ASCI Revised Complaints Handling Procedure, January 09, 2020

* Under Trial run

**COMPLAINTS PROCEDURE**

A. The ASCI Code and Guidelines for Self-Regulation in advertising content (hereinafter referred to as the Code) is well publicized and is available on ASCI’s website ([https://ascionline.org](https://ascionline.org)). It is recognized by Practitioners in advertising as the universally relevant/applicable Code for Self-Regulation in respect of advertising content in India. It is broad based and relates to the entire gamut of media vehicles – Print, TV, Digital Media/Social Media/Websites, Audio-Visual, Radio, Outdoor, Internet, e-mail, SMS, Promotion/Merchandising vehicles, etc. and even packaging/label as a vehicle of mass communication.

B. The CONSUMER COMPLAINTS COUNCIL (CCC) of ASCI functions as its examining body which considers complaints raised as well as the response of the advertiser, whether such advertiser is a member or a non-member of ASCI, before giving its recommendations as to whether the advertisement in question violates the provisions of the Code. All recommendations of CCC / Fast Track Complaint Panel (FTCP) / CCC Review (CCCR) Independent Review Process (IRP) are published on ASCI’s website and in ASCI’s Annual Report.

C. ASCI and the CCC / CCCR / FTCP / IRP are not clearing houses or voluntary censor bodies and hence advertisements are not pre-cleared or approved by them. Modifications in advertisements, even though carried out in response to CCC / CCCR /FTCP / IRP recommendations as advised are not cleared or approved by the CCC / CCCR / FTCP / IRP. It is implicit that such modifications are in observance of the 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.

D. The CCC / CCCR / FTCP / IRP do not entertain complaints relating to advertisements which are found to be identical to the subject matter of a proceeding which is sub-judice or has already been decided by a Court of law or before any Regulatory Authority in India. The onus of disclosing such information to ASCI lies on the complainant at the time of filing the complaint. However, when advertisers object to proceeding with a complaint on the grounds that the subject matter is sub-judice or has already been decided by a Court of law or before any Regulatory Authority in India, the CCC / FTCP/ CCCR / IRP shall proceed to first test the preliminary issue as to whether the complaint made to ASCI is subject matter of a proceeding which is presently sub-judice or has already been decided before any Court of law or Regulatory Authority in India before proceeding on the complaint. The decision of CCC/FTCP/ CCCR / IRP, as the case may be, in this regard shall be binding on the parties’ subject to the review options available to the parties within the ASCI framework. ASCI shall refuse to proceed further with the complaint when it is determined by CCC / FTCP/ CCCR / IRP that the complaint made to ASCI is the subject matter of a proceeding which is presently sub-judice or has already been decided before any Court of law or Regulatory Authority in India.

E. There are four types of Complaints against advertising content which are received by ASCI:
   a. Complaints from the General Public/Consumers
   b. Complaints from Non-public, such as Government Regulators, Consumer Groups and Industry Bodies
c. Intra Industry complaints
d. Suo Motu complaints

1. SUBMITTING A COMPLAINT

1A. COMPLAINTS FROM THE GENERAL PUBLIC / CONSUMER / NON-PUBLIC

i. Complaints may be submitted via a text on WhatsApp, an online form, by way of mobile app, email or telephone. Letters may be sent to the postal address provided on the website. ASCI also responds to complaints made on social media such as Twitter, Facebook and Instagram wherein the complainant is re-directed to lodge an online complaint or via WhatsApp so that all the information is captured correctly.

ii. No fee is required to be paid by any complainant for submitting a complaint to ASCI.

iii. When submitting a complaint through any of the above-mentioned modes, a complainant is required to give his/her name, information about his/her profession / organization (if the complainant is not an individual) and his/her contact details such as mobile number and email address.

iv. Anonymous or pseudonymous complaints will not be entertained.

v. Complainants must provide particulars about the objected advertisement in question including exactly what content of the advertisement is being complained against, details of the product / service, publication / broadcast details as well as a clipping / copy of the advertisement, if possible. If locating / identifying the advertisement is not possible, ASCI may not be able to take further steps in the matter.

vi. In case of a print advertisement, a clipping of the advertisement and the name and the date of the newspaper / documents in which it appeared needs to be provided. In case of Online advertisements a screen shot of the page as well as the URL link should be provided, for TV advertisements, telecast details with date, time and name of channel/s, a video clipping or a corresponding YouTube/digital advertisement should be provided.

vii. If objections are raised against multiple claims in an advertisement then three main objections / claims as per the Complainant will be considered per advertisement to make the process efficient.

viii. If the advertisement complained against is in a language other than Hindi or English, it is preferred that a translation of the advertisement in Hindi or English be provided.

ix. The identity / particulars of the individual complainant are not disclosed to the advertiser except when the complainant is non-public i.e. an industry member, regulator, consumer group or an industry body or when the nature of complaint is such that the complainant’s identity is required to be disclosed.

x. 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 and the name, contact details of such Designated Officer shall be clearly communicated to the parties involved for further communication with respect to the complaint.

xi. The Complainant is required to provide specific grounds for objection as the basis of the complaint. The specific objections raised in the complaint need to be substantiated, where necessary, with support data / information with the relevant portions highlighted.

xii. Upon a request from the ASCI Secretariat, if the complainant fails to confirm the advertisement objected to and/or does not furnish the requested details within five business days from such request, the complaint will be considered incomplete and closed.

xiii. The complaint may be closed if the complainant withdraws his/her complaint in writing.

xiv. No documents submitted after the prescribed time will be considered unless – (a) there are extenuating circumstances for the same; and (b) the ASCI Secretariat allows the reasonably delayed submission upon a written request by the complainant with reasons for delay explained and at the discretion of the Secretariat.

