

ASCI frames guidelines for advertising and promotion of virtual digital assets and services

*~ Guidelines issued after extensive consultation with all stakeholders, including the government
~ Applicable to all virtual digital asset-related ads released on or after 1st April, 2022*

Mumbai, February 23rd, 2022: Even as the Indian government continues to work on the framework for virtual digital assets (VDA), commonly referred to as crypto or NFT products. Advertising for these products has been very aggressive over the past few months. The Advertising Standards Council of India (ASCI) noted that several of these advertisements do not adequately disclose the risks associated with such products. In order to safeguard consumer interest, and to ensure that ads do not mislead or exploit consumers' lack of expertise on these products, ASCI has extensively consulted with different stakeholders including government and the virtual digital asset industry – to frame guidelines for virtual digital asset advertising.

All advertising for virtual digital assets and services needs to follow the following guidelines:

(1.1) All ads for VDA products and VDA exchanges, or featuring VDAs, must carry the following disclaimer.

“Crypto products and NFTs are unregulated and can be highly risky. There may be no regulatory recourse for any loss from such transactions.”

Such a disclaimer must be made in the following manner so that it is PROMINENT and UNMISSABLE by an average consumer:

(a) In print or static, equal to at least 1/5th of the advertising space at the bottom of the advertisement in an easy to read font, against a plain background, and to the maximum font size afforded by the space.

(b) In video, the disclaimer should be placed at the end of the advertisement against a plain background. A voiceover must accompany the disclaimer in text. The voiceover should be at a normal speaking pace and must not be hurried. In the case of long format video of over two minutes, the said disclaimer should be repeated at the beginning and at the end of the video. The disclaimer must remain on screen for a minimum of five seconds.

(c) In audio, the disclaimer must be spoken at the end of the advertisement. The voiceover should be at a normal speaking pace and must not be hurried. In the case of long format audio of over 90 seconds, the said disclaimer should be repeated at the beginning and at the end of the audio.

(d) In social media posts, such a disclaimer must be carried in both- the caption as well as any picture or video attachments. The disclaimer within the caption must be placed upfront at the beginning of the post. Where social media posts or advertisements have restrictions on text in the static picture, the disclaimer must be carried upfront in the caption before the fold.

(e) In disappearing stories or posts unaccompanied by text, the said disclaimer will need to be voiced at the end of the story in the manner laid out in points (a) or (b) above. If the video is 15 seconds or lesser, then the disclaimer may be carried in a prominent and visible manner as an overlay.

(f) In formats where there is a limit on characters, the following shortened disclaimer must be used “Crypto products and NFTs are unregulated and risky” followed by a link to the full disclaimer.

(g) The disclaimer must be made in the dominant language of the advertisement

(h) In addition to the above, all disclaimers must meet the minimum requirements laid down in the ASCI guidelines for disclaimers.

(2) The words “currency”, “securities”, “custodian” and “depositories” may not be used in advertisements of VDA products or services as consumers associate these terms with regulated products.

(3) The information contained in advertisements shall not contradict the information or warnings that the regulated entities provide to customers in the marketing of VDA products from time to time.

(4) Advertisements that provide information on the cost or profitability of VDA products shall contain clear, accurate, sufficient and updated information. For example, “zero cost” will need to include all costs that the consumer might reasonably associate with the offer or transaction.

(5) Information on past performance shall not be provided in any partial or biased manner. Returns for periods of less than 12 months shall not be included.

(6) Every advertisement for VDA products must clearly give out the name of the advertiser and provide an easy way to contact them (phone number or email). This information should be presented in a manner that is easily understood by the average consumer.

(7) No advertisement for VDA products or exchanges may show a minor, or someone who appears to be a minor, directly dealing with the product, or talking about the product

(8) No advertisement may show that VDA products or VDA trading could be a solution to money problems, personality problems or other such drawbacks.

(9) No advertisement shall contain statements that promise or guarantee future increase in profits.

(10) No advertisement may show that understanding VDA products is so easy that consumers do not have to think twice about investing. Nothing in the ad should downplay the risks associated with the category.

(11) VDA products may not be compared to any other asset class which is regulated.

(12) Since this is a risky category, celebrities or prominent personalities who appear in VDA advertisements must take special care to ensure that they have done their due diligence about the statements and claims made in the advertisement, so as not to mislead consumers.

The guidelines will be applicable to all advertisements released or published on or after the 1st of April 2022. Advertisers and media owners must also ensure that all earlier advertisements must not appear in the public domain unless they comply with the guidelines, post the 15th of April 2022.

Subhash Kamath, Chairman of ASCI, said: “We had several rounds of discussion with the government, finance sector regulators, and industry stakeholders before framing these guidelines. Advertising of virtual digital assets and services needs specific guidance, considering that this is a new and as yet an emerging way of investing. Hence, there is a need to make consumers aware of the risks and ask them to proceed with caution”.

These guidelines interpret, for virtual digital assets, Chapter 1 of the ASCI code, particularly clauses 1.1, 1.4 and 1.5. That require ads to be truthful, and not mislead consumers by implication, ambiguity, exaggeration or omission, and are not framed in a way that abuses their trust or exploits their lack of knowledge.

It is important to note that these guidelines do not amount to any legal recognition or endorsement of the industry or the sector, as that is a matter of government policy. ASCI only provides self-regulation for content of ads that are permitted by law.

Manisha Kapoor, Secretary General, ASCI, said: “We have seen a spate of advertising for virtual digital assets which could compromise consumer interest in the absence of some guardrails. Use of celebrities and high decibel advertising would attract consumers to these offerings, without full disclosure of the risks. Given that this is, as of now, an unregulated space, it is even more important for advertising to be upfront regarding the risks associated with these products. Globally, this is an emerging technology and products in the virtual digital asset industry have seen significant volatility. We believe with these guidelines, advertisements would be fairer and more transparent.

The guidelines can be accessed at <https://ascionline.in/>