



Media and Advertisement Law in India

Saksham Pradyot, Assistant Professor, School of Law, UPES Dehradun.

E-mail id- sakshampradyot@yahoo.com

ABSTRACT

Media and Advertisement Law in India is a complex landscape encompassing various statutes, regulations, and self-regulatory codes. The legal landscape surrounding media and advertising in India is quite complex, with various statutes and regulatory bodies governing different aspects. Press Council of India Act, 1978 establishes the Press Council of India (PCI) as a self-regulatory body for print media, promoting ethical journalism and adjudicating complaints against newspapers and magazines. Cable Television Networks (Regulation) Act, 1995 & Amendment Act, 2006 regulates cable television broadcasting, stipulating licensing requirements, content code, and advertising restrictions. The Consumer Protection Act, 2019 protects consumers from unfair trade practices and false or misleading advertising. Drugs and Cosmetics Act, 1940 & Rules, 1945 regulates the advertising of drugs and cosmetics, prohibiting misleading claims and endangering public health. The Cigarettes and Other Tobacco Products (Advertisement) Prohibition Act, 2001 prohibits direct and indirect advertising of tobacco products. Code of Advertising Practices (ASCI) code by the Advertising Standards Council of India (ASCI), prescribing ethical standards for advertising across all media platforms.

KEYWORDS: Media, Advertisement, Law, Print

INTRODUCTION

The Press Council of India Act, 1978 is an act of the Parliament of India that established the Press Council of India. This statutory body acts as a watchdog for the print media in India. The council was established to preserve the freedom of the press and to maintain and improve the standards of newspapers and news agencies in India.

The council consists of a chairman and 27 other members, of whom 15 are journalists, five are public representatives, and seven are nominated by the government. The council has several powers, including the power to inquire into complaints against the press, to issue advisories to newspapers and news agencies, and to recommend to the government amendments to the law relating to the press.

The Press Council of India Act has been amended several times since it was first enacted. The most recent amendment was in 2007, which gave the council the power to impose penalties on newspapers and news agencies that violate its code of ethics.

The Press Council of India has been criticized for being too weak and for being too close to the government. However, it has also been praised for its role in protecting the freedom of the press in India.

The main objectives of the Press Council of India are:

- To preserve the freedom of the press and to maintain and improve the standards of newspapers and news agencies in India.
- To promote and ensure a high standard of professional ethics among journalists.
- To keep under review the development of the press and to suggest ways and means for improving its standards.
- To deal with complaints against newspapers and news agencies and to adjudicate on disputes between them and their employees.
- To report to the Government of India on the working of the press in India.



The Press Council of India is composed of a chairman and 27 other members, of whom 15 are journalists, 5 are representatives of the public, and 7 are nominated by the Government of India. The President of India appoints the chairman and the members of the council.

The Press Council of India has several powers, including the power to:

- Issue warnings to newspapers and news agencies that are found to have violated the Press Council's Code of Ethics.
- Adjudicate on complaints against newspapers and news agencies.
- Summon witnesses and documents.
- Publish its findings and recommendations.

The Press Council of India Act, 1978, is an important piece of legislation that helps to protect the freedom of the press in India. The Council has played a vital role in upholding journalistic standards and promoting the development of journalism in the country.

Key features of the Press Council of India Act, 1978:

1. **Functions of the council:** The council has several functions, including the power to inquire into complaints against the press, to issue advisories to newspapers and news agencies, and to recommend to the government amendments to the law relating to the press.
2. **Powers of the council:** The council has the power to summon witnesses and to take evidence on oath. It can also punish newspapers and news agencies that violate its code of ethics.
3. **Limitations on the powers of the council:** The council does not have the power to censor the press. It can only make recommendations to the government.

The Press Council of India Act, 1978 is an important piece of legislation that protects the freedom of the press in India. The council has played a significant role in upholding journalistic standards and in promoting ethical journalism.

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The Cable Television Networks (Regulation) Act, 1995 (Act No. 7 of 1995) and its Amendment Act, 2006 (Act No. 49 of 2006) are two key pieces of legislation governing the operation of cable television networks in India. Here's a breakdown of their main provisions:

Cable Television Networks (Regulation) Act, 1995:

- Objective: To regulate the operation of cable television networks in the country, ensuring content variety, preventing monopolies, and protecting consumer interests.
- Key features:
 - Registration: Makes registration mandatory for all cable operators.
 - Program content: Prescribes a minimum percentage of channels to be carried in specific categories (national, regional, local, etc.).
 - Must-carry channels: Mandates the carriage of specified public service channels like Doordarshan.
 - Rate regulation: Empowers the Central Government to regulate cable service rates.
 - Standards: Specifies standards for equipment and digital addressable systems.
 - Prohibition: Allows prohibiting cable operations in specific areas if deemed necessary in the public interest.
 - Penalties: Prescribes penalties for violations of the Act.

Cable Television Networks (Regulation) Amendment Act, 2006:

- Objective: To further strengthen the regulatory framework and address emerging issues in the cable television sector.



- Key features:
 - Re-transmission of Parliament channels: Makes mandatory the re-transmission of channels transmitted by the Parliament of India.
 - Addressable systems: Encourages the adoption of digital addressable systems for greater transparency and revenue collection.
 - Consumer protection: Empowers consumers to register complaints against cable operators for poor service or unfair practices.
 - Encryption: Allows the Central Government to make mandatory the encryption of certain channels in the public interest.