1B. INTRA-INDUSTRY COMPLAINTS

i. 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 taking recourse to the general process mentioned herein (free of cost) or may apply for the Fast Track Complaints (FTC) procedure (on payment of prescribed fees) only when both the parties are members of ASCI.

ii. The Complainant is required to give his/her name, information about his/her designation / organization and his/her official contact details. Complainants must provide particulars about the objected advertisement in question including exactly what the content of the advertisement being complained against is by means of framing of issues, details of the product / service, publication / broadcast details as well as a clipping / copy of the advertisement. A copy of the advertisement must be provided by the complainant.

iii. If objections are raised against multiple claims in an advertisement then three main objections / claims as per the Complainant will be considered per advertisement to make the process efficient.

iv. If the advertisement complained against is in a language other than Hindi or English, the complainant will provide a translation of the advertisement in English.

v. The Complainant is required to provide grounds for objection as the basis of the complaint on the issues framed. The objections raised in the complaint need to be substantiated, where necessary, with support data / information with the relevant portions highlighted.
This data will be shared by ASCI with the advertiser complained against as part of the complaint.

vi. In cases of intra-industry complaints, the identity of the complainant will be disclosed to the advertiser.

vii. 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 and the name, contact details of such Designated Officer shall be clearly communicated to the parties involved for further communication with respect to the complaint.

viii. A hard copy of the complaint as well as the supporting documents must be submitted so that the same may be forwarded to the advertiser.

1C. SUO MOTU COMPLAINTS

i. 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 is required to register a complaint in writing. Moreover, when a complaint is deliberated upon by the CCC / CCCR / FTCP / IRP, it can raise a suo motu complaint on any other matter in the originally complained advertisement, which was not raised by the complainant. Such matters will however be a subject matter of a fresh complaint and the Advertiser shall be given adequate opportunity to provide its substantiation after issues are framed and shared with the Advertiser.

ii. ASCI monitors media for advertisements publishing misleading, false or unsubstantiated claims by way of TV, print, etc. Pursuant to such monitoring, if ASCI finds any advertisement from such monitoring as potentially violating the Code, then the same will be processed as a suo motu complaint.

iii. The suo motu complaint goes through the same process as the other complaints.

2. THE PROCEDURE FOR PROCESSING COMPLAINTS IS SET OUT BELOW, EXCEPT FOR FAST TRACK COMPLAINTS WHICH IS EXPLAINED IN A SEPARATE SECTION.

i. On receipt of a complaint, an acknowledgement by email / hardcopy will be sent to the complainant by the Designated Officer within three business days. A verification process to ascertain the genuineness of a Complaint will be undertaken by the Designated Officer to prevent fake and vexatious complaints.

ii. If objections are raised against multiple claims in an advertisement, three main objections / claims as per the Complainant will be considered per advertisement to make the process
efficient. If multiple complaints have been made against a particular advertisement, it will be within the discretion of the Designated Officer to proceed with one complaint, which will be treated as the parent complaint. In such a situation, all the complainants involved and the Advertiser will be notified.

3. EXAMINATION OF A COMPLAINT

i. After the complaint has been verified for completeness, it will be evaluated for the objections raised therein.

ii. To decide the most appropriate course of action in dealing with a complaint, the following criteria will be considered by the Designated Officer:
   a. Whether any action is required on the complaint;
   b. Whether the advertiser can be advised to consider the complainant’s feedback for possible amendment(s);
   c. Whether to seek the advertiser’s response on the complaint received.

iii. The Designated Officer will attempt to resolve the complaints in the most efficient manner.

iv. Not all complaints require a formal investigation as in some cases, there is no consumer detriment envisaged or the objection is not likely to cause grave and widespread offence (e.g. personal/individual opinions of complainants). In such cases, the complaints will be deemed to be resolved by appropriate communication from ASCI to the complainant and/or advertiser.

v. In case the complainant has been unable to provide ASCI with a copy of the advertisement in question, steps will 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 from receipt of the complaint copy.

vi. The complaint is processed only if the advertisement continues to be published/telecast within a period of three months prior to the date of the complaint. For digital media, the Designated Officer may evaluate whether to take up such complaints for the period prior to three months of the complaint depending on the nature of the objections raised and/or consumer exposure envisaged.

vii. If upon 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 recommendations on whether to proceed further with the complaint or not. In case the CCC recommends that no action is to be taken, the complainant and the advertiser will be informed within three business days from the date of the issuance of the CCC meeting minutes.
viii. If however the objections raised in the complaint indicate a possible violation of the Code, the Designated Officer will send a copy of the complaint to the advertiser concerned and / or to the concerned media, if its details are known, pointing out the provisions of the Code that the advertisement is likely to be in violation of, and request a written response.

ix. The Designated Officer may also suo motu mention other concerns with the advertisement not taken up in the complaint in case any obvious violation of the Code is not articulated by the complainant.

