

# COMPLAINTS PROCEDURES



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# COMPLAINTS PROCEDURE

- A.** The ASCI Code and Guidelines for Self-Regulation in advertising content (hereinafter referred to as the Code) is well-publicised and is available on ASCI's website (<https://ascionline.in>). It is recognised by practitioners in advertising as the universally relevant and applicable code for self-regulation with respect to advertising content in India. It is broad-based and relates to the entire gamut of media vehicles - print, TV, digital media, social media, websites, other audio visuals medium, radio, outdoor, internet, e-mail, SMS, promotion and merchandising vehicles, etc. It also extends to packaging and labeling as vehicles of mass communication.
- B.** The Consumer Complaints Council (CCC) of ASCI functions as its examining body, which considers complaints raised and the response of the advertiser (whether or not the advertiser is a member or a non-member of ASCI), before giving its recommendations on whether the advertisement in question violates the provisions of the Code. All recommendations of CCC / Fast Track Complaints Panel (FTCP) / FTC Review Panel (FTCR) / CCC Review Panel (CCCR) / Re-examination / Independent Review Process (IRP) are published on the ASCI website and in the ASCI 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 will not be cleared or approved by the CCC / CCCR / FTCP / IRP them. It is therefore 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 and conventions in the marketplace, 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 and FTCP / CCCR / FTCP / 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 currently sub-judice or has already been decided by any court of law or regulatory authority in India before proceeding on the complaint. The decision of CCC / FTCP / CCCR / FTCP / IRP, as the case may be, in this regard shall be binding on the parties subject to the review options available to them within the ASCI framework. ASCI shall refuse to proceed further with the complaint when it is determined by CCC / FTCP / FTCP / CCCR / IRP that the complaint made to ASCI is the subject matter of a proceeding, which is, currently 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 and consumers.
  - b)** Complaints from the non-public such as NGOs, government regulators, consumer groups and industry bodies and other such interested parties/institutions
  - c)** Intra-Industry complaints
  - d)** Suo motu complaints

## **1. SUBMITTING A COMPLAINT**

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

- i.** Complaints may be submitted via a text on WhatsApp, an online form, email or telephone. Letters may be sent to the postal address provided on the website. ASCI may also respond to complainants who have tagged ASCI on social media such as Twitter, Facebook and Instagram wherein the complainant is redirected to lodge an online complaint or via WhatsApp so that ASCI has the necessary information to process the complaint further.

- ii.** No fee is payable by the complainant for submitting a complaint to ASCI except in case of Intra-Industry Fast Track Complaints.
- iii.** When submitting a complaint through any of the above-mentioned modes, the complainant is required to give his/her name, information about his/her profession, organisation 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. The complainant is also required to provide a clipping / copy / link of the advertisement, if possible. If locating / identifying the advertisement is not possible, ASCI may not be able to process the complaint any further.
- vi.** The following details are required to be submitted by the complainant, in order for ASCI to complete the registration process of the complaint –
  - a)** In case of a print advertisement, a clipping of the advertisement and the name and the date of the newspaper / publication in which it appeared.
  - b)** In case of online advertisements a screenshot of the page, as well as the URL link, should be provided with date and time.
  - c)** In case of TV/Radio advertisements, telecast details with date, time and name of channel/s, a video/audio clipping, or a corresponding YouTube/digital advertisement should be provided.
  - d)** In case of outdoor advertisement, a photograph of the particular advertisement, with the location details of the said advertisement.

- e) In case of promotional material like point of sale material (POSM), brochures, danglers, stickers etc, the photograph with date and time of the advertisement.
  - f) In case of product packaging, clear image of the complete pack from all sides, including manufacturing and packaging details.
- vii. If objections are raised against multiple claims in an advertisement then **three** main claims / objections as per the complainant will be considered per advertisement to make the process efficient. If there are multiple mediums across which the same campaign is run with similar claims, then the complainant must identify the primary medium where the advertisement appeared, against which the complaint needs to be processed. Any recommendation by the CCC on these **three** main claims therein, will apply against such claims across all media wherever identical claims are made.
- 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 by the complainant.
- 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 an interested party or when the nature of complaint is such that the complainant's identity is required to be disclosed. In case the individual complainant's identity is required to be disclosed for the complaint to be processed further, express permission will be sought before such disclosure. If the individual complainant does not grant ASCI such permission, then ASCI will not process the complaint any further.
- 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 and contact details of such designated officers 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/s as the basis of the complaint. The specific objection/s 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, provided such a request is received within **ten** business days of the complaint being registered.
- 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. An intra-industry complainant has 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 and is only permissible when both the parties are members of ASCI.
- ii.** The complainant is required to give his/her name, information about his/her designation / name of the organisation and his/her official contact details. Complainants must provide particulars about the objected advertisement in question, including exactly what the exact content of the advertisement being complained against is, by means of framing the issues, details of the product / service, publication / broadcast details. A copy / clipping of the advertisement must be provided by the complainant.



