

FREEDOM OF SPEECH IN ADVERTISEMENTS: EMPHASIS ON NEWSPAPERS

*Anchal Mittal**

I. INTRODUCTION

Use of advertisement is a marketing concept that intends at drawing the attention of the public or at inducing customers in buying certain goods or services which promotes sales and increases goodwill and awareness of the product or services. It contains information about the product such as its use, quantity, features, USP¹ (unique selling proposition).² Usually advertisements are for products and services and propose to disseminate information amongst the prospective customers rather than just display the company name.³ The definition for an advertisement embraces any visible representation by way of notice, circular, label, wrapper or other document and also includes any announcement made orally or by any means of producing or transmitting light, sound, smoke or gas.⁴ Moreover, a notice designed to attract public attention or patronage is termed as advertisement by the New Webster's Dictionary of English.⁵

II. JUDICIAL APPROACH TOWARDS ADVERTISEMENT

Advertisements are based on some common advertising techniques including puff up, which is the practice that uses exaggerations and superlatives for marketing a product. It is generally exercised in two forms, one that includes statements or phrases or adjectives describing the product, such as 'amazing', 'best', 'unbeatable'. Puffery of the extreme form happens when exaggeration is completely untrue and proves to be deceptive. The other form includes testimonials which are superiority claims and statements made usually by celebrities for a product/service. Examples of puffing statement for product X are:

- i. Product X is the best in the world,
- ii. Product X is the popular product in India,

* Research Scholar, Faculty of Law, University of Delhi.

¹ Caroline Taggart, PUSHING THE ENVELOPE: MAKING SENSE OUT OF BUSINESS JARGON (2011).

USP is a marketing mantra developed in the 1958 by advertising guru Rosser Reeves.

² Gabriel Steinhardt, THE PRODUCT MANAGER'S TOOLKIT: METHODOLOGIES, PROCESSES, AND TASKS IN HIGH-TECH PRODUCT MANAGEMENT (2010).

USP is the key statement which describes the distinct value and features of a product, that sets the product apart from the competitors.

³ *ICICI v. Municipal Corpn. of Greater Bombay*, (2005) 6 SCC 404,414.

⁴ *Mahesh Bhatt v. Union of India* (2008) DLT 561,147.

⁵ WEBSTER'S II NEW COLLEGE DICTIONARY (3rd ed. 2005).

iii. Product X delivers highest result

These statements used to puff up are not actionable offence. Indian courts have given considerable elbow room to advertisers that use puffing statements. This showcases that they usually do not try to restrain freedom of speech in ads when puffery technique is incorporated. In *Reckitt & Coleman of India Ltd v. Kiwi TTK Ltd*,⁶ the Delhi High Court listed some important principles which are watershed in case of puffery, the principles are:

- i. First, advertised goods are allowed to state in the advertisement that the product is best in the world, even if such declaration is not true,
- ii. The goods advertised can be compared with that of its competitor, further the ad can state that the advertised goods are better than those of competitors, even though the statement is not true,
- iii. Puffery is lax but not in cases when the goods advertised declare competitor's products are bad, because this defames the competitor's products.

The courts have therefore held that puffing is acceptable and can be practiced in advertisements. But it should not give rise to cause of action in the hands of the competitor when puffing statements turnout to be defaming its goods. By comparing goods with that of its competitor, the tradesman cannot slander or defame competitor's goods. Further it cannot call competitors product bad or inferior than his own product. At the same time, mere puffing is not actionable.⁷ In cases when the puffing extents to defaming the competitor, its goods, the courts are competent to grant injunction order to restrain repetition of defamation or action for recovery of damages for defamation may lie. Repeated use of words such as 'cheap' and 'compromise' used by Heinz's in its advertisement for Complan were observed to harm the reputation of Horlicks a product of Glaxo Smith Kline (GSK). The permissible limit of puffery should not disparage the competitor's claims.⁸

The Constitution of India and the Consumer Protection Act, 1986 both contain reasonable restrictions, against misleading advertisements in the interests of consumers. Under the Consumer Protection Act, puffery can lead to unfair

⁶ 16 PTC 393 (1996).

