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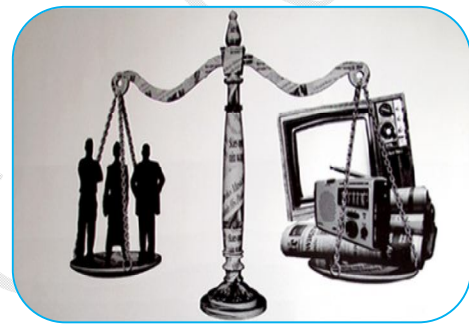


CURRENT STATE OF WOMEN AND ADVERTISEMENTS LAW IN MEDIA: INDIA CHAPTER

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ABSTRACT:

Advertising is worldwide phenomenon and it can take any form in any media. It is a means through which a product or service is made known to the public. Portraying women in advertisement in vulgar way in media is a common practice. Women and their body parts are used to sell everything. Such representing of women in indecent ways for commercial ends is an infringement of their very right to live a dignified life. Law is a powerful instrument to curb such practices. In India, the field of advertising is subject to a multiplicity of laws and moreover there is no law governing cyber advertising. Highlighting current state of law women and advertisement law in media in India and formulating a workable mechanism to curb the menace is the ultimate aim of the research.



KEYWORDS: Advertising, media, indecent, right to live a dignified life and law.

INTRODUCTION:-

The advertisement as a “commercial speech” has two facts. Advertising which is no more than a commercial transaction is nonetheless dissemination of information regarding the product – advertised public at large is benefited by the information made available through the advertisements. In a democratic economy, free flow of commercial information is indispensable. There cannot be honest and economical marketing by the public at large without being educated by the information disseminated

through advertisements.

Advertising is a means through which a product or service is made known to the public and thereby influence the opinions or behavior of those to whom it is addressed. It is an important and legitimate means for the seller to awaken interest in his goods and services. The influence of what is being said in advertisements is not limited to just what is said but how it is said. It influences everybody in a household, society everywhere in some way or the other. The success of advertising depends on public confidence; hence no practice should be permitted

which tends to impair this confidence.

Any communication which in the normal course would be recognized as an advertisement by the general public would be included in the purview of advertisement even if it carried free-of-charge or using paid media for any reason. The subject matter of it may a product including goods, services and facilities. It is thus a commercial designed to influence consumer behavior. Media connotes any means used for the propagation of advertisements and includes press, cinema, radio, television, hoardings, hand bills, direct mail,

posters, internet, etc. and to publish is to carry the advertisement in any media; be it by print, exhibiting, broadcasting, displaying, distributing, etc.

WOMEN AND ADVERTISEMENTS

Women play a very important role in respect to Advertisements. It can be seen from three angles, viz. as a victim, that women models in most cases are exploited; as a viewer of advertisement in the media, as an endorser, a dignified way of promoting a product which is usually done by a well known woman. Use of women to promote a concept or product is going on increasing. Women are used in TV commercials as weapon of persuasion. Women in many cultures make the majority of consumption decisions; hence they are important target of advertisers.

In most cases women and their images are used which has nothing to do with the product as well. Women in advertisements have been seen performing a decorative functions and as being marginal to national growth and development. There are many common but misleading notion in our society such as a woman place is in home and a good woman is that who is a traditional housewife, submissive and modern woman is the one who is independent and can never bring happiness to anybody.

Advertising thrives on commodification of women and reinforces stereotypes. Advertising uses at times body parts of women in an inappropriate manner. Her hair, legs, face, etc everything becomes commodity giving an impression that this will push the consumer to take favorable decision to buy a product. Thus, in exchange between the commodity and 'woman' in advertisements, a woman becomes a commodity too. Women and their body parts are used to sell everything - food, clothing, tooth paste, cars, men's deodorant, cement, etc.

INTERNATIONAL STANDARD ON WOMEN AND ADVERTISEMENT

International standard setting legal framework to combat gender stereotyping is very limited. Moreover, it is rarely used by States to promote gender justice. One is legally binding treaty i.e. Convention on Elimination of all forms of Discrimination against Women (CEDAW) and other is a political document i.e. the Beijing platform (BP) for action.

The CEDAW was agreed in 1979 and has been ratified by majority of States including India. Article 5 concerns stereotypes. It is an obligation on the part of States Parties to take all appropriate measures: to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." This article has been used successfully by women's organizations to challenge sexist advertising, for example by DEMUS in Peru as early as the 80s.