- iii. If objections are raised against multiple claims in an advertisement then **three** main claims/objections as per the complainant will be considered per advertisement to make the process efficient. If there are multiple mediums across which the same campaign is run with similar claims, then the complainant must identify the primary medium where the advertisement appeared, against which the complaint must be processed. Any recommendation by the CCC on these **three** main claims therein, will apply against such claims across all media wherever identical claims are made.
- iv. If the advertisement complained against is in a language other than Hindi or English, the complainant should provide a translation of the advertisement in Hindi or 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.

Such support data/information 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 the purpose. The designated officer will be the point of contact in ASCI for the parties involved, and the name and contact details of such designated officers shall be clearly communicated to the parties involved for further communication with respect to the complaint.
- viii. A 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 in their individual capacity, 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 / FTCP / CCCR / FTCP / IRP, it can raise a suo motu complaint on any other objection/claim in the originally complained advertisement, which was not raised by the complainant. Such objections/claims 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, digital media, 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 then **three** main objections / claims as per the Complainant will be considered per advertisement to make the process efficient. If there are multiple mediums across which the same campaign is run with similar claims, then the Complainant must identify

the primary medium where the advertisement appeared, against which the complaint must be processed. Any recommendation by the CCC on these **three** main claims therein, will apply against such claims across all media wherever identical claims are made.

### 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) [As detailed in clause iv below]
  - 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, grammatical error, etc) or there is no prima facie violation of the ASCI code.). In such cases, the complaints will be deemed to be resolved informally and called 'Informal Resolution by the Secretariat' (IRS). Appropriate communication will be sent 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.



- 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 as a Preview case at the next meeting for the CCC's 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. In case, the advertiser details are not known then the complaint details will be sent to the concerned media requesting them to provide the details of the advertiser or help in getting the advertisers 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 processing 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. ASCI will send a verbatim copy of the complaint along with the claims/objections raised and any supporting documents via email/letters/any other form of suitable digital communication to the advertiser.

- II. 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 discussion with the Designated Officer if they wish to seek any clarification / guidance regarding the complaint and/or the complaint handling process.
- III. The designated officer may, post 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.
- IV. 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 thereof within **two** business days from the receipt of the complaint by the advertiser.
- V. 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, in any. Technical experts are neutral and independent persons selected by the ASCI Board of Governors based on their specialisation in a particular technical field.
- VI. The expert's opinion will be shared with the advertiser, who will get **two** business days to request for a meeting (either telephonically or virtual meeting) with the expert and/or submit their response to the expert opinion within **three** business days from receipt of the expert opinion by the advertiser. On the fourth business day,

subject to availability of the expert, where a technical expert (individual or organisation), is not an employee of the advertiser's organisation, but has been closely associated with the claims made in the advertisement under consideration, he/she will be allowed to attend meetings with ASCI experts (to offer better clarity on claim support evidence provided). A total of three members representing the advertiser can attend these meetings including the aforementioned technical expert. The ASCI Secretariat may accept the advertiser's request for an Informal Resolution (IR) (see clause 5(v)) of the complaint, should they choose to withdraw the objected claim based on the expert's opinion. The advertiser should communicate their willingness towards IR within **three** business days from the receipt of the expert opinion/meeting with the expert. The advertiser should withdraw/modify the claim/s objected to within 10 business days of the communication of IR made to ASCI.