⁷ It has been so held in *Hindustan Lever v. Colgate Palmolive (I) Ltd.*, AIR 1998 SC 526, *Reckitt & Colman of India Ltd. v. M.P. Ramchandran and Anr.*, (1999) 1 PTC 741 and *Reckitt & Colman of India v. Kiwi TTK Ltd.*, (1996) 16 PTC 393.

⁸ *Glaxosmithkline Consumer Healthcare Ltd v. Heinz India (P) Ltd.*, (2009) 39 PTC 498 Del.

trade practice when competitors are allowed to puff their products, to the extent which is not in public interest. According to a different view than that of other courts, the Chennai High Court in *Colgate Palmolive (India) Ltd v. Anchor Health and Beauty Care Pvt Ltd*,⁹ observed that puffery leading to unfair trade practice, false and misleading should be limited so that it's not harmful to consumers. The advertiser thus enjoys freedom of speech while puffing up in advertising but reasonable restrictions have to be brought in when the puffing leads to disparages or slander or defame competitor's good. Statements that amount to disparaging or defamation are also debateable as what constitutes and defines puffery statements which defame or slander or disparage goods is determined on case to case basis. Other than puffery, comparative advertising, surrogate advertising, covert advertising and advertisements offering free gifts, prizes, offers or discounts are few examples of advertising techniques, that have been a subject of controversy, every now and then. On scrutinizing a published advertisement many legal violations can be observed, which range from misuse or suspected violation of right to freedom of speech and expression, misleading, deceptive or fraudulent information or abuse relating to copyright or trademark.

This paper is confined to the imbroglia regarding freedom of speech and expression in advertisements with focus on newspapers. The author has selected Singapore being a south East Asian country for comparative study and due to the fact that Singapore lays more weightage on preserving its cultural, ethnic and moral values by way of restrictions than freedom of speech. Further, the article broach upon freedom of speech and expression provided under the Constitution of Singapore, pivot being advertising. It is considered ideal market for advertising, thanks to its pro- businesses and tech savvy environment along with good infrastructure. Interestingly, Singapore has multi-cultural work environment due to its diversity as compared to the West. The advertising market in Singapore is built on data analysis and are heavily reliant on new technologies that enables collection of large data from consumers, their likes and dislikes, buying pattern, etc. Being a small market, clients are ready to take risks with their advertising and indulge in individual targeting but marketing strategies have to be clever and well contextualized to connect with the consumer. However, none of these characteristics influence the conventional approach that Singapore carries, towards freedom of speech and expression and restrictions.

⁹ (2009) 40 PTC 653 Mad.

III. GAMUT OF FREEDOM OF SPEECH AND EXPRESSION IN ADVERTISEMENTS OR COMMERCIAL SPEECH

The freedom of speech and expression protected under clause (a) of Article 19 (1) of the Constitution of India enlarges to apply to advertising or commercial speech. Although, till the time *Tata Press Ltd. v. MTNL*¹⁰ commonly known as the *Tata Press* case, commercial speech was not fended by freedom of speech and expression. In its previous view, the Supreme Court in 1960's brushed and was unfavourable to the concept of freedom of speech and expression in commercial advertising. The Apex court contemplated this aspect in *Hamdard Dawakhana v. Union of India*.¹¹ and opined that although an advertisement is a form of speech it fails to fall in the category of free speech when, such advertisement exercised as commercial advertisement aims to seek promotion of trade and commerce. The constitutional validity of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 was raised in *Hamdard Dawakhana* case. Parliament passed this Act with the objective of prohibiting self-medication and control drug advertisements in certain cases. The Act was challenged on the rationale that restriction on advertisements would encumber freedom of expression. The Supreme Court rejected the plea that clause (a)-of Article 19 (1) embraces advertisements in its scope and observed that:¹²

Freedom of Speech goes to the heart of the natural right of an organised freedom loving society to 'impart and acquire information about that common interest'. If any limitation is placed which results in the society being deprived of such right, then no doubt it would fall within the guaranteed freedom under Article 19 (1) (a). But if all it does is that it deprives a trader from commending his wares, it would not fall within that term.

