



# The Advertising Standards Council of India

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## COMPLAINTS PROCEDURE

### A: Pre Consumer Complaints Council (CCC) Meeting Procedure

The ASCI Code is well publicised and is available on ASCI's website. It is recognized by almost all Practitioners in advertising as the universally relevant / applicable Code for Self-Regulation in respect of advertising content in India. It is broad based to cover the entire gamut of media vehicles – Print, TV, Audio-Visual, Radio, Outdoor, Internet, e-mail, SMS, Promotion / Merchandising vehicles etc. and even packaging as a vehicle of mass communication.

The CONSUMER COMPLAINTS COUNCIL (CCC) of ASCI functions as its examining body which considers the complaints raised as well as the response of the advertiser before giving its recommendation as to whether the advertisement in question is violating the provisions of the ASCI Code for Self-Regulation in advertising or not. All CCC recommendations are published on the ASCI website and reported in ASCI's Annual Report.

ASCI and the CCC are not Clearing Houses or Voluntary Censor bodies, and hence advertisements are not pre cleared or approved. Modifications in advertisements, even though carried out in response to CCC / FTCP / IRP recommendations as advised, are not cleared or approved by the CCC / ASCI. It is implicit that such modifications are in observance of the ASCI Code and have been motivated by the spirit of the Code, not just the letter itself. Such modified advertisements could, therefore, again be subject to the forces / conventions in the market place and to the perceptions of the public.

The CCC does not look into claims which are already the subject-matter of proceedings before any Court in India and the disclosure of this information to ASCI is required from the parties involved in the complaint process.

There are three types of Complaints against advertising content which are received by ASCI

1. Complaints from the General Public (including Government Regulators, Consumer Groups)
2. Intra Industry complaints
3. Suo Moto

## **COMPLAINTS FROM THE GENERAL PUBLIC**

### **SUBMITTING A COMPLAINT**

ASCI provides multiple modes of submission of complaints. Complaints may be submitted via an online form, email, telephone and mobile app. Letters may also be sent at the postal address provided on the website. ASCI also responds to complaints made on social media such as Twitter, Facebook as well as complaints received via WhatsApp messaging, wherein the complainant is re-directed to lodge an online complaint so that all information is captured correctly.

1. No fee is required to be paid by any complainant for submitting a complaint to ASCI.
2. When submitting a complaint through any of the above mentioned modes, complainants are required to give their name, information about their profession / organization (if complainant is not an individual) and their contact details such as mobile number and email address. Complainants must provide particulars about the advertisement in question including exactly what is the content of advertisement being complained against and reason why, details of product / service, publication / broadcast as well as clipping / copy of the advertisement, where possible. If locating / identifying the advertisement is not possible, ASCI might not be able to take further steps in the matter. In case of print advertisements, a clipping of the advertisement and name and date of newspaper / documents in which it appeared needs to be provided. In case of Online / TV advertisements, a video clipping or a screen shot of the page as well as the URL link should be provided. If the advertisement complained against is in a language other than Hindi or English, a translation of the advertisement in Hindi or English should preferably be provided.
3. The identity / particulars of the individual complainant is not disclosed to the advertiser except when the complainant is non-public i.e. an industry member, regulator or consumer group or when the nature of complaint is such that complainant identity is required to be disclosed.
4. Complaints will be processed by an Officer of the ASCI Secretariat designated for that purpose. The Designated Officer/s will be the point of contact in ASCI for the parties involved.

### **PROCESSING A COMPLAINT**

#### **(A) REGISTRATION OF COMPLAINT**

On receipt of a complaint, an acknowledgement mail will be sent to the complainant by the Secretariat within three business days. A verification process may be undertaken by the Secretariat to prevent fake and frivolous complaints. Thereafter the complaint will be

forwarded to the Designated Officer for examination / evaluation of the complaint. If multiple complaints have been made against a particular advertisement, it will be within the discretion of ASCI to proceed ahead with one complaint. In such a situation, all the complainants involved will be notified of the situation. If objections are raised on multiple claims in an advertisement, three main objections would be considered per advertisement to make the process efficient.