4. COMMUNICATION WITH THE ADVERTISER

The following procedure provides a detailed mechanism for the resolution of complaints and ensures that parties are given a fair opportunity to state their case and deal with any objections against them, thereby meeting the ends of natural justice:

i. The advertiser is required to submit a written response on the objections raised within a period of five business days from receipt of the complaint (extended to seven business days in case of the need to support claims technically) along with necessary documentation to substantiate and explain their claims, where necessary. This exhaustive written response on the objections raised will suffice for deliberation by the CCC. However, the advertiser may seek a meeting with the ASCI Secretariat if they wish to seek any clarification / guidance regarding the complaint.

ii. The Designated Officer may, on receipt of the written response on the objections raised, seek further clarification from the advertiser to be submitted within five business days, 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 on the basis of the material available.

iii. No documents submitted after the prescribed time period including the extension granted, will be considered by the Designated Officer unless there are extenuating circumstances for the delay. No further extension of the prescribed time period will be granted, unless a written request is submitted for such extension along with the reasons therefor within two business days from the receipt of the complaint by the advertiser.

iv. Post submission of the advertiser’s response, where the opinion of an Independent Technical Expert/s is required to be taken, the Designated Officer will select an appropriate person from the panel of Independent Technical Experts associated with ASCI after checking for conflict of interest, if any. Technical Experts are neutral and independent persons selected by the ASCI Board of Governors based on their specialization in a particular technical field. A copy of the Technical Expert’s Report will be provided to the...
advertiser and if requested by the complainant. The report shall also carry a statement confirming no conflict of interest of the expert in relation to the relevant complaint.

v. The Designated Officer may consider arranging a telecon / meeting with the Technical Expert (either face to face or via telecom) with the employees representing the advertiser / complainant, as deemed appropriate but within the time period provided for the response to the Technical Expert’s opinion and prior to the CCC meeting.

vi. The parties may submit a brief response to the said Report within three business days of receipt of the same. The technical expert would be granted two business days to review the brief response.

vii. Post the telecon / meeting with the Technical Expert and the brief written response, the Designated Officer may seek further clarification from the advertiser within three business days 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 on the basis of the material available on record.

viii. The complaint, with all supporting information provided by the complainant and the response / data provided by the advertiser complained against, along with the Technical Expert’s opinion and response of the parties to the said opinion, if any, will be placed on the agenda of the next CCC meeting. The Technical Expert’s views on the parties’ response to the technical opinion will also be taken into consideration by the CCC.

5. **INFORMAL RESOLUTION OF COMPLAINTS**

i. ASCI 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 withdrawing or modifying the advertisement within ten business days of the receipt of the complaint from ASCI in line with the letter and the spirit of the Code. The advertiser, where agrees to modify the advertisement, may share the modified advertisement with ASCI, if advertiser so desires. In such cases, the complaint will be considered to be resolved informally.

ii. In case of pack claims, the compliance period for packaging material to be modified or replaced in the market place will be a maximum of four months.

iii. No product should be packed with old packaging material beyond four months from the date of confirmation of compliance. However, the modified or replaced pack visual depicting such claims in advertisements in other media should be complied with within ten business days of receipt of the complaint from ASCI. In such cases, the complaint will be considered to be resolved informally.
iv. It is not necessary to take the informally resolved complaint through the formal CCC evaluation process. However, if the advertiser does not implement the changes within ten business days, the complaint will be placed for the CCC examination. If post modification of the advertisement, a complaint against such advertisement comes in, then it will be processed as per the normal CCC evaluation process.

6. CCC MEETING PROCEDURE

i. To ensure efficient and effective functioning, the deliberations of the CCC are to be conducted in the following structured manner given below:-

a. The ASCI Board constitutes a panel of 28 members, which comprise two CCC groups of 14 members each. Each CCC has eight members from civil society and six are ASCI members.

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

c. From amongst the CCC members present, selection of the Chairperson and Vice-Chairperson of the meeting will be made on a lot basis.

d. Copies of the complaints to be deliberated upon will be sent one business day prior to the meeting by email to the CCC members who have confirmed their attendance, so that the members can examine the material in advance.

e. At the meeting, the Designated Officer shall read out the complaint number, the complaint, objections raised and shall read out the advertiser’s response(s) and opinion of the Independent Technical Expert before the members present.

f. The Chairperson shall ensure that each CCC member present gets an opportunity to express his/her opinion. After each CCC member has given his/her views, the Chairperson shall give his/her views and then seek a consensus on the recommendations. If a consensus is not forthcoming, the recommendations will be voted by a show of hands. The Designated Officer shall record the overall vote only and not the specific vote of any individual CCC member.

g. The Technical Expert who has provided technical evaluation for a complaint will not be part of the decision making of that specific complaint.

h. The CCC meeting protocol does not provide for personal representations by the complainant / advertiser as their exhaustive written responses will suffice for deliberation by the CCC and is in accordance with the principles of natural justice.