In the event of any additional documents to be submitted by the advertiser post the meeting with the expert, the same may be done within **three** business days from the meeting. The technical expert would be granted **two** business days to give his/her final opinion after the meeting/submission of the additional documents by the advertiser. The final opinion provided by the technical expert will not be shared with the advertiser/complainant and shall be placed directly at the CCC meeting.

- i. For intra-industry complaints, a summary (without confidential data as defined by standard business practices of the industry) of the technical expert's report will be shared with the complainant, to keep them informed of any technical opinion. For all other complaints, such a summary will be provided to the complainant only upon request. The complainant will get **two** business days from receipt of such opinions to highlight any concerns that were already raised in the complaint, which might have not been considered by the expert. No new/additional documents or objections will be accepted by ASCI at this stage. This summary will not contain any confidential data provided by the advertiser.
- ii. 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.

**VII.** The complaint, with all supporting information provided by the complainant and the response and 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 (IR)

- i. ASCI provides for informal resolution of a complaint in case the advertiser, on receipt of a complaint, volunteers within three days to address the objections raised against the claims or visuals in the advertisement by either withdrawing or modifying the advertisement. Such modifications/withdrawal should be done within **ten** business days of the receipt of the complaint from ASCI in line with the letter and the spirit of the Code. In such cases, the complaint will be considered to be resolved informally. The advertiser, who agrees to modify the advertisement, may share the modified advertisement with ASCI, if the advertiser so desires.
- 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 static medium OR films or any other moving medium where the packshot with the objected claim/s form a dominant part of the screen with a presence of more than two secs, should be complied with within **ten** business days of receipt of confirmation of compliance from the advertiser. Deletion, pixelation, blurring or similar changes such that the claim is not visible to the average consumer will be acceptable. 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.

- v. The ASCI Secretariat may also accept an advertiser's request for an informal resolution of the complaint should they choose to withdraw the objected claim based on the expert's opinion, provided compliance is implemented within **ten** business days of communicating the IR request to ASCI, provided such a request is received within **three** business days of the receipt of the expert opinion/meeting with the expert. For compliance on any packaging related claims please refer to clause 5(ii). The advertiser should communicate their willingness towards IR within **two** business days from the receipt of the expert opinion/meeting with the expert.

## 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 Consumer Complaints Council (CCC) consists of **two** groups "A" and "B". Group "A" shall consist of 16 members from professions and activities not related to advertising. Group "B" shall consist of 24 members from amongst the member companies of ASCI.
  - b) The number of members attending the CCC meeting shall not be more than nine. The CCC meetings shall be attended by a maximum of **five** members from Group "A" and a maximum of **three** members from Group "B". The Board shall nominate one of the Company's members to attend every meeting of each of the Councils. The Quorum for the CCC meeting shall be **FIVE**, with majority representation from Group "A" and at least **one** member from Group "B". For purposes of counting Group "A" and Group "B" members, the Board representative will count as a Group "B" member.
  - c) The members will be further divided into **two** groups, "O" (Odd) and "E" (Even), and will be invited to attend the CCC meeting on a weekly alternate basis. An invitation to attend the meeting shall be sent to all relevant members in advance and members are required to confirm their participation



within three business days from the receipt of the invitation. In the event this quorum is not reached, members from the other group may be invited to attend the meeting.

- d) All members who have confirmed their attendance for the CCC meeting, will be selected in a manner which is fair and equitable inasmuch as, and as far as possible, gives an opportunity to each CCC Member to attend equal or near to equal number of meetings conducted during a period of **one** year. A summary of attendance shall be shared with all members to maintain transparency.
- e) Summary 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. The CCC members are required to declare their conflict of interest for any of the complaints listed in the summary to the ASCI Secretariat by email.
- f) From amongst the CCC members present in the meeting, selection of the Chairperson and Vice-Chairperson of the meeting will be made on a lot basis. The board representative attending the meeting will not participate in this selection process.
- g) At the meeting, the designated officer shall read out the summary of the complaint and objections raised, and shall read out the advertiser's response(s) and opinion of the independent technical expert before the members present.
- h) 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 will seek a consensus on the recommendations. If a consensus is not forthcoming, the recommendations will be voted by a show of hands. The Chairperson abstains from voting and in case of a tie, he/she has the veto power. The designated officer shall record the overall vote only and not the specific vote of any individual CCC member. The Chairperson is responsible for the smooth and respectful conduct of the CCC meeting.
- i) The CCC member who has provided his opinion as a technical expert for a complaint will not be part of the decision making of that specific complaint. The technical expert must refrain from offering any suggestions to the CCC on the



final recommendations with regard to the complaint. If the technical expert is the Chairperson or Vice-Chairperson at the CCC meeting in which his/her opinion is tabled, then for such a complaint the technical expert will recuse himself/herself from the Chairpersonship, and for that complaint the Vice-Chairperson will be the Chairperson.