## **(B) EXAMINATION OF COMPLAINT**

1. After the complaint has been verified for completeness, it will be forwarded to the Designated Officer to evaluate the allegations made in the complaint.
2. In case the complainant has been unable to provide ASCI with a copy of the advertisement in question, steps would be taken by the Designated Officer to procure it from the advertiser concerned. At this stage, while a copy of the complaint may be sent to the advertiser, no written response would be sought. The advertiser is asked to provide a copy of the advertisement in question within a period of two business days. Complaint is processed only if the advertisement has been published within prior three months from the date of the complaint. For digital media, the Designated Officer may evaluate whether to take up such complaints for period prior to three months of the complaint.
3. If, on a preliminary examination, the complaint appears frivolous or without any basis, the Designated Officer will put up the complaint before the CCC at their next meeting for a recommendation on whether to proceed further with the complaint or not. In case the CCC recommends that no action is to be taken, the complainant will be informed of the same within a period of three business days from the date of the issuing of the CCC meeting minutes. If, however, the allegations in the complaint indicate a possible violation of the ASCI Code, the Designated Officer will send a copy of the complaint to the advertiser concerned, and to the relevant advertising agency, if its details are known, pointing out the provisions of the Code that the advertisement is likely to be in violation of and requesting a written response. The Designated Officer may also mention other concerns with the advertisement not taken up in the complaint in case of any obvious violation of the ASCI code is not articulated by the complainant.
4. The advertiser will be asked to submit a written response within a period of five business days (extended to seven business days in case of need to support claims technically) along with necessary documentation to substantiate and explain their claims. This exhaustive response would suffice for deliberation by the CCC. However, the advertiser would also be granted a personal hearing (either face to face meeting with the employee representing the advertiser or via telecon) with the designated officer for presenting their response. The Designated Officer may consider arranging a personal hearing with the Technical Expert (either face to face meeting with the employee representing the advertiser or via telecon) as deemed appropriate but within the lead-time provided for the response. No extension of the prescribed time will be granted unless a written request for extension along with the reasons

therefor is submitted within two business days from receipt of the complaint by the advertiser.

5. The relevant portions of the supporting documents (tests / reports etc.) submitted by the advertiser are required to be highlighted and the written response has to explain the relevance of each document relied on by the advertiser. No documents submitted after the prescribed time will be considered unless there are extenuating circumstances.
6. The Designated Officer may, on receipt of the written response, seek further clarification from the advertiser if necessary. In case there is a failure on the part of the advertiser to submit any response within the prescribed time, the Designated Officer will proceed with the complaint ex-parte.
7. Where the opinion of a Technical Expert is required to be taken, the Designated Officer will do so from the panel of Experts associated with ASCI.
8. The complaint, with all supporting information provided by the complainant and the advertiser / agency complained against, along with CCC's Technical Expert's opinion, if any, will be placed on the agenda of the next CCC meeting.

## **INTRA-INDUSTRY COMPLAINTS**

When an advertiser lodges a complaint against another advertiser, it is considered to be an Intra-Industry complaint. Intra-industry complainants have the option of undergoing the general process mentioned herein or applying for the Fast Track Complaints (FTC) procedure when both advertisers are members of ASCI.

## **SUBMITTING A COMPLAINT**

1. Intra-industry complainants have the same modes of submitting a complaint as the public.
2. Complainants are required to give their name, information about their designation / organization and their official contact details. Complainants must provide particulars about the advertisement in question including exactly what is the content of advertisement being complained against and reason why, details of product / service, description, publication / broadcast details, etc. A copy of the advertisement must be provided by the complainant.
3. The allegations in the complaint need to be substantiated, where necessary, with support of data / information with the relevant portions highlighted.
4. In cases of Intra-industry complaints, the identity of the complainant will be disclosed to the advertiser.

5. A hard copy of the complaint as well as the supporting documents must be submitted so that the same may be sent to the advertiser. If, for reasons of confidentiality, the complainant does not want to share proprietary information such as method of testing, etc. then that should be brought to the notice of ASCI in advance.