i. In the event that the advertiser does not respond, the CCC is free to arrive at its recommendations based on information available with it.
7. POST CCC MEETING PROCEDURE

i. The CCC will provide to the Designated Officer, in brief, its recommendations laying down the basis on which the complaint is either upheld or not upheld.

ii. In the event the complaint is upheld, the CCC’s recommendations will lay down the precise breach of the Code or of any other legislation concerning advertising content.

iii. Post the CCC minutes being issued, the advertiser and the complainant will be informed of the CCC recommendations, within three business days. The complainant and the advertiser will be informed simultaneously by means of the automated system of online status change / and an email / letter.

iv. 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 recommendations. The advertiser will be given ten business days to implement the CCC recommendations by withdrawing the offending advertisement or modifying it prior to the due-date to avoid continued violation of the Code.

v. Compliance period for modification of packaging material will be for a maximum of four months. No product should be packed with old packaging material beyond four months from the date of confirmation of compliance. However, the modified or replaced pack visual depicting such claims in advertisements in other media should be complied with within ten business days from the date of the CCC recommendations being conveyed.

vi. The advertiser and the complainant are advised not to publish the CCC recommendations in any news medium including newspaper, media coverage, website, digital media, social media and others.

vii. In the event that an advertiser is aggrieved by the recommendations of the CCC in matters of ex-parte complaints, a re-examination of the CCC recommendations may be sought under the Re-examination procedure.

viii. In the event that any of the parties are aggrieved by the CCC / Re-examination recommendations, a review of the same may be sought under the CCC-Review / Independent Review Process.

ix. If confirmation of compliance with CCC recommendations is not received or implementation of CCC recommendations is not ensured by the advertiser within ten business days as above, a communication (letter/email) from the Vice-Chairman, ASCI, will be dispatched to the advertiser. This communication will request implementation of the recommendations within five business days from the date of receipt of the letter. Simultaneously, the concerned agency and the concerned media vehicle if named in the complaint will be informed that the advertisement contravenes the Code. This communication will also be sent to all ASCI Media Members, as applicable.
x. Thereafter, in the absence of confirmation of compliance or in case of non-compliance by the advertiser with the CCC recommendations, ASCI will provide a copy of the said recommendations to the concerned Regulatory Authority or Government Department for appropriate action.

xi. A quarterly status report on timely completion of the process shall also be placed before the Board of Governors from time to time.
1. In addition to the regular procedure that ASCI follows in addressing intra industry complaints, a fast track procedure has been put in place for expeditious resolution of intra industry, inter member complaints.

2. SUBMITTING A COMPLAINT

   i. The complainant is required to notify ASCI via e-mail that they wish to make use of the FTC procedure.

   ii. Fast Track Compliant will be processed on payment of a non-refundable prescribed fee plus applicable taxes and the fee 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.

   iii. To be eligible for the fast track procedure, the following is mandated:

       a. The complainant and the party complained against must both be ASCI members;

       b. The complainant should not have any membership subscription dues pending towards ASCI beyond October 1 of the relevant fiscal year;

       c. There should not be any litigation proceedings pending between the parties having a subject matter / issue which might come under the consideration of FTC while examining the complaint. ASCI does not look into complaints which are found to be the subject matter of a proceeding which is sub-judice or has already been decided by a Court of law in India. The onus of disclosing such information to ASCI lies on the complainant at the time of filing the complaint. However, Consumer Complaints Council (CCC) / Re-examination / CCCR / FTCP / Independent Review Process (IRP) are not precluded from testing the preliminary issue as to whether the complaint made to ASCI is the subject matter of a proceeding which is presently sub-judice or has already been decided before any Court of law or Regulatory Authority in India, when objected by the advertiser, and then proceed further. The recommendation of CCC / Re-examination / CCCR / FTCP / IRP, as the case may be, in this regard shall be binding on the parties subject to the review options available to the parties. ASCI shall refuse to proceed further with the FTC when it is determined that the complaint made to ASCI is the subject matter of a proceeding which is presently sub-judice or has already been decided before any Court of law or Regulatory Authority in India and then proceed further; and

       d. The complainant should not be in non-compliance of a CCC / Re-examination / CCCR / FTCP / IRP upheld complaint recommendations or currently have any Court proceedings against any CCC / Re-examination / CCCR / FTCP / IRP recommendations.
iv. As in the case of the intra-industry complaints procedure, complainant must provide particulars about the objected advertisement in question including exactly what the content of the advertisement being complained against is, details of the product / service, publication / broadcast details as well as a clipping / copy of the advertisement. A copy of the advertisement must be provided by the complainant.

v. If the advertisement complained against is in a language other than Hindi or English, the complainant will provide a translation of the advertisement in English.

vi. If objections are raised against multiple claims in an advertisement, three main objections / claims will be considered to make the process efficient.

vii. The Complainant is required to provide grounds for objection as the basis of the complaint. The objections raised in the complaint need to be substantiated, where necessary, with support data / information with the relevant portions highlighted. This data will be shared by ASCI with the advertiser complained against as part of the complaint.

viii. The identity of the complainant will be disclosed to the advertiser.

ix. A hard copy of the complaint as well as the supporting documents/material must be submitted so that the same may be forwarded to the advertiser.