In December 2000, an Optional Protocol to CEDAW entered into force. The protocol contains two procedures: (1) a communications procedure allows individual women, or groups of women, to submit claims of violations of rights protected under the Convention to the Committee. The protocol establishes that in order for individual communications to be admitted for consideration by the Committee, a number of criteria must be met; including that domestic remedies must have been exhausted. The Protocol to the Convention creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights. It is a surprised moves that the protocol includes an "opt-out clause", allowing States upon ratification or accession to declare that they do not accept the inquiry procedure. Interestingly there is a rare provision under international law that Article 17 of the protocol explicitly provides that no reservations may be entered to its terms.

It is pertinent to mention that the Convention has been successfully cited to combat stereotyping of women in rape trials in a few occasions. The first communication before the CEDAW Committee was *Vertido* case. The case principally focuses on wrongful gender stereotyping. In *Karen TayagVertido v. The Philippines* (16 July 2010) the Committee held that that evidence of wrongful

gender stereotyping in a Filipino rape trial amounted to a violation of articles 2(f) and 5(a) of the Convention.

Another important milestone in gender justice is the 4th World Conference on Women (1995), which adopted the Beijing platform for action. This document is not a legal text but it provides a strong political commitment of signatory States and rightly regarded as an epoch making step in gender justice. It calls on governments and other relevant stakeholders to tackle gender stereotypes in both public and private life. Objective J2 of the BP for action is unequivocally declared a principle of 'promote a non-biased and non-stereotyped portrayal of women in the media'. It also calls on governments and international organizations to take action "to the extent consistent with freedom of expression".

The BP for action makes a new beginning in standard setting of role of media and commitment of Governments in gender justice. Governments are committed to encourage the media to refrain from presenting women as inferior beings and exploiting them as sexual objects and commodities, rather than presenting them as creative human beings, key actors and contributors to and beneficiaries of the process of development. It is also a duty of governments to promote the concept that the sexist stereotypes displayed in the media are gender discriminatory, degrading in nature and offensive; and to take effective measures or institute such measures, including appropriate legislation against pornography and the projection of violence against women and children in the media.

The UN General Assembly lately has also consistently stressed that persisting gender stereotypes constrain progress in implementing the Beijing platform for action, and called for actions to eliminate gender-based stereotypes. Recently, UNESCO developed a set of indicators to assess and monitor the implementation of these commitments

ADVERTISING LAWS IN INDIA

In India advertisement (commercial speech) is considered as a part of the freedom of speech and expression granted under Article 19(1)(a) of the Constitution of India [(1995) 5 SCC 139]. Consequently it can only be restricted on the grounds specified in clause (2) of Article 19, such as, in the interest of the security of State, friendly relations with foreign States, public order, decency or morality, in relation to contempt of court, defamation or incitement to an offence. However, the commercial advertisements which are deceptive, unfair, misleading and untruthful could be regulated by the Government. Examined from another angle the public at large has a right to receive the "commercial speech". Article 19(1)(a) of the Constitution not only guaranteed freedom of speech and expression, it also protects the rights of an individual to listen, read and receive the said speech.

Before going to discuss the legal regime of advertisement in India let me highlight two path-breaking judgments of Apex Court and one highly critical judgment of High Court. In *Maneka Gandhi's* (1978) and *Francis Coralie* (1981) cases, the Apex Court gave a new dimension to Article 21 of the Constitution of India. It held that the right to "live" is not merely confined to physical existence but it includes within its ambit the right to live with human dignity. In *Chandra Raja Kumari* case (1998), it has been held by AP High Court that the right to live includes right with human dignity or decency and, therefore, holding of beauty contest is repugnant to dignity or decency of women and offends Article 21 of the Constitution. The government is empowered to prohibit the contest as objectionable performance under Section 3 of the Andhra Pradesh Objectionable Performance Prohibition Act, 1956, if it is grossly indecent scurrilous or obscene or intended for blackmailing. Side by side, it is also a fundamental duty of every citizen of this country under Article 51A (e) that to renounce practices derogatory to the dignity of women.

From the above cited constitutional provisions and case law, it is clear that right of advertisement is mandated to balance between the freedom of commercial speech and right to live with human dignity, reasonable restriction as stipulated in Article 19(2) vis-à-vis fundamental duty to renounce practices derogatory to the dignity of women.