**REST OF THE PROCEDURE FOR PROCESSING INTRA INDUSTRY COMPLAINTS WILL BE SAME AS THE ONE FOR GENERAL PUBLIC COMPLAINTS.**

**SUO MOTU COMPLAINTS**

When a member of the ASCI Board, CCC, or the Secretariat makes a complaint, then it is treated as a suo motu complaint. The Board member, CCC member or the Secretariat has to register a complaint in writing. Moreover, when a complaint is deliberated upon by the CCC, it can raise a suo motu complaint on any another matter in the originally complained advertisement. The suo moto complaint goes through the same process as other complaints, ensuring that the advertiser is given an opportunity to explain their view point. ASCI also monitors media for advertisements making misleading, false or unsubstantiated claims in media such as TV and Print, etc. If ASCI finds any advertisement from such monitoring as potentially violating the ASCI code, then that will be also processed as a suo moto complaint.

**INFORMAL RESOLUTION OF COMPLAINTS**

ASCI also provides for informal resolution of a complaint in case the advertiser, on receipt of a complaint, readily volunteers to address the objections raised against the claims or visuals in the advertisement by either modifying or withdrawing the advertisement within ten business days. In case of pack claims, Compliance period for packaging material to be modified or replaced in the market place will be a maximum of four months. No product should be available in the market with manufacturing / packing date with old packaging material beyond four months from the date of CCC recommendations being conveyed. However, the modified or replaced pack visual in advertisement should be complied with within ten business days. In such cases, the complaint would be considered to be resolved informally. It would not be necessary to take the informally resolved complaint through the formal CCC evaluation process. However, if post modification of the advertisement, a complaint against the informally resolved complained advertisement comes in, then it will be processed as per normal CCC evaluation process.

<b>B: CCC Meeting Procedure</b>
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To ensure focus in functioning efficiently and effectively, the deliberations of the CCC is to be conducted in the following structured manner:-

**QUORUM**

The Quorum for the meeting of the CCC shall be five. The regular presence of a Board designated ASCI member in the CCC meeting is appreciated.

## **CHAIRPERSON AND VICE CHAIRPERSON**

From the CCC members present, selection of the Chairperson and Vice Chairperson of the meeting will be made on random (chit) basis.

## **ADVANCE COMMUNICATION**

Copies of the complaint and the advertiser's response to be deliberated would be sent two days prior to the meeting by email to the committee members, so that the CCC members can review the material in advance.

## **RECUSAL & CONFIDENTIALITY POLICY**

A CCC Member must disclose his / her 'interest', if any, in a complaint before it is taken up for discussion at the CCC.

A CCC member who is "interested in the complaint" is defined as:

- Being associated with the complainant advertiser or the advertising agency of the concerned brand of the complainant, OR
- Being associated with the advertiser or the advertising agency of the concerned Brand complained against, OR
- A civil society member who, as an individual, has lodged the complaint or is otherwise currently involved in a commercial or legal dispute with the advertiser or is currently consultant to the complainant or the party complained against parties, OR
- A CCC member who has raised the suo motu complaint (not applicable to CCC members when the suo motu complaint is raised by more than one member during a CCC meeting).

The key factor in determining whether a CCC member is "interested in the complaint" is whether the member is getting any monetary compensation from either complainant or complained parties.

Such interested member/s will not participate in the CCC proceedings when the complaint is being discussed. In addition, any CCC member who has any other reason to believe that he / she is an interested party is also expected to not participate in the CCC proceedings when the complaint is being discussed. Also, Technical Expert who is a member of CCC deliberating the complaint and who has provided technical evaluation for the same complaint will not be part of decision making of that specific complaint.

The information provided to CCC members and the decision on the complaint is confidential and a CCC member should not disclose or use this information or decision in any manner whatsoever.

For any breach of above stated recusal or confidentiality policy, the Board may take appropriate action which could include termination of the appointment of the member from the CCC after providing due process of getting an explanation from the concerned member.