The court opined that although an advertisement is a form of speech but its main ingredient is the object it seeks to promote. It may fall under clause (a) of Article 19 (1) due to the fact that it amounts to expression of an idea. But then commercial advertisement constitutes trade, commerce and business as the baseline which does not propagate social, political or economic idea, hence it does not fall within the concept of freedom of speech. An advertisement falls within the category of trade or commerce with the objective of furtherance of business interest. An individual advertising his business by commercial advertisement is not regarded to be protected by freedom of speech.

¹⁰ (1995) 5 SCC 139.

¹¹ (1960) 2 SCR 671.

¹² *Id.*, para 18.

Correspondingly, advertisements that promote sale of drugs and commodities which are not in public interest are not deemed as propagating idea, therefore protection under clause (a) of Article 19 (1) cannot be maintained. The extrapolated reason for not considering clause (a) of Article 19 (1) to apply to commercial advertising is that commercial advertising predominantly envisions for commercial gain. However, the Supreme Court reserved a different view in succeeding cases than that of *Hamdard Dawakhana*. The economic significance of revenue generated from advertisements was emphasized in *Sakal Papers (P) Limited v. Union of India*¹³ and *Bennett Coleman v. Union of India*.¹⁴

The constitutional validity of Newspaper (Price and Page) Act, 1956 was raised in *Sakal Papers*, due to the powers granted to the government by the Act for regulating prices vis a vis the size, pages and space allocation of advertisements. It was considered that such regulations will curtail advertisements, which would directly impact the newspaper circulation and hit clause (a) of Article 19 (1). When there is curtailment of advertisements, the price will inevitably shoot up and have a direct bearing on the truncated newspaper circulation. Similarly, in the *Bennett Coleman* case, it was stated that the newspaper circulation is essentially impacted by advertisements and any form of restraint on them will impugn freedom of publication and propagation under clause (a) of Article 19 (1). Further, in 1981 the Apex court held in *Indian Express Newspapers (Bombay) Private Ltd v. Union of India*¹⁵ that protection of clause (a) of Article 19 (1) of the Constitution of India, cannot simply be denied because they are issued by businessmen. The Supreme Court while concluding the *Tata Press* case read *Hamdard Dawakhana* and *Indian Express Newspapers* together and viewed that commercial speech is part of freedom of speech protected under clause (a) of Article 19 (1) and public has a right to receive commercial speech. The instrumental role played by advertising in the economy was acknowledged in the *Tata Press Case*. Some pertinent comments of the court are:¹⁶

Advertising is considered to be the cornerstone of our economic system. Low prices for consumers are dependent upon mass production, mass production is dependent upon volume sales, and volume sales are dependent upon advertising. Apart from the lifeline of the free economy in a democratic country, advertising can be viewed as the life blood of free media, paying most of the costs and thus making the media widely

¹³ AIR (1960) SC 554.

¹⁴ (1972) 2 SCC 788.

¹⁵ (1981) 1 SC 641.

¹⁶ *Tata Press Limited v. Mahanagar Telephone-Nigam Limited*, AIR (1995) 2438.

available. The newspaper industry obtains 60/80% of its revenue from advertising. Advertising pays a large portion of the costs of supplying the public with newspaper. For a democratic press the advertising “subsidy” is crucial. Without advertising, the resources available for expenditure on the “news” would decline, which may lead to an erosion of quality and quantity. The cost of the “news” to the public would increase, thereby restricting its “democratic” availability.

The court added that more than the trade considerations of an advertiser, the information dissemination aspect of an advertisement is vital for the general public, thus freedom of speech and expression guaranteed under clause (a) of Article 19 (1) not only protects the rights of individuals to read and listen but also to receive the said speech. *Tata Press* case was an outcome of a dispute between Tata Yellow Pages and Mahanagar Telephone Nigam Limited-MTNL (a government undertaking) in which printing of telephone directories under the Indian Telegraph Act 1885 was challenged which was the monopoly of MTNL. MTNL claimed to have exclusive right to print and publish list of its telephone subscriber and Tata Press had no right to print, publish or compile the telephone directory. According to MTNL, the provisions of Indian Telegraph Act, 1885 were violated by Tata Press. From 1987 Nigam handed over the publication of its telephone-directory to outside contractors, before such time it exclusively published and distributed telephone-directory consisting of white papers only. Nigam permitted contractors to procure advertisements and publish the same as Yellow Pages to meet their cost and raise revenue.

