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ASCI and the DoCA host consultation with stakeholders on Surrogate Ads

Mumbai, February 22, 2023: The Advertising Standards Council of India (ASCI) and the Department of Consumer Affairs (DoCA) collaboratively convened an interactive consultation on February 22nd, 2024 in Mumbai, focussed on industry stakeholders operating in categories whose advertising is restricted, such as alcohol, tobacco, and gambling. The primary objective was to address the pervasive issue of surrogate advertisements and to facilitate discussions on overcoming associated challenges, aiming to establish rigorous adherence to advertising regulations and guidelines within these sectors.

Surrogate advertising remains a concern for restricted categories. In the last three years, ASCI processed complaints against 49 ads for potential violation of ASCI Code's Guidelines for Qualification of Valid Brand Extension. Among these, 36 ads were alcohol related, 12 ads from betting platforms and 1 Pan Masala ad that potentially violated the guidelines. Alarming, 98% of these processed ads required modification to align with regulatory standards. Over the last three years, ASCI has also reported 1085 cases of advertisements that were in direct violation of law to both central and state regulators. 765 of these were illegal betting ads and 320 were direct liquor advertising.

ASCI has regularly refined its guidelines particularly considering the potential harm associated with advertising of these categories. The latest update implemented in December 2023, emphasizes that advertising spends for legitimate brand extension products must align with the extension's sales turnover. This measure aims to enhance transparency and accountability in advertising practices.

The consultation underscored key discussion points;

- There should be a clear distinction between the brand extension and the restricted product or service being advertised:
 - the story or visual of the advertisement must depict only the product being advertised and not the prohibited product in any form.
 - the ad must not make any direct or indirect reference to prohibited products.



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- the ad must not contain any nuances or phrases promoting prohibited products.
- the ad must not use colour, layout, or presentations associated with the prohibited products.
- the ad must not use situations typical for promotion of prohibited products when advertising the other products.

During the discussion, **Shri Rohit Kumar Singh, Secretary DoCA** said that “Surrogate advertisements that promote products in restricted categories undermine consumer rights and can have serious implications. There is a pressing need to halt the proliferation of surrogate ads across industries. If respective prohibited industries fail to adhere to this guideline and comply with existing laws, more stringent actions will be implemented. We are committed to working collaboratively with all stakeholders as we navigate through this evolving issue. We look forward to providing all assistance to ASCI in examining this issue and building a comprehensive framework to protect consumers.”

Underlining the critical need for action against surrogate ads, **Manisha Kapoor, CEO and Secretary General, ASCI**, said, " Surrogate advertisements are in breach of the law, as are direct ads in restricted categories. It is important that the distinction between permitted brand extensions and surrogate advertising are clearly defined and complied with. ASCI has been vigilant in processing surrogate advertising, as well as reporting direct advertising to appropriate regulators. We would like to support various regulators such as DoCA and relevant state excise authorities in addressing this pressing issue. Together, we aim to effectively eliminate deceptive advertising practices."

Discussions were held around rampant surrogate ads which are illegal in India. The consultation between DoCA, ASCI, online gaming associations like All India Gaming Federation and E-Gaming Federation, pointed out the immediate need to stop such advertisements. Indian online gaming industry, paying taxes and registered in India are feeling the brunt of illegal advertisements and promotions by Offshore gaming platforms. The discussion also focussed on the rampant use of celebrities in the ads of prohibited products which needs to be controlled.



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Representatives from government bodies, including the Central Board of Film Certification (CBFC), Ministry of Information and Broadcasting (MIB) and Trademark Authority, shared their views on how to regulate such surrogate advertisements.

The consultation convened an array of industry stakeholders, regulatory bodies, and experts to deliberate on effective strategies to deal with surrogate advertising. Key discussions revolved around enhancing transparency, strengthening enforcement mechanisms, and promoting responsible advertising practices.

About the Advertising Standards Council of India (ASCI)

The Advertising Standards Council of India (ASCI), established in 1985, is committed to the cause of self-regulation in advertising, ensuring the protection of consumer interests. ASCI seeks to ensure that advertisements conform to its Code for Self-Regulation, which requires advertisements to be legal, decent, honest, and truthful and not hazardous or harmful while observing fairness in competition. ASCI looks into complaints across ALL MEDIA such as Print, TV, Radio, hoardings, SMS, Emailers, Internet/website, product packaging, brochures, promotional material and point of sale material etc. In January 2017, the Supreme Court of India in its judgement affirmed and recognised the self-regulatory mechanism as an effective pre-emptive step to statutory provisions in the sphere of advertising content regulation for television and radio in India. ASCI's role has been acclaimed by various Government bodies including The Department of Consumer Affairs (DoCA), the Food Safety and Standards Authority of India (FSSAI), the Ministry of AYUSH as well as the Ministry of Information and Broadcasting (MIB). MIB issued an advisory for a scroller providing ASCI's WhatsApp for Business number 77100 12345, to be carried by all TV broadcasters for consumers to register their grievances against objectionable advertisements.

In August 2023, the ASCI Academy, a flagship program of ASCI was launched to build the capacity of all stakeholders in creating responsible and progressive advertising. ASCI Academy aims to raise standards of advertising content through training, education, outreach, and research on the preventive aspects of advertising self-regulation.

On the international front, in 2023, ASCI CEO and Secretary General, Ms Manisha Kapoor was re-elected as one of the four Vice-Presidents on the Executive Committee of the International Council on Ad Self-Regulation (ICAS). Among several awards bestowed by the European Advertising Standards Alliance (EASA), ASCI bagged a Gold Global Best Practice Award for the Mobile App "ASCI online" (2016), special recognition for its "Guidelines for Celebrities in Advertising"; at the first-ever 'Global Awards for Effective Advertising Self-Regulation' hosted by the ICAS (2019). In 2021, ASCI also won two ICAS awards, one for the ASCI scroll telecast across television in the 'Best Awareness Raising Initiative' and for its extensive digital suo-moto monitoring through the NAMS initiative, in the 'Special Category'. It also got a special mention in the 'Best Sectoral



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Initiative' category for its efforts and regulatory recognition of its Gaming Guidelines. ASCI received the ICAS Global "Inspiration Award" in April 2023 for successfully promoting ASCI as a thought leader and developing impactful engagement with various stakeholders.

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