3. THE PROCEDURE FOR PROCESSING FTC IS SET OUT BELOW.

On receipt of a complaint, an acknowledgement by email will be sent to the complainant by the Designated Officer within one business day. A verification process to ascertain whether the complaint meets the FTC criteria will be undertaken by the Designated Officer.

4. EXAMINATION OF A COMPLAINT

i. After the complaint has been verified for completeness, it will be evaluated for the objections raised therein.

ii. To decide the most appropriate course of action in dealing with a complaint, the following criteria will be considered by the Designated Officer:

   a. Whether any action is required on the complaint;
   
   b. Whether the advertiser may be advised to consider the complainant’s feedback for possible amendment(s);
   
   c. Whether to seek the advertiser’s response on the complaint received.

iii. The Designated Officer will attempt to resolve the complaints in the most efficient manner.

iv. Not all complaints require a formal investigation.
v. The complaint is processed only if the advertisement is being published / telecast within a period of three months prior to the date of the complaint. For digital media, the Designated Officer may evaluate whether to take up such complaints for the period prior to three months of the complaint depending on the nature of the objections raised and/or consumer exposure envisaged.

vi. The Designated Officer may also suo-motu mention other concerns with the advertisement not taken up in the complaint in case any obvious violation of the Code is not articulated by the complainant.

5. COMMUNICATION WITH THE ADVERTISER

The following procedure provides a detailed mechanism for the resolution of complaints and ensures that parties are given a fair opportunity to state their case and deal with any objections against them, thereby meeting the ends of natural justice.

i. Within one business day of the receipt of a FTC, which is complete in all aspects described above, the Designated Officer shall inform vide e-mail, the advertiser against whom the complaint is received to provide a written response along with necessary documentation to substantiate and explain their claims. This exhaustive written response will suffice for deliberation by the FTCP. The Advertiser will be given the complete set of documents along with the complaint as well as the name of the complainant. 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).

ii. No documents submitted after the prescribed time period will be considered by the Designated Officer unless there are extenuating circumstances for the delay. No extension of the prescribed time period will be granted. In the event that the advertiser requires some more time to prepare their defence or would like a postponement of the meeting, they will be required to suspend their advertisement from the fourth business day of having received the FTC complaint.

iii. If the response is technical in nature, then the Designated Officer will take the opinion of a Technical Expert within two business days of receipt of the Advertiser’s response from the panel of Independent Technical Experts associated with ASCI. The Technical Expert is a neutral and independent person who is selected by the ASCI Board of Governors based on his / her specialization in that technical field. A copy of the Technical Expert’s Report will be provided to the advertiser and the complainant. The parties may submit a brief response to the said Report within one business day of receipt of the same. The technical expert would be granted one business day to review the brief response.

iv. An FTC Panel meeting will be conducted on the following business day after the Technical Expert’s review of the brief response (subject to the availability of the Technical Expert).

v. The complaint, with all supporting information provided by the complainant and the response / data provided by the advertiser complained against, along with the Technical
Expert’s opinion and response of the parties to the said opinion, if any, will be tabled at the FTCP meeting. The Technical Expert’s views will be taken into consideration by the FTCP.

6. **INFORMAL RESOLUTION OF FAST TRACK COMPLAINTS**

   i. ASCI 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 withdrawing or modifying the advertisement in line with the letter and the spirit of the Code and subject to the verification of the modified advertisement by the Designated Officer within **seven** business days of receipt of the complaint from ASCI.

   ii. In case of pack claims, the compliance period for packaging material to be modified or replaced in the marketplace will be a maximum of **four** months.

   iii. No product should be packed with old packaging material beyond **four** months from the date of confirmation of compliance. However, the modified or replaced pack visual in advertisements in other media should be complied with within **seven** business days. In such cases, the complaint will be considered to be resolved informally.

   iv. It is not necessary to take the informally resolved complaint through the formal FTCP evaluation process. However, if post modification of the advertisement, a new complaint against the modified advertisement comes in, then it will be processed as per normal CCC / FTCP evaluation process.

7. **FTCP MEETING PROCEDURE**

   To ensure efficient and effective functioning, the deliberations of the FTCP are to be conducted in the following structured manner given below:-

   i. The ASCI Board constitutes a panel of 28 members, which comprise two CCC groups of 14 members each. Each CCC has eight members from civil society and six are ASCI members.

   ii. An 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 will be five members. Where necessary, ASCI may invite the Independent Technical Expert for the FTCP meeting.

   iii. From amongst the FTCP members present, selection of the Chairperson and Vice-Chairperson of the meeting will be made on a lot basis.

   iv. Copies of the complaint, the advertiser’s response and technical expert's response, if any, to be deliberated will be sent **one** business day prior to the meeting by email to the FTCP members who have confirmed their attendance, so that the FTCP members can examine the material in advance.
v. Prior to the FTCP meeting, independent personal representations will be offered with the FTCP of not more than 30 minutes per party and of not more than two employees of the complainant and advertiser. This may also be availed via telecon.

vi. Post personal representations, at the FTCP meeting, the Designated Officer shall read out the complaint and the issues framed therein. He / She shall also summarize the advertiser’s response(s) and opinion of the Independent Technical Expert before the members present.

vii. The Chairperson shall ensure that each member present gets an opportunity to express his/her opinion. After each person has given his/her views, the Chairperson shall give his/her views and then seek a consensus on the recommendations. If a consensus is not forthcoming, the recommendations shall be voted by a show of hands. The Designated Officer shall record the overall vote only and not the specific vote of any individual FTCP Member. The Technical Expert who has provided technical evaluation for a complaint will not be part of the voting for that specific complaint.

viii. In the event that the advertiser does not respond or abstains from making a personal appearance, the FTCP is free to arrive at its recommendations based on information available with it.