The court expatiated that Tata Press cannot be restrained from publishing Tata Press yellow pages. Although Tata Press required permission of the telegraph authority to publish any list of telephone subscribers, and comply with the mandatory Rule 458.¹⁷ Further, a very imperative observation was made by the court, it viewed that there are two facets to commercial speech,

- (i) More than being a commercial transaction, an advertisement is a form of disseminating information about the product or subject advertised. Without free flow of commercial information, there will be potential impediment to the economic structure of a democracy. It is empirical that without being educated the public at large cannot make an intelligent economical choice. Thus, the publication, circulation and propagation aspect of clause (a) of Article 19 (1) will be affected by curtailment of advertisements.

¹⁷ Indian Telegraph Act, 1885, *publishing of telephone directory*- Except with the permission of the Telegraph Authority no person shall publish any list of telephone subscribers.

- (ii) The other facet, considered pertinent is the right of the public to receive commercial information. Sub-clause (a) of Article 19 (1) also aims to protect rights of a person to read, receive and listen to the speech, therefore clause (a) of Article 19 (1) is not only available to the speaker but also to the recipient of the speech.

The role of the receiver of the information so disseminated through advertisements is hence more important than that of a businessman who is at the back of the publication. More than the trade considerations associated to an advertisement, the information related to life saving drug is of more importance to the public. The courts have made it clear that advertisement or commercial speech is protected under clause (a) of Article 19 (1) but the advertiser is not eligible for blanket protection. Like any other form of speech, it has to be read with Article 19(2) under which the government is empowered to impose restrictions on the advertisements or commercial speech. However, the restrictions shall be reasonable in nature and not favouring or preferential to the government.

India has enormous market capacity and such a democratic system has to be saved rather than be in hot water. So, rather than throwing the buck and piling the judiciary for considering the nature of advertisement and rationalizing reasonable restriction on a case to case basis, the system needs a check and scrutiny of advertisements from a body having statutory powers. It will enhance consumerism, reduce misleading activities and malpractices incorporated by businessmen and deliver information which would be freedom of speech, manifesting constitutionalism in correct sense. Since commercial speech was not favoured by right to freedom of speech in the 1960's, the scenario changed after the 1990's through *Tata Press*. Essentially, freedom of speech does not imply that any and everything should be advertised. It does call for certain controls, self-regulation of the content by the advertiser while advertising certain product or services. For example: Today, numerous companies promote and advertise multi-vitamin and health supplements. Such advertisements promote and induce the consumer to take vitamin supplements to fight stress and cope up with the fast pace life. Though these vitamins are OTC¹⁸ but only a medical practitioner can analyse which drug is required by the body, for how much duration, in what quantity the dosage is adequate, can the deficiency be bridged by natural food items, etc. Similarly, it is important for lifesaving information relating to drug and medicines to reach the public, it is equally critical that correct and authenticated information is publicised. The advertiser cannot be permitted

¹⁸ Medicines which are sold directly to a consumer without a prescription are known to be Over-the-counter (OTC) drugs.

to publish unauthenticated information and claims in the garb of freedom of speech and expression.

IV. SINGAPORE CONSTITUTION AND FREEDOM OF SPEECH

Similar to the Indian Constitution, the Singapore Constitution is a written Constitution. Part VI of the Constitution comprises the fundamental liberties, having freedom of speech, assembly and association under Article 14. According to clause (a) of Article 14 (1) freedom of speech and expression is extended to all citizens of Singapore. Along with it, clause (a) of Article 14 (2) empowers Parliament to impose necessary restrictions in interest of Singapore's security or for friendly relations with other countries or to maintain public order or morality. Restrictions under the Article also include imposition of restrictions guarding the privileges of Parliament or protecting contempt of court, defamation or incitement to any offence.¹⁹ 'Special powers' operate to further limit free expression in case of emergencies (Art 149,150).