In India, the field of advertising is subject to a multiplicity of laws in the absence of a comprehensive statutory mechanism that would lay down ground rules in clear terms for advertising in the country. All those engaged in advertising are strongly recommended to familiarize themselves with

the legislation affecting advertising in this country, particularly the following Acts and the Rules framed under them:

Table No. 1: Showing multiplicity of law governing different aspect of advertisements in India

Sl. No.	Title of the Legislation
1.	Consumer Protection Act, 1986
2.	Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003
3.	Press Council of India Act, 1978
4.	Cable Television Networks (Regulations) Act, 1995 and Cable Television Networks Rules, 1994
5.	Doordarshan/All India Radio (AIR) Advertisement Code Revised Code for Commercial Advertising on Doordarshan Code for Commercial Advertising Over All India Radio
6.	Advertising Standards Council of India's Code for Self-Regulation of Advertising Content in India
7.	Drug and Magic Remedies (Objectionable Advertisement) Act, 1954
8.	Drugs and Cosmetics Act, 1940
9.	Emblems and Names (Prevention of Improper Use) Act, 1950
10.	Food Safety and Standards Act, 2006
11.	Indecent Representation of Women (Prohibition) Act, 1986
12.	Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994
13.	Young Persons (Harmful Publications) Act, 1956
14.	Representation of People Act, 1951
15.	Indian Penal Code, 1860
16.	Dowry Prohibition Act, 1961
17.	Protection of Children from Sexual Offences Act, 2012
18.	Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
19.	Information Technology Act, 2000
20.	Right to Information Act, 2005
21.	Family Courts Act, 1984
22.	Juvenile Justice (Care and Protection of Children) Act, 2015
23.	Telecom Regulatory Authority of India Act, 1997
24.	Drugs Control Act, 1950
25.	Copy Right Act, 1957
26.	Trade and Merchandise Marks Act, 1958
27.	Prevention of Food Adulteration Act, 1954
28.	Pharmacy Act, 1948
29.	Prize Competition Act, 1955
30.	Code of Standards in relation to advertising of medicine and treatment
31.	Standards of practice for Advertising Agencies (As approved by the Advertising Agencies Association of India, Mumbai)
32.	Cinematography Act, 1952
33.	Prasar Bharati (Broadcasting Corporation of India) Act, 1990
34.	PCI's Principles and Ethics (updated 23 March 2015)

(Compile by Author)

From above table it is clear that there is no clear legal regime on advertisement in India and it is subject to multiplicity of laws and moreover it is needless to say, the foregoing laws are in addition to applicable IPR and other relevant laws in general and the list is illustrative and not exhaustive one. The

responsibility for the observance of these legislations rests equally upon the Advertiser and the Advertising Agency. In this paper an advertiser is anybody, including an individual or partnership or corporate body or association, on whose brief the advertisement is designed and on whose account the advertisement is released. An advertising agency includes all individuals, partnerships, corporate bodies or associations, who or which work for planning, research, creation or placement of advertisements or the creation of material for advertisements for advertisers or for other advertising agencies.

Current Legal regime on Women and Advertisement in India

It is already mentioned that the field of advertising is a subject to a multiplicity of laws in the absence of a comprehensive statutory mechanism that would lay down ground rules in clear terms for advertising in the country. The same is true for the legal regime on women and advertisement in the country and it is not possible to discuss each and every aspect of legislation in detail in the paper, so the following table summarizes the important provisions of law concerning the field and a brief discussion of important laws directly dealing the field will suffices later.

Some important subject matters and governing law on the field is discussed separately as they are very much related with women and advertisement in India.

Advertisements in Cable Television Networks

Cable television networks ^[1] are control and regulated by the Cable Television Networks (Regulation) Act, 1995 and Rules frame under the Act i.e. the Cable Television Networks Rules as amended in 2006 and 2009. Cable service is the transmission by cables of programmes including re-transmission by cables of any broadcast television signals. The 'Programme' under cable service is any television broadcast and it includes exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players; any audio or visual or audio-visual live performance or presentation. Therefore, advertisement is a part of programme and consequently not only Advertisement Code but Programme Code are also applies to the advertisement broadcast in cable networks. Sec. 5 read with Sec. 6 also supported the conclusion.