## **MEETING PROCEDURE**

- A. The Secretary General / Designated Officer should read out the complaint number and complaint. He or she should also summarise the advertiser's response.
- B. The Chairperson should ensure that each member present gets an opportunity to express his / her opinion. After each person has given his / her views, the Chairperson should give his / her views and then seek a consensus on the recommendation. If a consensus is not forthcoming, the recommendation should be voted upon and the Secretary General / Designated Officer should record the overall vote only and not the specific vote of any individual CCC Member.
- C. The CCC meeting protocols do not provide for personal representations by complainant / advertiser / agency in respect of complaints being deliberated upon at the CCC meeting.

### **C: Post CCC Meeting Procedure**

Once the CCC has taken a decision on the complaint, (which will be recorded in the minutes of the CCC meeting), the party complained against will be informed of the CCC recommendation, within three business days from the date of issuance of the minutes of meeting. If the complaint is Not Upheld, the complainant and the advertiser will be informed simultaneously by means of the automated system of online status change / and an email / letter.

If the complaint is Upheld, then the advertiser and its agency as well as media (if it was referred to in the complaint) will be informed of the CCC recommendation within three business days. The advertiser will be given ten business days to assure time bound compliance with the CCC recommendation by withdrawing the offending advertisement or modifying it so as to avoid contravening the ASCI Code. Compliance period for packaging material to be modified or replaced in the market place will be a maximum of four months. No product should be available in the market with manufacturing / packing date with old packaging material beyond four months from the date of CCC recommendations being conveyed. However, the modified or replaced pack visual in advertisement should be complied with within ten business days. The complainant will also be informed of the CCC recommendations post five business days. The complainant, in case of intra industry complaint, would be informed of the CCC recommendations post two business days.

If a positive response is not received or compliance is not assured by the advertiser, within ten business days as above, a letter from the Vice-Chairman, ASCI, will be dispatched to the Advertiser requesting their compliance commitment immediately, no later than five business days from the last due date for compliance, to the withdrawal of the offending advertisement or its appropriate modification so as to avoid contravening the ASCI Code. Simultaneously, the concerned agency and the concerned media vehicle as well as self regulatory organizations for media (IBF / NBA / INS) will be advised that the advertisement contravenes the Code. For TV

advertisements, this communication will also be sent to all TV channels and the Electronic Media Monitoring Cell (EMMC) of the Ministry of Information and Broadcasting.

In case of non-compliance by the advertiser of the CCC Upheld complaint recommendation, ASCI will inform the concerned Regulatory Authority or Government Department (such as Ministry of Information & Broadcasting, Department of Consumer Affairs, Food Safety & Standards Authority of India, Ministry of Ayush, etc.) for their appropriate action as per existent laws as well as communicate this to the industry bodies (such as Indian Broadcasting Foundation, Indian Newspaper Society, etc.) for also their appropriate action.

### **INDEPENDENT REVIEW PROCESS (IRP)**

The ASCI provides both the parties (i.e. advertiser and complainant) with the option to seek a review of the recommendations made by the Consumer Complaints Council (CCC).

IRP of the CCC / FTCP recommendations is undertaken by the Chairman, a retired Judge of the Supreme Court/High Court, and assisted by the Secretary General/Chief Complaints Officer/ Chief Administrative Officer, familiar with the proceedings. They could be accompanied by the Chairman/Vice-Chairman, as the case may be, of the CCC who heard the initial complaint and a Technical Expert, where necessary.

IRP is applicable where the CCC recommendations are made after considering the response received from the Advertiser and on fulfilling the following conditions by the party seeking review under IRP:-