Singapore being a developed nation with high literacy rates, allows media to be profitable by supporting commercial advertising. However, the local media is restricted by various control measures to develop a free environment for expressing views. There is close regulation even on the foreign media activities by controlling flow of free expression and information. As compared to the West, Singapore has repressive speech limitations with emphasis on maintaining and preserving its cultural, social and moral fabric and ethnicity. A three-part test is laid on restrictions imposed on right to freedom of expression, i.e.,

- i. The restriction must be provided by law,
- ii. Such restriction shall be for the purpose of safeguarding a legitimate public interest, and
- iii. The limitation or restriction should be necessary to secure that interest.

The test is approved by the UN Human Rights Committee and the European Court of Human Right.²⁰ The government's regulatory body for content produced by local media in Singapore is governed by the Ministry of Information, Communications and the Arts (MICA) which has a statutory board, the Media Development Authority (MDA). Besides regulating print media, broadcast, other forms of media this statutory board also enforce regulation. Moreover, availability of published media from abroad is also under its domain. The Media Development Authority (MDA), administers Media content related policies to strike a balance

¹⁹ The Constitution of the Republic of Singapore, Article XIV (2) cl. (a).

²⁰ James Gomez, FREEDOM OF EXPRESSION AND THE MEDIA IN SINGAPORE (2005) 19–20.

between social needs and information by the Ministry of Information, Communications and the Arts (MICA). The MDA and MICA practice censorship and build environment developed by both which reflects its tradition and government hold, are in the following areas:

- i. Since Asian values (such as respect for parents and elders, importance of family, etc.) are core area to preserve, it is main attribute for censorship.
- ii. To secure social unity and maintain social fabric.
- iii. Sustain religious tolerance and conserve racial harmony.
- iv. Children and young persons to be protect from corruption.

In July 2016, the Ministry of Communications and Information (MCI) prohibited newspaper Al Fatihin published Furat Media, which is an alliance of Islamic State of Iraq and Syria (ISIS). As ISIS being a terrorist group makes Singapore susceptible to severe terrorist attacks, the newspaper was construed, to be a step taken by ISIS to spread its propaganda and recruit Southeast Asian. The stringent act was due to zero tolerance of Singapore Government towards terrorist propaganda.²¹ Further, a mall in Singapore by the name Cathay Cineleisure had to change an advertisement promoted by Pink Dot. The advertisement promoted gay rights which are reviewed to affect public sensitivities, especially the tag line '*Support freedom to love*'. Both the print and electronic media are under strong governmental influence. The government has its hold even in case of private player operating in media, commonly manifested through shareholdings in media entities. All domestic broadcast television channels and majority of radio stations except BBC World Service, which is independent of the government, are operated through government liked organizations or companies.

V. SELF-REGULATORY BODY OF THE ADVERTISING INDUSTRY IN INDIA

Currently there exists a self-regulatory body, the Advertising Standards Council of India (ASCI) which is not a Government body established in 1985. The ASCI, has a Board of Governors and the Consumer Complaints Council (CCC). The former consists of 12 members, four each representing the sectors such as advertisers, media, advertising agencies and allied professions such as market research, consulting, business education etc. The Consumer Complaints Council (CCC) comprises of about 21 members out which 9 are from within the industry and the remaining 12 are from the civil society. The decision of the

²¹ See IS-linked newspaper Al Fatihin to be prohibited in Singapore *available at* <http://www.channelnewsasia.com/news/singapore/is-linked-newspaper-al-fatihin-to-be-prohibited-in-singapore-7942708>, (2016) (last visited June 24, 2017).

Consumer Complaints Council against any ad is final. The ASCI has its own code and aims to promote and protect honest advertising, non-offensive ads, ads which are not related to harmful products and fair competition in the market-place, protect legitimate interests of consumers and all concerned with advertising. ASCI has global presence, it is part of the global committee the Executive Committee of International Council on Ad Self-Regulation (ICAS). It has received six Global Best Practice Awards awards at the European Advertising Standards Alliance (EASA).