The programme Code and Advertisement Code are prescribed in Rules 6 and 7 respectively of the Rules of 1994. However, the aforesaid provision does not apply to programmes of foreign satellite channels which can be received without the use of any specialized gadgets or decoder. It is a legal obligation on the part of cable operators that they should strive only to carry programmes in their cable service which project women in a positive, leadership role of sobriety, moral and character building qualities. The Code unequivocally prohibits certain items viz. offends against good taste or decency; contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths; denigrates women through the depiction in any manner of the figure of a women, her form or body part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals; contravenes the provisions of the Cinematography Act, 1952 and finally, that is not suitable for unrestricted public exhibition.

In addition to this the Advertising Code in Rule 7 lays down that the "Advertising Code" for cable services which are formulated to conform to the laws of the country and to ensure that advertisements do not offend morality, decency and religious susceptibilities of the subscribers. Contravention of these provisions attracts liabilities. In another word, advertisement which is against any provision of the Constitution which tends to incite people to crime, cause disorder or violence, or breach of law or glorifies violence or obscenity in any way is prohibited from transmission. In any case advertisement which portrays a derogatory image of women is prohibited. It is legal duty of the cable operator not to portray women in a manner that emphasizes passive, submissive qualities and encourages them to play a subordinate, secondary role in family and society. The portrayal of the female form, in programmes carried in cable service should be tasteful and aesthetic and is with established norms of good taste and decency. It is also instructed that indecent, vulgar, suggestive, repulsive or offensive themes or treatment should be avoided in all advertisement. Interestingly, the Rule sanctifies and gives legal

recognition of the Code framed by Advertising Standards Council of India (ASCI) for public exhibition in India.

After careful perusal of the Act it is clear that public order, decency or morality is eligible criteria for registration of cable operators and in order to operate a cable television network a person needs to be registered as cable operator under the Act. The Act gives a wide blanket power to Central Govt. The Central govt. or its officers authorized by it or authorized agency under Sec. 10A is empowered by the Act to inspect cable network and services, power to seize equipment used for operating cable television network, confiscation, power to prohibits transmission of certain programmes and prohibit operation of cable television network in public interest if it is not in conformity with prescribed programme code and advertisement code.

Advertisement in Doordarshan and All India Radio (AIR)

Doordarshan and AIR, both under the control of Prasar Bharati (PB), a statutory autonomous body established under the Prasar Bharati Act, 1990. The Act lays down comprehensive objectives in guiding in discharging the function the PB effectively. It is a legal obligation of PB to inform and stimuli the national consciousness in regard to the status and problems of women and paying special attention to the upliftment of women. It is pertinent to mention that Doordarshan and AIR also follow a comprehensive code for commercial advertisements in order to control the content and nature of advertisements which can be relayed over the agencies. The contents of the Code are similar to cable television networks.

The Indecent Representation of Women

It is worth to mention that Sections 292, 293 and 294, IPC deals with the law relating to obscenity. Section 292 prohibits sale, etc., of obscene books, pamphlets, paper, etc., Section 293 deals with sale of obscene objects to young persons, and Section 294 covers obscene acts and songs. But none of the provisions cover indecent representation of women in publications and advertisements, etc., which have an effect of corrupting and depraving persons. In order to curb this menace, in 1986 the Parliament enacted the Indecent Representation of Women (Prohibition) Act. Indecent Representation of Women is the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have effect of being indecent, or derogatory to, or denigrating, women, or is likely to deprave, corrupt or injure the public morality or morals (Sec. 2(c)). The Acts aim to effectively prohibit indecent representation of women through advertisements, publications, writings, paintings, figures pamphlets, etc., and to provide punishment against those indulging in such nefarious activities. However, in spite of the enactment of the Act of 1986 the number of Indecent Representation cases has increased every day. Following table shows the gravity of the offence in India

Table No. 3: Showing Indecent Representation of women and allied crimes in India during 2010-2016

Sl. No.	Year	No. of incidents of Indecent representation	No. of assault on women with intent to outrage her modest	No. of insult to the modest of women
1.	2010	895	40613	9961
2.	2011	453	42968	8570
3.	2012	141	45351	9173
4.	2013	362	70739	12589
5.	2014	47	82235	9735
6.	2015	40	82422	8685
7.	2016	38	84746	7305

(Source: NCRB, Ministry of Home Affairs, Govt. of India)

It is clear from the table that assault on women are increasing day by day and more interestingly though there is rampant violation of the Indecent Representation of Women (Prohibition) Act, 1986 but reported cases are almost negligible like non-existence of such legislation and it clearly reveals that the Act is one of most least aware and poorly implemented piece of legislation in India.