- a) A written application, in the prescribed form, (available on our website [www.ascionline.org](http://www.ascionline.org)) is submitted within ten business days of receipt of CCC recommendations.
- b) The application is accompanied by a non-refundable prescribed Fee plus applicable taxes. However if the complainant seeking review is a recognized NGO working for furthering the interest of individual Consumers or a Government institution, the applicable fee may be waived or reduced at the sole discretion of ASCI.
- c) The Parties will be at liberty to provide additional information/material not submitted earlier together with the application as per (a) above. Additional information/material submitted by the complainant seeking a review will be sent to the advertiser who shall send his response to the ASCI secretariat in five business days from the date of receipt of such additional information/material.
- d) The advertiser seeking review confirms suspension of the offending advertisement or modification of the advertisement by removing all claim/s objected to by the CCC across all media including but not limited to Print, Television, Digital media - YouTube, Website et al, etc. pending the IRP recommendations. After giving an assurance for suspension of the advertisement, if the said advertisement with objected claim/s appears in any media prior to the release of IRP recommendation, ASCI may decline all further IRP requests from the advertiser for a period of three months and also withhold the IRP recommendation.
- e) By submitting the IRP application it is understood that the advertiser shall accept and comply with the recommendations made by the Chairman of IRP.
- f) Party filing for an IRP should not be in non-compliance of a CCC / FTCP / IRP Upheld complaint recommendation or currently have any court proceedings against any CCC / FTCP / IRP recommendation.
- g) The advertiser or complainant will not publish the IRP recommendation in any News

medium including Newspaper, Media coverage, Website, Digital media, Social media and others.

IRP meeting will be convened once in a Fortnight/Month. Both the complainant and the advertiser will be intimated as to the date, time and venue of the meeting at least five business days prior to the date of the meeting.

Proceedings under IRP are not adversarial or adjudicatory in nature and hence parties may be represented in the meeting by their company officials only. A maximum of two persons representing each party should be available at the hearing and each party would be allotted 30 minutes to present their case / argument or as decided by the Chairman of the IRP. Identity of consumer complainant would be protected and his / her presence at the IRP for simultaneous personal hearing is subject to his/her consent.

The Chairman of IRP, after hearing both parties, will give his/her recommendations within five business days thereafter. The technical expert's opinion, if applicable, would be recorded in the IRP recommendation. In case, additional information or clarification is required from either party or the technical expert, the Chairman may, as per his/her discretion, continue the hearing on another convenient date.

In the event either of the parties do not wish a personal hearing, the Chairman of IRP may complete the review based on the additional information/material submitted and his/her findings would be conveyed over e:mail to both the parties within a period of five business days.

Independent Review Process shall not be applicable in case of ex-parte CCC recommendations. However, Re-examination of such recommendations will be undertaken by the CCC on payment of prescribed fee plus applicable taxes (which at the discretion of ASCI maybe reduced/ waived off in deserving cases) and adhering to the conditions laid down in clause (a) (d) (e) and ( f ) above.

## **ADVERTISING STANDARDS COUNCIL OF INDIA**

### Application for Submitting a Matter for Independent Review Process (IRP)

1. Date:
2. Name of the Individual/Entity:
3. Address for Communication and address where invoice may be sent (if different):
4. Phone Numbers:
5. Names, email IDs and Mobile Nos of Contact Persons in Entity:
6. Name and Address for Invoice Purpose:
7. GST Registration No. (Please attach the Certificate):
8. Complaint No.:
9. Date on which the CCC recommendations in this matter were communicated:
10. Whether the Application for IRP is being made within prescribed time period of 10 business days of receipt of CCC recommendation in the matter:
11. Brief Gist of Grounds on which the matter is sought to be taken before the IRP: *(Please attach a separate sheet)*
12. Brief Gist of Additional Material, if any, proposed to be brought for consideration in the IRP: *(Please attach separate sheet)*
13. Details of payment of the prescribed non-refundable fees for the IRP:
  - (i) Total Amount (including taxes): Rs.147,500
  - (ii) NRFT/RTGS Confirmation Number (or)
  - (iii) Demand Draft No., date and amount:
14. Whether the Entity seeking to place the matter for IRP is a Government Institution, or a recognized NGO working for furthering the interests of consumers; if YES, full details:

#### **UNDERTAKING (TO BE SIGNED BY THE ADVERTISER CONCERNED PRIOR TO SEEKING TO PLACE THE MATTER FOR IRP):**

- (i) We hereby confirm that we have suspended the publication/broadcast of the offending advertisement, pending the IRP;
- (ii) We further agree that by submitting this IRP application, it is understood that we shall accept and comply with the recommendations made by the Chairman of the Independent Review Process.

Signature

(Name of the authorized signatory & designation)

(Name of the Entity submitting the  
Application for Independent Review Process)