The Consumer Complaints Council (CCC) had upheld 200 complaints out of 319 in October 2017. Out of the 200 complaints 82 were from healthcare, 11 to personal care, 75 to education, eight to the food & beverages category and 24 from other categories. ASCI's Consumer Complaints Council had taken suo moto action in 148 advertisements out of the 319 complaints.²² The power of ASCI has been questioned in the court numerous times. The body doesn't have any teeth or legislative backing still various Government agencies acclaim its role and have collaborated to prevent misleading advertisements. Although the government notified in the Cable Television Networks Rules, 1994 which stated that no advertisement for public exhibition in India carried by the cable service shall violate the Code for Self-Regulation in Advertising, as adopted by the Advertising Standards Council of India (ASCI), many advertisers have viewed that ASCI is not an enforcement body rather its role is at best advisory.²³

ASCI or similar body having representatives from the different regulatory bodies of the government along with member from National Commission for Women (NWC), a legal expert, member from advertising agencies association, a corporate representative should be constituted. The ASCI can be converted into a statutory body after making structural changes in its composition. This will be of great use as ASCI has already built the necessary infrastructure and process to tackle violation in advertisements. However along with structural changes its scope will be required to extend to all or major sectors that advertise. Along with a strong regulator the public has to be sensitized to file complaint with ASCI, raise objections and report false and misleading advertisements which are running on the premise of freedom of speech and expression and violation of ASCI Code. The consumer and general public must not carry a casual approach towards advertisements as they are the ones who are directly influenced and impacted by false, misleading, unethical and

²² See <https://www.ascionline.org/images/pdf/asci-oct-ccc.pdf> (last visited January 12, 2017).

²³ Havells Pvt. Ltd had filed a case challenging ASCI order and powers in the Delhi High Court. See <http://www.livemint.com/Consumer/7i10uOUWDj8FKeyZMTcRqN/Havells-case-against-ASCI-brings-regulators-role-back-in-sp.html> (last visited June 26, 2017).

objectionable advertisements. Campaigns like 'Jago Grahak Jago' are need of the hour. In support of this a web portal (<http://gama.gov.in>) has been launched by Department of Consumer Affairs for registering online complaints for grievances against misleading advertisements (GAMA). It extends to advertisements published in newspapers also other medium being Television, Radio, or any other electronic media, Banners, Posters, Handbills, wall-writing etc. The complaint can be registered through the portal in two steps or by registering a complaint at the nearest Grahak Suvidha Kendra or designated Voluntary Consumer Organizations (VCOs) which will lodge the complaint through the web portal. The list of key regulators for sectors of the government listed below:

- i. Directorate of Marketing and Inspection (DMI)
- ii. The Food Safety and Standards Authority of India (FSSAI)
- iii. Bureau of Indian Standards (BIS)
- iv. Central Drugs Standard Control Organization.
- v. The Ministry of Urban Development, Real Estate, Financial Services, Education and Transport.

VI. SELF-REGULATORY BODY OF THE ADVERTISING INDUSTRY IN SINGAPORE

Similar to the Advertising Standards Council of India (ASCI), Singapore also has self-regulatory body that fosters ethical advertising by the advertising industry. The Advertising Standards Authority of Singapore (ASAS) was set up in 1976 and it is the advisory council of Consumers Association of Singapore (CASE). Besides safeguarding and ensuring truthful advertising it works in the interest of both the advertiser and consumer. The Advertising Standards Authority of Singapore (ASAS) council comprises of around 27 members who are appointed for tenure of two years. The members of the council comprise of representatives from varied sectors associated to advertising, such as from advertising agencies, advertisers, government agencies, media owners and other related organizations.

The scope of the Advertising Standards Authority of Singapore (ASAS) Code extends to newspaper, which includes classified and other forms of print publication.²⁴ Guideline No. 4 of the ASAS Code states that there shall be free expression of opinion, without any restrain provided:

²⁴ Sub-clause (a) of clause 2.2 of the Code of Advertising Practice under the Advertising Standards Authority of Singapore (ASAS) code.

- i. the expression is just an opinion,
- ii. the expression does not mislead the consumer in ascertainable facts,
- iii. the advertiser must be ready to clarify (promptly) as to why the expression according to his belief, abides by the code.