The Act consists only 10 sections. It prohibits under Sections 3 and 4 that a person from getting involved, directly or indirectly, in the publication of, any advertisement containing indecent representation of women in any form and publication or sending by post of books, pamphlets, etc., containing indecent representation of women. However, there are certain objects which are exempted from the purview of Section 4 of the Act, viz., any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure, the publication of which is proved to be justified as being for the public good and which is in the interest of science, literature, art or learning or other objects of general concerns; or which is kept or used *bona fide* for religious purposes; any representation sculptured, engraved, painted or otherwise represented on or in any ancient monument within the meaning of the Ancient Monument and Archaeological Sites and Remains Act, 1958 (24 of 1958); any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose and lastly, any film in respect of which the provisions of Part II of the Cinematograph Act, 1952 will be applicable.

Under the scheme of the Act any Gazetted Officer authorized by the State Govt. is given a wide power to enter and search any place, examine any documents and even seize any advertisement or any book, pamphlet, papers, slide, film, writing, drawing, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act and commission of any offence under the Act with some rider. It is also need to mention that in search and seizure the provisions of the Code of Criminal Procedure, 1973 is law on the subject and therefore, whatever seizes as soon as should inform the nearest Magistrate and take his orders in the matter of custody of seize item. Violation of Sec. 3 attracts imprisonment up to of 2 years and fine up to two thousand rupees on first conviction and in the event of second and subsequent conviction with imprisonment for minimum 6 months extendable up to 5 years and also with a fine minimum ten thousand rupees extendable up to one lakh rupees. Section 7 provides punishment of offences committed by companies and imposes personal liability on persons responsible for the conduct of the business of the company on the matter. The offences under the Act are bailable and cognizable. The Act protects institution of legal proceedings against the Central Government and its officer or any State Government and its officer for anything which is in good faith done or intended to be done under the Act. The Indecent Representation of Women (Prohibition) Rules, 1987 was made by Central Govt. for effective implementation of the Act.

Advertisement in electronic commerce

Electronic commerce is a transaction carried out by means of electronic data interchange and other means of electronic communication that involve the use of alternatives to paper-based methods of communication and storage of information. All the matters related to electronic commerce and cyber crimes, social media etc. are controlled and regulated by the Information Technology Act, 2002.

The relevant provisions of the Act in our concern are Sections 67, 67A, 67B and 66E. The Section 67 deals about punishment for publishing or transmitting obscene material in electronic form.^[2] The provision is considered as the most serious legislative measure against pornography. Under the provision any person who publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or its effect is to tend to deprave and corrupt persons who are likely to read, see or hear the matter contained or embodied in it is punished on the first conviction with imprisonment up to 3 years and with fine extendable up to five lakh rupees and in the event of second or subsequent conviction with imprisonment of up to five years and also with fine extendable up to ten lakh rupees. Proviso to Section 67B of the Act contains exclusion clause relating to provision of obscene material, etc. The exclusion clause clearly declares that provisions of Sections 67, 67A and 67B does not extend to any book, pamphlet, paper, writing, drawing, painting, representation or figure in electronic form such as the

publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is the interest of science, literature, art or learning or other objects of general concerns, and which is kept or used for *bonafide* heritage or religious purposes.

Other important provisions of the Act which are our concerns are summed up in the following table.

Table No. 3 showing relevant provisions of the Act

Section	Subject matter	Punishment
67A	Punishment for publishing or transmitting of material containing sexually explicit act or conduct in electronic form	First conviction – imprisonment of 5 years (maximum) & fine of 10 lakh rupees (maximum) Second or subsequent conviction – 7 years (maximum) & fine of 10 lakh rupees (maximum)
67B	Punishment for publishing or transmitting of material depicting children ^[3] in sexual explicit act, etc., in electronic form	First conviction – imprisonment of 5 years (maximum) & fine of 10 lakh rupees (maximum) Second or subsequent conviction – 7 years (maximum) & fine of 10 lakh rupees (maximum)
66A	Punishment for sending offensive messages through communication service, etc.	3 years imprisonment (max.) and fine
66E	Punishment for violation of privacy	3 years imprisonment (max.) & fine of 2 lakh (max.)
72	Penalty for Breach of confidentiality and privacy	2 years imprisonment (max.) or with fine of 1 lakh (max.) or with both

(Compile by Author)

From the above discussion it is clear that there is not a single provision in the Act concerning about cyber advertisement. It means in India there is legal vacuum governing cyber advertisement.

