

NOW NO ROOM FOR MISLEADING ADS

- *The Delhi district court judgement re-affirms the remit of the Advertising Standards Council of India (ASCI) over non-members*

Mumbai, 19th August 2019: On the back of the Consumer Protection Act passed in parliament recently comes a District Magistrate Court's order that ASCI decisions are applicable to members as well as non-members. Until now a large number of advertisers avoided becoming members of ASCI under the mistaken notion that they would then not have to abide by ASCI decisions.

In a landmark judgement by the Delhi district court (Tis Hazari), for a ruling, in the case of PRIMORDIAL SYSTEMS P. LTD. V. THE ADVERTISING STANDARDS COUNCIL OF INDIA, the court has given a verdict in the favour of advertising self-regulatory body, ASCI.

The complainant advertiser (Primordial Systems), argued that being a non-member of ASCI, the self-regulation code laid down by ASCI is not applicable to them and ASCI has no jurisdiction over the advertiser. The court affirmed that ASCI, has the power to, after following due process, provide recommendations to the advertiser to modify or remove the advertisement containing claims that are considered as misleading by the ASCI's independent Consumer Complaints Council (CCC) .

The court clearly stated that though the complainant is not a member of ASCI but is indulging in activity, viz. of advertising, for which ASCI has made a Self-Regulation Code and for breach of that, ASCI entertains complaints. Thus, if ASCI makes a recommendation and in pursuance thereto the advertising agency or the television channel refuse to air the advertisement of the complainant, they would be entitled to do so. No merit is thus found in the argument of the counsel of complainant being a non-member of ASCI and ASCI thus having no jurisdiction over the complainant.

The court further reiterated that ASCI has been constituted as a Self-Regulatory body for the purpose of advertisements and the Code drafted and changed from time to time by ASCI has been given a statutory flavour. It is already held by Hon'ble Supreme Court of India that ASCI looks into specific complaints regarding violation of programme code hence prima facie it cannot be said that entertainment of a complaint is without due process.

In such view of the matter court settled that ASCI has the power to regulate the advertisements as per guidelines laid down.

According, **Mr. D. Shivakumar Chairman (ASCI)**, "It is a very significant judgement passed by Delhi court as it clarifies that all advertisers come under the purview of ASCI's guidelines. It also sends a clear message to the entire industry that investing in honest advertising is effective as dishonest advertising is not going to work. Clearly, for the consumers it is a big win as all the industry members whether they are part of ASCI or not, can no longer deceive them with misleading advertising."