Besides, restricting misleading advertising and promoting healthy and corrective advertising the code lays specific emphasis on social values and family values which are incorporated in the General Principles of the Code. However, the Advertising Standards Authority of Singapore (ASAS) has no real power or has punitive capacity. Its power chiefly limit to:

- i. get the advertisement amended or withdraw by the advertiser or an advertising agency if the advertisement is not in line with the Code.
- ii. get the advertisement withhold by the advertiser or advertising agency,
- iii. provide advice on advertisement to publishers besides the four associations (Singapore Advertisers Association, the Association of Accredited Advertising Agents, Association of Media Owners (Singapore) and Association of Broadcasters (Singapore)).

VII. SUGGESTIONS

Singapore: The Singapore advertising market has immense growth potential and progressing into centre for creative advertising. It has attracted acclaimed international advertising agencies like Ogilvy and Mathur, moreover regional advertising agencies are partnering international advertising for the purpose of expansion. Apparently, Singapore does possess number of legislature relevant to advertising but advertising is ancillary for most of them. Developments in the advertising industry and increase influence of global dynamics is affecting the existing legal structure. Some suggestions for better regulation are:

- i. The involvement and control of government in the ownership and running of Media Corporation should be restricted.
- ii. Freedom of speech and expression should not be suppressed or limited to the Speakers' Corner. However, individuals shall respect and protect the social and family values of Singaporeans.
- iii. All advertisements before publication should be scrutinized by Advertising Standards Authority of Singapore (ASAS). This will keep a check on the legal and ethical practice of advertising.

iv. National and international publications, editorials and advertising agencies shall be allowed for publication in Singapore in respective areas. This will develop and build expression within the country and amongst the citizens. Advertising will be much lucrative business for advertising agencies than what it exists, this will boost the economy.

India: Though the court has struck regulation of page and size of advertisement in a newspaper, today guidelines need to be framed for newspapers. Few suggested guidelines are:

- i. Each page of the main newspaper should devote only 25% of the page space to advertisements. For informational and public announcements, the ad space can constitute maximum of 40% space of a page but the entire newspaper shall limit space provided to advertisements of 25% (avg.).
- ii. Commercial advertisements can occupy as much space as required out of the 25% limit in the main newspaper. Further, the newspaper should be given a free hand to prioritize and use the 25% space for advertising without any intervention (until it violates any law). In the supplementary newspapers and magazine editions which essentially focus on entertainment, health, education, city, etc. can allocate as much space required by commercial advertisements.
- iii. Like Singapore, India shall also incorporate reasonable restrictions that concentrate on preserving and promoting our rich history, culture, tradition and value system but such restrictions should be reasonable and not obstruct trade or upsets any religion or race.
- iv. A statutory body to address the complaints rather than having a voluntary body is required, such statutory body must be competent of taking action and penalise advertisers who do not adhere to the standards. This body shall be empowered to scrutinize the ads and its content and suggest changes (if any) to advertisers before the ad is published. The body has to keep a proper balance between public interest and business interest so that neither public interest is compromised nor the profits, cost and business of the advertiser are impacted. Some issues relating to the content of ads that deal with women and children shall be scrutinise and refrain by this body, are listed below:
 - a. Objectionable display of women and their body.
 - b. Projection of women as object in ads, use and display of their sexuality for promoting the product in ads.

- c. Passive or subordinate representation of women than men or presenting men as dominant gender than to women.
- d. Ads should not include technical stunts that are dangerous and life-threatening because children get influence and imitate the stunts at home which turnout to be fatal.
- e. Children should not be represented or used to project in such a way that the ad has negative impact on the tender minds of children.
- f. Women and children shall not be projected as vulnerable category.
- g. Ads shall not promote acts and habits which are immoral or influence the innocent mind or create unrealistic environment and expectation or are unhealthy for the society.

The suggestion is to compose two bodies, one for scanning and recommending the advertisers on advertisements and its content before they are published and second which has statutory power and functions on similar lines that of ASCI. The second body may be linked to the district, state and national consumer courts but have a wider reach and coverage of issues existing in advertisements. This is required to hail freedom of speech and expression and its purpose rather than the business generated from advertisements. But at the same time business interest also needs to be considered with rational eye, as they drive the economy and generate employment for the people.