Advertisement in print media

Advertisement in print media regarding women is controlled and regulated by the Press Council Act, 1978 and other allied legislation including principles and ethics formulated by Press Council of India. Prasar Bharati (Broadcasting Corporation of India under the overall supervision of Ministry of Information and Broadcasting, Govt. of India), Press Council of India, Telecom Regulatory Authority of India and Advertising Standards Council of India are regulatory authorities in the subject.

The *Press Council of India* (PCI) is a statutory body constituted under the Press Council of India Act, 1978. Being a statutory body its powers and functions are confined to its parent statute. The paramount purpose of PCI is to preserve the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in India. Foremost and main function of Council is to censure press and newspaper across India. Section 14 of the Act is enabling provision of the matter. The Council exercise its power on receipt of a complaint made to it or otherwise, wherein it has reason to believe that a newspaper or news agency has act against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional misconduct. In this regard,

the Council should followed principles of natural justice i.e. give opportunity of being heard and due inquiry of the matter. Followed up action if satisfied and recording the reasons in writing has power to warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist. In addition to it, in order to smooth performance of its function the Council formulates a code of conduct for newspapers, news agencies and journalists entitled 'Principles and Ethics'. The Code in unequivocal terms prohibits publication of advertisements which contains anything which is unlawful or illegal, or is contrary to good taste or to journalistic ethics or proprieties. It is felt that the inclusion of the 'good taste' is a confusing and may lead to misuse. The right to have the final say in the acceptance or rejection of advertisements is the hand of editor of newspaper concerned, so the role of editor is placed very important in the Code and he is personally liable for that. Case of those advertisements which border on or cross the line between decency or obscenity role of editor is very crucial. An editor shall be responsible for all matters, including advertisements published in the newspaper. It may also be mentioned that if responsibility is disclaimed by editor then it should be explicitly stated beforehand in order to exonerated his personal liability.

In *Ayay Goswami* (AIR 2007 SC 1024), the Apex Court observed that the Press Council's power to censure needs to be reviewed and need to amend PCI Act suitably in order to handle issue of obscene content and balancing freedom of press and the protection of children from harmful and disturbing materials effectively and accordingly directed the Government to consider the request of the PCI in this regard in public interest.

It is pertinent to mention functions and role play by Advertising Standards Council of India (ASCI) in the field of fair advertising practices in the best interest of the ultimate consumer. ASCI is a self regulatory voluntary organization of the advertising industry and very importantly it has formulated a code for self regulation in the advertising industry in order to achieve fair advertising practices in the best interests of the ultimate consumer. In this regard, ASCI in 1985 adopted a 'Code for Self-Regulation in Advertising' to achieve the ultimate objective of honest advertising and to bring fair competition in industry and for the protection of the legitimate interests of consumers and all concerned with advertising i.e. advertisers, media, advertising agencies and others who help in the creation or placement of advertisements. The Code concerns about self regulation in the cardinal concerned of advertising matters viz. Honest representations (Truthful and Honest to consumers and competitors), Non-offensive to public (Within the bounds of generally accepted standards of public decency and propriety), Against harmful products/situations (Not used indiscriminately for the promotion of products, hazardous or harmful to society or to individuals particularly minors, to a degree unacceptable to society at large), Fair in competition (Not derogatory to competition. No plagiarism). The ASCI also lays down equally important codes for advertisements in specific sectors or industries from time to time. It is a fact that those codes are non-binding being codes of self-imposed discipline and no legal sanction. Consequently, compliance to the codes in an exception and negligible complaints to Consumer Complaints Council established under the frame work ASCI's structure is received for non-compliance. For cable services, by virtue of the Cable Television Networks (Amendment) Rules, 2006 under Rule 7(9) it makes mandatory for them to be compliant with the ASCI code in field of all aspect of advertisements. It gives an implementation edge regarding non-compliance of Code particularly false, misleading, indecent, vulgar, offensive, illegal, leading to unsafe practices or unfair to competition and likely to cause a widespread offence. In this regard, the Apex Court in *Common Cause* (2017 (2) SCALE 169) unequivocally affirmed and recognized the self-regulatory mechanism put in place for advertising content by ASCI.