- j) The CCC meeting protocol does not provide for personal representations by the complainant / advertiser, as their written response will suffice for deliberation by the CCC, and will be considered meeting the norms of natural justice.
- k) In the event that the advertiser does not respond on or before the prescribed due date mentioned in the first letter, such cases will be treated as *exparte* and the CCC is free to deliberate and arrive at its recommendations based on information available with it. This is applicable to all complaints except for *exparte* resolution by Secretariat for NAMS complaints (EXRS) as detailed in Clause 6 above.

## 7. POST CCC MEETING PROCEDURE

- i. The CCC will provide to the designated officer 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 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 communicated in writing of the CCC recommendations, within **three** business days and a copy of such communication will be sent to the advertiser's agency (if name is disclosed) and the media referred to in the complaint/s.
- iv. If the complaint is **upheld**, then the advertiser and its agency, as well as the media platform involved (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. 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 static medium OR films or any other moving medium where the packshot with the objected claim/s form a dominant part of the screen with a presence of more than two seconds, should be complied with within **ten** business days of receipt of the CCC recommendations from ASCI. Deletion, pixelation, blurring or similar changes such that the claim is not visible to the average consumer will be acceptable. In such cases, the complaint will be considered to be resolved.

- 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 exparte 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 sent 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 status report on timely completion of the process shall also be placed before the Board of Governors from time to time.





# FAST TRACK COMPLAINTS PROCEDURE

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

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 preferably via e-mail that they wish to make use of the FTC procedure.
  - ii. Fast Track Complaint 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. All Fast Track Complaints need to be registered online by the complainants by using their login id's provided.
  - 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 FTCP 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) / CCCR / FTCP/ FTCTR / 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 decision of CCC / CCCR / FTCP/ 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. (i) 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.
  - (ii) The complainant should not currently have any Court proceedings against any CCC / Re-examination / CCCR / FTCP/ FTCP / IRP recommendations or before any regulatory authority. Complaints from such complainants shall not be entertained by ASCI through the fast track option however other options to file and process complaints remain available.
- iv. As in the case of the intra-industry complaints procedure, the complainant must provide particulars about the objected advertisement in question, including exactly what the content of the advertisement being complained against is, and details of the product / service, publication / broadcast details. 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 should provide a translation of the advertisement in Hindi or English.
  - vi. If objections are raised against multiple claims in an advertisement then **three** main claims/ objections as per the complainant will be considered per advertisement to make the process efficient. If there are multiple mediums across which the same campaign is run with similar claims, then the complainant must identify the

primary medium where the advertisement appeared, against which the complaint needs to be processed. Any recommendation by the CCC on these **three** main claims therein, will apply against such claims across all media wherever identical claims are made.

- 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 and 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 copy of the complaint as well as all the supporting documents/material must be submitted so that the same could be forwarded to the advertiser.

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

On receipt of a complaint and after the prerequisites for filing a complaint are complied with, 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); and the complaint be closed under IR as mentioned under clause 6 below.
  - 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 received from the complainant 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 email is 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 response or would like a postponement of the meeting, they will be required to suspend their advertisement on or before 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 from the panel of Independent technical experts associated with ASCI within **two** business days of receipt of the advertiser's response. Where a technical expert (individual or organisation), is not an employee of the advertiser's organisation, but has been closely associated with the claims made in the advertisement under consideration, he/she will be allowed to attend meetings with ASCI experts (to offer better clarity on claim support evidence provided). A total of three members representing the advertiser can attend these meetings including the aforementioned technical expert. The technical expert is a neutral and independent person who is selected by the ASCI Board of Governors based on his / her specialisation in that technical field. A copy of the technical expert's opinion will be provided to the advertiser by **10:00 am on the third business day** of receipt of the advertiser's response. The advertiser may seek a meeting with the technical expert if such a request is placed by **2:00 pm on the same day**. If requested, the meeting with the expert will be scheduled at **10:00 am, the following day** (fourth business day of receipt of the advertiser's response). Post the meeting with the expert, the advertiser may submit a brief response along with any additional documents to the said opinion by **5:30 pm on the same day** as the expert meeting. ASCI may not consider responses that are received post 5:30 pm.