8. POST FTCP MEETING PROCEDURE

i. The FTCP will provide to the Designated Officer, in brief, its recommendations laying down the basis on which the complaint is either upheld or not upheld within one business day of the conclusion of its meeting.

ii. In the event the complaint is upheld, the panel's recommendations will lay down the precise breach of the Code or of any other legislation concerning advertising content. The Designated Officer shall, on the basis of the view of the Panel, communicate the recommendations of the Panel to the advertiser and the complainant within one business day of the receipt of the FTCP recommendations.

iii. 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 FTCP recommendations.

iv. 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 packed with old packaging material beyond four months from the date of the receipt of FTCP recommendations. However, the modified or replaced pack visual in advertisements in other media should be complied with within seven business days from the date of the receipt of FTCP recommendations.

v. The advertiser is required to confirm compliance to ASCI and implement FTCP recommendations within seven business days of receiving the FTCP recommendations.
vi. The advertiser and the complainant are advised not to publish the FTCP recommendations in any news medium including newspaper, media coverage, website, digital media, social media and others.

vii. In the event of any of the parties are aggrieved with the recommendations of the FTCP, a review of the same may be sought under the CCC-Review / Independent Review Process.

viii. If confirmation of compliance with FTCP recommendations is not received or implementation of FTCP recommendations is not ensured by the advertiser within **seven** business days as above, a communication (letter/email) from the Vice-Chairman, ASCI, will be dispatched to the advertiser. This communication will request implementation of the recommendations within **five** business days from the date of receipt of the letter. Simultaneously, the concerned agency and the concerned media vehicle if named in the complaint will be informed that the advertisement contravenes the Code. This communication will also be sent to all ASCI Media Members, as applicable.

ix. Thereafter, in the absence of confirmation of compliance or in case of non-compliance by the advertiser with the FTCP recommendations, ASCI will provide a copy of the said recommendations to the concerned Regulatory Authority or Government Department for appropriate action within **two** business days.

x. The FTCP shall be completed and disposed of on the basis of available information / material within 12 business days from the date of filing the complaint. The reasons for non-completion of the same within the said period shall be duly communicated by ASCI Secretariat in writing to the parties involved. A quarterly status report on timely completion of the process shall also be placed before the Board of Governors from time to time.
RE-EXAMINATION OF CCC / FTCP RECOMMENDATIONS

i. In the event that an advertiser is aggrieved by CCC / FTCP recommendations which are made ex-parte, a re-examination of such CCC / FTCP recommendations may be sought by the advertiser under the re-examination procedure.

ii. Re-examination of such recommendations will be undertaken by the CCC on payment of a non-refundable prescribed fee plus applicable taxes (which at the sole discretion of ASCI maybe reduced/waived off in deserving cases) and adhering to the conditions below:

a. A written application, in the prescribed form (available on our website https://ascionline.org), is submitted within ten business days of receipt of the CCC / FTCP recommendations.

b. The advertiser seeking re-examination confirms suspension of the offending advertisement or modification of the advertisement by removing all claim/s objected to by the CCC / FTCP across all media including but not limited to print, television, digital media - YouTube, websites, etc., pending the re-examination recommendations. However, upon a request made by the advertiser, where it appears to the Chairperson / Vice-Chairperson of the CCC / FTCP that its continued transmission on / through / by any medium does not cause public harm or its continuation is not against public interest or fair competition, then the advertiser may continue to display the advertisement pending completion of re-examination.

c. After giving an assurance for suspension / modification of the advertisement, if the said advertisement with objected claim/s appears in any media prior to the re-examination being held or prior to the release of the re-examination recommendation, ASCI may decline to conduct that particular re-examination and all further Re-examination / CCCR / FTCP/ IRP requests from the advertiser for a period of three months and also withhold the re-examination recommendation, as applicable.

d. In case of modification in the advertisement, the Designated Officer shall verify if the modification is in line with the letter and the spirit of the Code.

e. The advertiser seeking a re-examination should not be in non-compliance of CCC / Re-examination / CCCR / FTCP/ IRP upheld complaint recommendations or currently have any court proceedings pending against any CCC / CCCR / FTCP/ IRP recommendations.

f. By submitting an application for re-examination, the advertiser undertakes to accept and comply with the recommendations made by the CCC.

iii. The advertiser and the complainant are advised not to publish the re-examination recommendations in any news medium including newspaper, media coverage, website, digital media, social media and others.
**CCC-REVIEW OF CCC / FTCP RECOMMENDATIONS**

1. Under the CCC-Review (“CCCR”) procedure, ASCI provides for a review of the recommendations of CCC / FTCP in the event that an aggrieved party wishes to rely upon additional material which had not been submitted before the CCC / FTCP when the complaint was being considered.

