

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

**LOK SABHA
STARRED QUESTION NO. 188
TO BE ANSWERED ON 06/05/2016**

MISLEADING ADVERTISEMENTS

*** 188. SHRI JYOTIRADITYA M. SCINDIA:
SHRI ARVIND SAWANT:**

Will the Minister of **INFORMATION AND BROADCASTING**

be pleased to state:

- (a) whether the Government has taken cognizance of rise in number of misleading advertisements and endorsements on electronic and print media;
- (b) if so, the details thereof during the last three years;
- (c) whether the Government has any mechanism to check the veracity of the advertisements and endorsements appearing in electronic media, if so, the details thereof and if not, the reasons therefor;
- (d) whether the Government proposes to constitute any Authority/Body to control misleading advertisements; and
- (e) if so, the details thereof and if not, the reasons therefor along with other steps proposed to be taken by the Government in this regard?

ANSWER

**THE MINISTER OF FINANCE; THE MINISTER OF CORPORATE AFFAIRS AND THE
MINISTER OF INFORMATION & BROADCASTING (SHRI ARUN JAITLEY)**

(a) to (e): A statement is laid on the table of the House.

**STATEMENT AS REFERRED TO IN REPLY TO PARTS (a) TO (e) OF LOK SABHA
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(a) to (e): Department of Consumer Affairs (DoCA) has informed that a large number of instances of misleading advertisements appear in various media. Section 2 (1) (r) of the existing Consumer Protection Act 1986 provides that the practice of making any statement, whether orally or in writing or by visible representation which falsely represents that the goods are of a particular standard, quality, quantity, grade, composition style or model; falsely represents that the services are of a particular standard, quality or grade, falls under unfair trade practices.

A consumer can make a complaint against unfair trade practice in a Consumer Forum established under the Consumer Protection Act, 1986. If the complaint is upheld by a Consumer Forum, it can order, inter alia, for removal of the defect pointed out, replacing the goods with new goods free from any defect, issuance of corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement, etc.

DoCA has further informed that the Consumer Protection Act, 1986 is being amended for which the Consumer Protection Bill, 2015 has been introduced in Lok Sabha. The Bill seeks to provide for a Central Consumer Protection Authority, the objective of which is to protect and enforce the rights of the consumers, to prevent unfair trade practices and to ensure the rights of the consumers, to prevent unfair trade practices and to ensure that no advertisement is made for any goods or services which is misleading or deceiving or contravenes the provisions of the Act and rules made thereunder.

To ensure inter-ministerial coordination, DoCA has established an Inter-Ministerial Monitoring Committee which is headed by Addl. Secretary, D/o Consumer Affairs and consists of members from Bureau of India Standards, M/o Information & Broadcasting, Press Council of India, Advertising Standards Council of India, M/o Health & Family Welfare, Food Safety and Standards Authority of India, Centre for Consumer Studies (Indian Institute of Public Administration), two representatives on rotation basis from NGOs/VCOs and Industrial/ Business/ Trade Bodies and Central Consumer Protection Council etc. The DoCA has recently launched a portal to enable consumers to register Grievances Against Misleading Advertisements (GAMA). After preliminary scrutiny of the grievances registered on the portal, the grievances are forwarded to the State Government concerned or the respective Central Regulator as the case may be. Between March, 2015 and 31st March, 2016, 1046 complaints have been received through the GAMA portal and the details of disposal are provided at **Annexure-I**.

In so far as advertisements appearing in private satellite TV channels are concerned, all advertisements telecast on such channels are regulated in accordance with the Advertising Code available on Ministry's website mib.nic.in. 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 an Inter Ministerial Committee (IMC) under the chairmanship of the Addl. Secretary (I&B), and comprising of officers drawn from various Ministries such as Consumer Affairs, Home Affairs, Law & Justice, Women & Child Development, Health & Family Welfare, External Affairs, Defence and 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. 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(5) regarding misleading advertisements is at **Annexure-II.**

The Advertising Standards Council of India (ASCI), a voluntary self-regulatory body of Advertisement Industry, self-regulates advertising content to monitor and decide on complaints against advertisements making misleading, false and unsubstantiated claims. Rule 7(9) of the Advertising Code provides that no Advertisement which violate the Code for self-regulation in advertising, as adopted by the Advertising Standards Council of India (ASCI), Mumbai for public exhibition in India, from time to time, shall be carried in the cable service. For the past three years the following number of advertisements in electronic media which were found to be making misleading, false and unsubstantiated claims are as under:

Year	Total Misleading TV advertisement
2013-2014	187
2014-2015	203
2015-2016	135

In year 2015,the Department of Consumer Affairs appointed ASCI as their executive arm to process complaints received on the GAMA (Grievance Against Misleading Advertisements) portal. The details of all such complaints which are under investigation of ASCI are available on GAMA portal.

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 objectives under Section 13(2) of the Act has formulated ‘Norms of Journalistic Conduct’ for adherence by the print media. The Norm 36 on the subject ‘Advertisements’ framed by PCI is at **Annexure –III**. 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’. As per Section 14 of the Act, the Council, after holding an inquiry, 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 as the case may be. Detail of adjudications on misleading advertisements in Print Media for the last three years is at **Annexure-IV**.

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The details of complaints received through GAMA portal from March, 2015 are as under:

GAMA Numbers March , 2015- March 31, 2016	
Successfully Resolved	363
Rejected	234
In process (with ASCI)	41
Escalated for Regulator to intervene	391
For Ministerial Group to intervene	17
Total Complaints	1046

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

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

Year 2016 (January to April)

Sl.No.	Advertisement	Action Taken
	NIL so far.	NIL

**ANNEXURE AS REFERRED TO IN REPLY TO PARTS (a) TO (e) OF LOK SABHA
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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.

**ANNEXURE AS REFERRED TO IN REPLY TO PARTS (a) TO (e) OF LOK SABHA
STARRED QUESTION NO. 188 FOR 06.05.2016****Complaint cases relating to allegedly Misleading Advertisements (Excluding cases disposed for
not being perused by the Complainant)****2013-2014**

S.No.	Complainant	Respondent	Subject	Action Taken/Status
1.	Sh. Deepak Chhabria, Chairman, Employment Promotion Council of Indian Personnel, 105, Sai Prasad Commercial Complex, Khar, Mumbai - 400052	Employment & NRI Times	Publication of unauthorized overseas recruitment publication	Closed on 12.07.13 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	Rashtra Deepika	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.

2014-2015

S. No	Complaint	Respondent	Subject	Action Taken/Status
----NIL----				

2015-2016

S. No	Complaint	Respondent	Subject	Action Taken/Status
----NIL----				