In addition to it, the RBI, SEBI and IRDA are some of the other regulatory authorities that also regulate advertisements in their respective fields. Side by side, National Human Rights Commission (NHRC), National Commission for Women (NCW), National Commission for Protection of Child Rights (NCPRC) also simultaneous exercise their jurisdiction in different aspect relating to enjoyment of human rights of women.

CONCLUSION

It is fact that women have been depicted in media in the most respectable and aesthetic manner on the one hand and, on the other, they have also been victims of indecent, vulgar and obscene depictions. It is our social evil and in media also that women are portrayed in passive, submissive qualities and consequently play a subordinate, secondary role in the family and society.

In this regards, Governments as mandated by Constitution of India, Treaty obligation and other relevant legislation needs to effectively implement law in place in field of gender justice. It is also equally legal duty of the State to take up deterrent punitive action against media wherever there are instances of presenting women as inferior beings and exploiting them as sexual objects and commodities. It is clear that promoting sexist stereotypes displayed in the media are gender discriminatory, degrading in nature and offensive. It needs to be taken effectively by the instrumentality of law including amendment in the existing law and enactment of new comprehensive legislation particularly against pornography and the projection of violence against women and children in the media.

It is found that some laws like Indecent Representation of Women (Prohibition) Act are poorly implemented and even majority do not existence of such laws in place. In this regard, effective implementation is only workable solution and extensive public awareness on the subject should be taken in order to bring ultimate object of gender justice and renouncing derogatory to the dignity of women. Moreover, it is suggested that the Indecent Representation of Women (Prohibition) Act, 1986 in present form is unsuitable (even definition of advertisement is outdated, it should need to include fibre, optical electronic or other media) and not per as global standard on women and advertisement agenda so it needs to be amended suitably to give more teeth so that it will cover alarming problem of depiction of women as sexual objects or in humiliating servility to men in any kind of written, verbal or visual form. The recommendations and suggestion put forward by NCW and Dept. of Women and Child Development, Govt. of India concerning the Act may be considered in time bound manner.

It is also found that women and advertisement law in current form in India is confusing because of there are multiple of laws in the field and it makes haphazard situations for those concerned with advertisement and media also. In the one hand, it is problem for implementing authority and easily escaping liability from compliance for media, cable operators and advertising industry, manufacturer or service provider. Further, there is a legal vacuum in the field of advertisements in cyber space. In this regard, enactment of a comprehensive legislation and providing unified statutory authority encompassing all forms of media is only solution to the problem.

It is also found that relevant Ministries and regulatory authorizes miserably failed in cases of infringements of dignity of women in advertisement in India. In this regard, the relevant Ministries such as Ministry of Electronics & Information Technology; Information and Broadcasting; Child and Women & Child Development and other regulatory and statutory bodies viz. PCI, Prasar Bharati, Telecom Authority of India, NHRC, NCPCR, NCW and like must take cognizance of infringements of dignity of women in advertisements and initiate actions against such practices and also recommend effective measures including amendment in the existing laws.

Other organizations and bodies including NGOs working for the empowerment of women can also play an important role in curbing the menace of indecent representation of women in advertisements. In this regard, they should monitor and take appropriate steps in their respective jurisdiction or in collaborative manner with other NGOs and other agencies such as NHRC, NCW against portrayal of women in the media and advertisement as well.

General public including women organizations, police, politicians, social workers, legal activists – all need to join hand to fight against those indulging in indecent representation of women in advertisement by objecting to it and filing complaint to appropriate author. In this regard, we need to change in our mindset about role of women in society.

Last but not the least, proper implementation of existing law in the field and side by side public awareness and enactment of a comprehensive legislation in the field is only workable mechanism to answer the problem of vulgar portrayal of women in advertisements.

Notes:

1. Cable television network is any system consisting of a set of closed transmission paths and associated signals generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers.
2. Electronic form with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device.
3. A child means a person who has not completed the age of 18 years.

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