2. CCCR will be undertaken by the CCC on payment of a non-refundable prescribed fee plus applicable taxes and upon adhering to the conditions below:

   i. The advertiser seeking CCCR confirms suspension of the objected advertisement or modification of the advertisement by removing all claim/s objected to by the CCC / FTCP across all media including but not limited to print, television, digital media - YouTube, websites, etc., pending the CCCR recommendations. However, upon a request made by the advertiser, where it appears to the Chairperson / Vice-Chairperson of the CCC / FTCP (that decided upon the original complaint) that its continued transmission on / through / by any medium does not cause public harm or its continuation is not against public interest or fair competition, then the advertiser may continue to display the advertisement pending completion of CCCR.

   ii. After giving an assurance for suspension / modification of the advertisement, if the said advertisement with objected claim/s appears in any media prior to the CCCR being held or prior to the release of the CCCR recommendation, ASCI may decline to conduct that particular CCCR and all further Re-examination / CCCR / FTCP / IRP requests from the advertiser for a period of three months and also withhold the CCCR recommendation, as applicable.

   iii. In case of modification in the advertisement, the Designated Officer shall verify if the modification is in line with the letter and the spirit of the Code.

   iv. The party seeking a CCCR should not be in non-compliance of CCC / Re-examination / FTCP/ CCCR / IRP upheld complaint recommendations or currently have any court proceedings pending against any CCC / Re-examination / FTCP/ CCCR /IRP recommendations.

3. The CCC-Review Procedure is as follows:

   i. A written application, in the prescribed form (available on our website https://ascionline.org), is submitted within ten business days of receipt of the CCC / FTCP recommendations.

   ii. The CCCR applicant (Advertiser or Complainant) will submit any additional information / relevant material to the ASCI Secretariat within ten business days of submitting the CCCR application.

   iii. Such additional information / relevant material submitted by the party seeking review, will be sent to the other party who shall send his / her response to the ASCI secretariat within five business days from the date of receipt of such additional information / relevant material.
iv. The rest of the CCCR procedure will be the same as the regular CCC procedure.

4. By submitting an application for CCCR, the advertiser undertakes to accept and comply with the recommendations made by the CCC.

5. The advertiser and the complainant are advised not to publish the CCCR recommendations in any news medium including newspaper, media coverage, website, digital media, social media and others.

6. In the event that any of the parties are aggrieved by the CCCR recommendations, a review of the same can be sought under the Independent Review Process.
INDEPENDENT REVIEW PROCESS (IRP)

1. The ASCI provides the Advertiser and the Complainant with the option of an Independent Review Process. IRP is conducted by the Chairperson who is a retired Judge of the Supreme Court/High Court. The IRP ensures that parties are given a fair opportunity to state their case and deal with objections against them, thereby meeting the ends of natural justice.

2. IRP is available where a party is aggrieved by the recommendations of the Consumer Complaints Council (CCC) / Re-examination / Fast Track Complaint Panel (FTCP) / CCC-Review (CCCR), on any of the following grounds:
   i. Where it is alleged that the “preliminary issue” as to whether the subject matter in a proceeding which is sub-judice or has already been decided by a Court of Law in India is identical to the subject matter of the Complaint made to ASCI;
   ii. Where it is alleged that there is a substantial flaw in the recommendations of the CCC / Re-examination / FTCP / CCCR;
   iii. Where it is alleged that there has been a substantial flaw in adhering to the prescribed procedure under the Code.

3. In the event that the applicant relies / produces additional material which had not been submitted before the CCC / Re-examination / FTCP, the application will be referred back to the CCC for “CCC-Review” of such additional material as per the procedure set out therein.

4. IRP shall not be applicable in case of ex-parte CCC / ex-parte FTCP recommendations.

5. IRP shall be taken up on fulfilling the following conditions by the applicant:
   i. A written application, in the prescribed form (available on our website https://ascionline.org), must be submitted within ten business days of receipt of CCC / Re-examination / CCCR / FTCP recommendations.
   ii. The application must be accompanied by a non-refundable prescribed fee plus applicable taxes. However, if the applicant 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.
   iii. The advertiser seeking review confirms implementation of the recommendations of CCC / Re-examination / CCCR / FTCP by suspending / modifying the objected advertisement / by removing all claim/s objected to by the CCC / Re-examination / CCCR / FTCP across all media including but not limited to print, television, digital media - YouTube, websites, etc., pending the IRP recommendations. In case of modification in the advertisement, the Designated Officer shall verify if the modification is in line with the letter and the spirit of the Code.
   iv. Upon a request made by the advertiser, where it appears to the Chairperson / Vice-
Chairperson of the CCC / Re-examination / CCCR / FTCP that its continued transmission on / through / by any medium does not cause public harm or its continuation is not against public interest or fair competition, then the advertiser may continue to display the advertisement pending completion of the IRP.

v. A party seeking an IRP should not be in non-compliance of recommendations of CCC / Re-examination / CCCR / FTCP / IRP or have any court proceedings pending against any CCC / Re-examination / CCCR / FTCP / IRP recommendations.

vi. By submitting an application for IRP, the advertiser undertakes to accept and comply with the recommendations made by the IRP.

