REFERRED TO IN REPLY TO PARTS (a) to (e) OF LOK SABHA
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EXTRACT OF NORMS OF JOURNALISTIC CONDUCT

36. Advertisements

- i) Commercial advertisements are information as much as social, economic or political information. What is more, advertisements shape attitude and ways of life at least as much, as other kinds of information and comment. Journalistic propriety demands that advertisements must be clearly distinguishable from news content carried in the newspaper.
- ii) No advertisement shall be published, which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor and other intoxicants.
- iii) Newspaper shall not publish advertisements, which have a tendency to malign or hurt the religious sentiments of any community or section of society.
- iv) Advertisements which offend the provisions of the Drugs and Magical Remedies (Objectionable Advertisement) Act as amended in 2002, or any other statute should be rejected.
- v) Newspapers should not publish an advertisement containing anything which is unlawful or illegal, or is contrary to public decency, good taste or to journalistic ethics or propriety.
- vi) Journalistic propriety demands that advertisements must be clearly distinguishable from editorial matter carried in the newspaper. Newspapers while publishing advertisements should specify the amount received by them. The rationale behind this is that advertisements should be charged at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper.
- vii) Publication of dummy or lifted advertisements that have neither been paid for, nor authorised by the advertisers, constitute breach of journalistic ethics specially when the paper raises a bill in respect of such advertisements.
- viii) Deliberate failure to publish an advertisement in all the copies of a newspaper offends against the standards of journalistic ethics and constitutes gross professional misconduct.
- ix) There should be total co-ordination and communication between the advertisement department and the editorial department of a newspaper in the matter of considering the legality propriety or otherwise of an advertisement received for publication.
- x) 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.
- xi) Newspapers to carry caution notice with matrimonial advertisements carrying following text*
"Readers are advised to make appropriate thorough inquiries before acting upon any advertisement. This newspaper does not vouch or subscribe to claim and representation made by the advertiser regarding the particulars of status, age, income of the bride/bridegroom".
- xii) An editor shall be responsible for all matters, including advertisements published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.

*** Foot note: -**

The Hon'ble High Court of Delhi in connection with FAO No 65/1998 of Smt Harjeet Kaur Vs Shri Surinder Pal Singh directed the Press Council of India to instruct the newspaper to publish classified/matrimonial advertisement by advising them to alongside publish the said Caution Notice in their newspapers.

xiii) Tele-friendship advertisements carried by newspapers across the country inviting general public to dial the given number for 'entertaining' talk and offering suggestive tele-talk tend to pollute

adolescent minds and promote immoral cultural ethos. The Press should refuse to accept such advertisements.

xiv) Classified advertisements of health and physical fitness services using undignified languages, indicative of covert soliciting, are violative of law as well as ethics. The newspaper should adopt a mechanism for vetting such an advertisement to ensure that the soliciting advertisements are not carried.

xv) Advertisements of contraceptive and supply of brand item attaching to the advertisement is not very ethical, given the social milieu and the traditional values held dear in our country. A newspaper has a sacred duty to educate people about precautionary measures to avoid AIDS and exhibit greater far sight in accepting advertisement even though issued by social welfare organisation.

(xvi) Employment News which is trusted as a purveyor of authentic news on government jobs should be more careful in accepting advertisements of only *bonafide* private bodies.

(xvii) While accepting advertisements of educational institutes newspapers may ensure that such advertisements carry the mandatory statement that the concerned institutes are recognized under the relevant enactments of law.

xviii) Advertisements play extremely vital role in shaping the values and concerns of the present day society and as more and more lenient view is taken of what is not the norm, the speedier may be acceptability of such matters in 'public perception' but at what cost is the essential point for consideration. It should be borne in mind that in the race to be globally relevant we do not leave behind the values that have earned India the unique place it enjoys globally on moral and ethical plane.

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Complaint cases relating to allegedly misleading advertisements (excluding disposed for not being perused by the complainant)

2012-13

S. N.	Complainant	Respondent	Subject	Action taken/ Status
1.	Shri Madhuuranthakam Prabhaka Rao, Kukatpally, Hyderabad-72	The Hindu	Misleading advertisement and editorial regarding Mortien Nature Guard	Closed on 04.06.2012. Matter referred to the Ombudsman of The Hindu.
2.	Shri Prabhash Kumar Jha, Ex. Chief, Singhwada, District-Darbhanga(Bihar)	Times of India	Objectionable advertisement regarding vaginal rejuvenation and lightening gel.	Closed on 27.08.2012 in terms of Council's resolution passed in the meeting.
3.	Shri Deepak Chhabaria, Chairman, Employment Promotion Council of India Personnel, Mumbai.	Times of India	Publication of advertisement regarding overseas jobs.	Closed on 29.10.2012, Guidelines on overseas job has already been framed by the Council.
4-9.	Shri Ramanan Nair, P.G., Kottayam, Kerala	1. The Hindu 2. The New Indian Express 3. Deepika Daily 4. Malayala Manorama 5. Mathru Bhoomi 6. Mangalam Daily	Regarding publication of false advertisement reacting to advertisement in praise of person died 43 years ago.	Closed on 08.07.2013 for not taking cognizance.
10.	Shri Edara Gopichand, Vice President, Media Watch India, Narasaraopet, Andhra Pradesh	Eenadu	Regarding publication of surrogate advertisement i.e. liquor 'Royal Stag' and pan masala 'RMD'.	Closed
11.	Ms. HemaSachinSommotra <obema23sam@gmail.com>	News Channel 24	Regarding fraudulent content in the advertisement shown by the channel regarding Nirmal Baba.	Closed being outside jurisdiction.

2013-14

S. N.	Complainant	Respondent	Subject	Action taken/ Status
1.	Shri Deepak Chhabaria, Chairman, Employment Promotion Council of India Personnel, Mumbai.	Employment & NRI Times	Publication of unauthorized overseas recruitment publication.	Closed on 12.07.2013 with reiteration of the previous adjudication/ guidelines of the respondent.
2.	Shri Arvind Kumar, Under Secretary, M/o Overseas Indian Affairs Emigration Section, Akbar Bhavan, Chanakyapuri, New Delhi	RashtraDeepika	Issuing advertisements for overseas employment by unregistered recruiting agent in violation of the Emigration Act, 1983.	Closed with reiteration of the previous adjudication/ guidelines of the respondent.

2014-15

No case has been adjudicated in the year 2014-15.

2015-16

No case has been adjudicated in the year 2015-16.