Overall, these Acts seek to create a balanced regulatory environment for cable television in India, protecting consumer rights, promoting diversity in content, and preventing unfair practices by operators. However, debates continue regarding the effectiveness of the regulations and the need for further amendments to address evolving technological and market complexities.

The Consumer Protection Act, 2019 (CPA, 2019):

Objectives:

- Protect consumers from unfair trade practices and defective goods and services.
- Establish a three-tiered dispute redressal mechanism with efficient and quick disposal of consumer complaints.
- Promote consumer awareness and education.
- Empower consumers to seek compensation for damages caused by unfair trade practices or defective goods and services.

Key Provisions:

- Wider Definition of Consumer: The Act expands the definition of "consumer" to include any person who buys any goods or services for consumption or use. This broader definition brings more transactions under the ambit of the Act.
- Unfair Trade Practices: The Act comprehensively defines unfair trade practices, including misleading advertisements, false claims, and predatory pricing.
- Product Liability: The Act imposes strict liability on manufacturers and sellers for defective goods that cause injury or damage to consumers.
- E-commerce and Direct Selling: The Act includes specific provisions to address unfair trade practices in e-commerce and direct selling sectors.
- Consumer Protection Authorities: The Act establishes a three-tiered dispute redressal mechanism with District, State, and National Consumer Commissions to settle consumer disputes.
- Penalties: The Act prescribes stringent penalties for violation of its provisions, including imprisonment and fines.

Significance:

- The CPA, 2019, is a significant step towards strengthening consumer protection in India. It provides consumers with a wider range of rights and remedies and empowers them to seek redressal for their grievances more effectively.
- The Act also improves the regulatory environment for businesses by promoting fair trade practices and deterring unscrupulous traders.

DISCUSSION

The Drugs and Cosmetics Act, 1940 (D&C Act) and the Drugs and Cosmetics Rules, 1955 (D&C Rules) are the primary legal framework governing the regulation of drugs and cosmetics in India.



Here's some key information about them:

D&C Act, 1940:

- Enacted to ensure the quality, safety, and efficacy of drugs and cosmetics in India.
- Covers import, manufacture, distribution, sale, and storage of drugs and cosmetics.
- Defines various categories of drugs based on their potential for misuse or side effects (Schedule H, K, etc.).
- Establishes the Central Drugs Standard Control Organization (CDSCO) as the main regulatory body.
- Outlines penalties for offenses related to drugs and cosmetics, including adulteration, misbranding, and illegal trafficking.

The Cigarettes and Other Tobacco Products (Advertisement) Prohibition Act was actually enacted in 2003, not 2001. This Act, often referred to as COTPA, aimed to curb the use of tobacco products in India by:

- Prohibiting all forms of advertising and promotion of cigarettes and other tobacco products. This includes bans on television, radio, print media, billboards, and even point-of-sale advertising in some cases.
- Regulating the trade and commerce of tobacco products, including restrictions on sale to minors, packaging requirements, and graphic health warnings.
- Controlling the production, supply, and distribution of tobacco products.

COTPA has played a significant role in raising awareness about the harmful effects of tobacco use and reducing tobacco consumption in India. However, it's important to acknowledge that tobacco control is an ongoing challenge, and efforts to enforce COTPA and implement further measures are still needed.

The Code of Advertising Practices (ASCI) is a set of guidelines established by the Advertising Standards Council of India (ASCI) to ensure fair and ethical advertising in India. The code covers a wide range of issues, including:

- Truth and Honesty: Advertisements must be truthful and not misleading. This includes ensuring that claims made about products or services are accurate and supported by evidence.
- Decency and Good Taste: Advertisements should not be offensive or indecent. This includes avoiding language or imagery that is likely to be considered vulgar, obscene, or discriminatory.
- Fair Competition: Advertisements should not unfairly denigrate competitors or their products or services.
- Children's Protection: Advertisements targeted at children should not exploit their vulnerability or encourage them to behave in a harmful way.
- Social Responsibility: Advertisements should not promote products or services that are harmful to society, such as tobacco or alcohol.

The ASCI Code is not a law, but it is widely respected by the advertising industry in India. Advertisers who violate the code may be subject to sanctions, such as being barred from advertising their products or services.

In addition to the general guidelines listed above, the ASCI Code also includes specific rules for different types of advertising, such as online advertising and celebrity endorsements.



The ASCI Code plays an important role in protecting consumers from misleading and harmful advertising. It also helps to ensure that advertising is fair and does not unfairly denigrate competitors.

CONCLUSION

The Press Council of India is not a regulatory body, and it does not have the power to impose fines or other penalties on newspapers or news agencies. However, its findings and recommendations can have a significant impact on the reputation of a newspaper or news agency. The Press Council of India has been criticized by some for being too soft on the press. However, it is generally seen as a valuable institution that plays an important role in protecting the freedom of the press in India. The Act was passed in 1978, replacing the Press Council of India Act, 1967. The new Act gave the Council more powers, including the power to inquire into complaints against newspapers and news agencies, to issue warnings and reprimands, and to recommend to the government that action be taken against newspapers and news agencies that violate the Act.

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