



The Advertising Standards Council of India

ASCI INTRA INDUSTRY, INTER ADVERTISER MEMBER FAST TRACK COMPLAINTS HANDLING PROCEDURE (FTC)

In addition to the normal procedure that ASCI has in addressing complaints that are received, a fast track procedure has also been put in place for expeditious resolution of intra industry, inter member complaints.

Any advertiser-member who wishes to lodge a complaint with ASCI against an advertisement of another advertiser-member alleging violation of the ASCI code can lodge such a complaint and seek resolution of the complaint in two ways:

- Under the normal procedure where the complaint will be adjudicated by the Consumer Complaints Council (CCC).
- Under the Fast Track Procedure for intra-industry complaints by the Fast Track Complaints Panel (FTCP) as below:
 1. Under the FTC procedure, the complainant would be required to notify ASCI that the complainant wishes to make use of the FTC procedure. The ASCI Board will prescribe a non-refundable fee that will be required to be deposited along with the complaint by way of a pay order, cheque or direct credit in favour of The Advertising Standards Council of India. To be eligible to make use of the fast track procedure, the following is mandated: (a) the complainant and party complained against should both be ASCI members; (b) the complainant should not have any membership subscription dues pending towards ASCI beyond October 1 during relevant fiscal year;
 - (c) there should not be any litigation proceedings between the parties having a subject matter / issue which might come under the consideration of FTCP while examining the complaint. ASCI does not look into matters which are sub-judice before the Courts in India and members are required to disclose such information before initiating a complaint before ASCI; and
 - (d) the complainant should not be in non-compliance of a CCC / FTC/ IRP Upheld Complaint recommendation or currently have any Court proceedings against any CCC / FTC/ IRP Upheld complaint recommendation.
 2. As in the general complaint process, in the case of intra-industry complaints, details of the complaint including its supporting data / information are required to be given by the

complainant who must also provide the advertisement in question with proper documented substantiation of the allegations, where needed. This data will be shared by ASCI with the advertiser complained against as part of the complaint.

3. Within one business day of the receipt of such a complaint, which is complete in all aspects described above, to be addressed under the FTC procedure, the Designated Officer shall inform vide e:mail, the advertiser against whom the complaint is received to provide written response. The Advertiser will be given the complete set of documents along with the complaint as well as the name of the complainant. 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. The advertiser is required to submit their response within four business days from receiving the complaint (excluding the day of receipt of the complaint if the complaint e:mail has been received post noon). If the response is technical in nature, the technical expert would be granted one business day to review the complaint and the response. A FTC Panel meeting would be conducted on the following day. The Advertiser as well as complainant shall appear before the Designated Officer /and Technical Expert (if the subject matter is technical) prior to the FTC Panel meeting. A maximum of two persons representing each party should be available at the hearing.
4. The ASCI Board will constitute a panel of 28 members from within the two CCC groups with 16 being from civil society and 12 being from industry. Attempt would be made for the fast track complaint to be addressed by a FTCP of any seven from the 28 member panel. The Quorum for the FTCP meeting would be five members.
5. The FTCP to adjudicate the Fast Track complaints will mainly examine the written submissions of the complainant and the response of the advertiser. However, both the complainant and the advertiser complained against will be required to be available in ASCI premises in order to answer any queries or explanation that FTCP may have during the meeting's proceedings. A maximum of two persons representing each party should be available at the hearing. Only employees of the complainant and advertiser's company will be permitted to take part in the proceedings, if called upon by the FTCP. The FTCP can invite a Technical Expert for advice at the hearing if they decide to do so. In the event that the party complained against wants some more time to prepare its defence, it will have to agree to suspend its advertisement from the fourth business day of having received the notice. In the event that the advertiser complained against does not respond or abstains from making a personal appearance, the FTCP is free to arrive at its decision based on information available with it and its own judgement.
6. The FTCP will notify its recommendation within one business day of the conclusion of its meeting to the Designated Officer who will, in turn, intimate the same to the advertiser within one business day and to the complainant after two business days of the recommendation of the FTCP. The FTCP will provide to the Designated Officer, in brief,

its findings laying down the basis on which the complaint is either Upheld or Not Upheld. In the event the complaint is Upheld, the panel's recommendation will lay down the precise breach of the ASCI Code or of any other legislation concerning advertising content. The Designated Officer shall, on the basis of the view of the Panel, communicate the findings of the Panel to the parties concerned. If the complaint is Upheld then the advertiser will have to inform the media concerned within two business days to withdraw the advertisement and ensure its implementation within seven business days of notification of recommendation. For pack claims, the lead time for changeover would be maximum four months from the date of the receipt of FTCP recommendation. The advertiser is required to confirm compliance to ASCI within seven business days of receiving the FTCP recommendation. The complainant, in case of intra industry complaint, would be informed of the CCC recommendations post two business days.

7. In the event of any of the parties being aggrieved with the findings of the FTCP, a review of the findings of the FTC can be sought by the Retd. Judge as the Chairman provided the additional fee for independent review, as applicable, is paid and additional data / information is furnished as required per the IRP. In case a complaint against an advertisement is Upheld by the FTCP, then the IRP can be granted only if the advertisement against which the complaint is Upheld is withdrawn or modified. A declaration to be given by the advertiser as per the IRP procedure.

If a positive response is not received or compliance is not assured by the advertiser, within two 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 within five business days, 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 will be advised that the advertisement contravenes the Code.

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.

Chairman, Board of Governors, ASCI - May, 2018