6. After confirming suspension / modification of the advertisement by the due date, if the said advertisement with objected claim/s appears in any media prior to the IRP being held or prior to the release of the IRP recommendation, ASCI may decline to conduct that particular IRP and all further IRP / CCCR / FTCP requests from the advertiser for a period of three months and may also withhold the IRP recommendation, as applicable.

7. 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.

8. No party will be allowed to produce additional material that requires further examination on the date of hearing, without the permission of the Hon’ble Chairperson and on the conditions that may be imposed by the Hon’ble Chairperson.

9. In the event that the Chairperson seeks the opinion of a new technical expert, a copy of the written opinion will be sent to both the parties and the IRP Chairperson three business days prior to the IRP meeting. Technical opinions will be referred to in the IRP recommendations.

10. The IRP Chairperson will be assisted by the Designated Officer who is familiar with the proceedings and the independent technical expert/s, where necessary.

11. Proceedings under the 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 three employees of each party should be available at the meeting and each party will be allotted 30 minutes to present their oral arguments or as per the duration decided by the Chairperson of the IRP. The identity of a consumer complainant will be protected and his/her physical presence / participation via telecon at the IRP for simultaneous personal hearing is subject to his/her consent.

12. In case additional information or clarifications are required from either party or the technical expert, the Chairperson may, as per his/her discretion, continue the hearing on another convenient date.

13. In the event that either of the parties do not wish to personally attend the meeting, the IRP Chairperson may complete the review based on the available information.
14. The IRP Chairperson, after finally hearing both parties, will forward the recommendations to the ASCI Secretariat within **five** business days, who shall communicate the same to the parties within **two** business days.

15. The IRP shall be completed and disposed of by the Hon'ble Chairperson on the basis of available information / material within **20** business days from the date of the IRP application regardless of whether the parties remain present or not. The reasons for non-completion of the same within the said period shall be duly communicated by ASCI Secretariat in writing to the parties involved. A quarterly status report on timely completion of the process shall also be placed before the Board of Governors from time to time.

16. The advertiser will implement compliance of the IRP recommendation within **20** business days of the IRP application. In case of non-compliance by the advertiser of the IRP recommendations, ASCI will provide a copy of the said recommendations to the concerned Regulatory Authority or Government Department for appropriate action within **two** business days.

17. The advertiser and the complainant are advised not to publish the IRP recommendations in any news medium including newspaper, media coverage, website, digital media, social media and others.
RECUSAL & CONFIDENTIALITY POLICY OF CCC / FTCP AND TECHNICAL EXPERT(S)

i. A CCC / FTCP Member / Technical Expert must disclose on appointment to ASCI his / her affiliations, whether personal/commercial with any advertisers and update the ASCI Secretariat on a regular basis.

ii. Soon after his/her appointment and thereafter by 30th April each year, all the members of CCC must disclose his / her 'interest', if any, with various stakeholders in the advertising industry by submitting a written declaration.

iii. A CCC / FTCP Member / Technical Expert must disclose his/her "interest", if any, in relation to a complaint before it is taken up for discussion at the CCC / FTCP / IRP.

iv. A CCC / FTCP Member / Technical Expert who has an “interest” in the complaint is defined as:

   a. Being associated with the complainant, complainant advertiser or the advertising agency of the complainant brand, OR

   b. Being associated with the advertiser or the advertising agency of the concerned brand complained against, OR

   c. A member who has lodged the complaint or is otherwise currently involved in a commercial or legal dispute with the advertiser or is currently a consultant to the complainant or the advertiser, OR

   d. Being involved in or associated with the same industry/type of industry in relation to which the complaint has been made, whether as a direct competitor or not, OR

   e. A CCC / FTCP Member / Technical Expert who has raised the suo motu complaint (not applicable in the case where the suo motu complaint is raised by more than one member during a CCC / FTC meeting).

v. The key factor in determining whether a CCC / FTCP Member / Technical Expert is “associated with” either party is, if the person or his / her immediate family member or organization has received any monetary compensation and/or any other benefit from either the complainant or the advertiser.

vi. In addition, any CCC / FTCP Member / Technical Expert who has any other reason to believe that he / she is an interested person must not participate in the CCC / FTCP / IRP proceedings when the complaint is being discussed.

vii. The interested person is required to adhere to a six-month cooling-off period after the completion of the assignment/tenure by which the person was considered to be an interested party.

viii. Such interested person/s will not participate in the CCC / FTCP / IRP proceedings when the complaint is being discussed.
ix. The Technical Expert who has provided technical opinion for a complaint will not be part of the decision making of that specific complaint / re-examination / CCCR / IRP.

x. The information provided to the CCC / FTCP Member / Technical Expert, deliberations at the CCC / CCCR / FTCP / IRP, and the recommendations on the complaint are confidential. A CCC / FTCP Member / Technical Expert must not disclose or use this information or decision / recommendations in any manner whatsoever.

xi. For any breach of the above stated recusal or confidentiality policy, the Board may take appropriate action which may include termination of the appointed member from the CCC / FTCP/ Panel of Technical Experts after getting an explanation from the concerned member, which is considered unsatisfactory.