If the advertiser does not wish to seek a meeting with the expert, they will be granted **one** business day from the receipt of the opinion to submit any additional responses to the expert's opinion. Any response received after the stipulated deadline may not be considered by ASCI.

The technical expert would be granted **one** business day to review the additional submissions.

- iv. A summary (without confidential data as defined by standard business practices of the industry) of the technical expert's opinion will be provided to the complainant who will get **one** business day from receipt of such opinions to highlight any concerns that were already raised in the complaint, which might have not been considered by the expert. No new/additional documents or objections will be accepted by ASCI at this stage. The technical expert would be granted **one** business day to review the brief response.

- v. An FTC Panel meeting will be conducted on the following business day after the receipt of the final technical expert's opinion (subject to the availability of the Technical Expert). The technical expert may attend the FTC panel meeting.
- vi. 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 will be tabled at the FTCP meeting. The technical expert 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 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 static medium OR films or any other moving medium where the packshot with the objected claim/s form a dominant part of the screen with a presence of more than 2 secs, should be complied with within **Seven** business days of receipt of confirmation of compliance from the advertiser. Deletion, pixelation, blurring or similar changes such that the claim is not visible to the average consumer will be acceptable. 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 Consumer Complaints Council (CCC) consists of **two** groups “A” and “B”. Group “A” shall consist of 16 members from professions and activities not related to advertising. Group “B” shall consist of 24 members from amongst the member Companies of ASCI.
- II. The number of members attending the FTC meeting shall not be more than **seven**. The Secretariat will send invitation to the CCC members for attending the FTC meetings on “rotational basis” and in a manner which is fair and equitable inasmuch as and as far as possible gives an opportunity to each CCC Member to attend equal or near to equal number of meetings conducted during a period of one year.
- III. The FTC meetings shall be attended by **four** members from Group “A” and **two** members from Group “B”. Additionally, the Board shall nominate **one** of the company’s members to attend every meeting of each of the Panels. The quorum for the CCC meeting shall be five with majority representation from Group “A”.
- IV. Summary of the complaint and a summary of the advertiser’s response and additional responses as well as the technical expert’s response, if any, to be deliberated will be sent prior to the meeting by email to the FTC Panel members who have confirmed their attendance, so that the FTC panel members can examine the material in advance.
- V. From amongst the FTCP members present, selection of the Chairperson and Vice Chairperson of the meeting will be made on a lot basis. The board representative attending the meeting will not participate in this selection process.
- VI. Prior to the FTCP meeting, personal representations will be offered to the complainant an advertiser with the FTCP of not more than **30 minutes** per party and of not more than **three** employees of the complainant and advertiser. This may also be

availed via telecon. If requested, ASCI may allow a maximum of **two** additional employees from either party to be present at the meeting. However, the rights of participation shall be reserved for **three** employees only. For deliberations on technical claims, the ASCI Secretariat may invite the Technical Expert for the FTCP meeting.

**VII.** 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 FTCP.

**VIII.** 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 Chairperson abstains from voting and in case of a tie, he/she has the veto power. 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.

**IX.** In the event that the advertiser does not respond within the time limit specified 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 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 provisions of any other legislation concerning advertising content.

- iii. Post the FTCP minutes being issued, the Designated Officer shall, communicate the recommendations of the Panel to the advertiser and the complainant within **one** business day.
- iv. If the complaint is **upheld**, then such recommendations will be forwarded to the advertiser's agency (if name is disclosed) as well as the media entity/s mentioned in the complaint.
- v. If the complaint is **upheld**, then the advertiser will have to inform all other the media concerned within **two** business days to withdraw the advertisement and ensure its implementation within **seven** business days of notification of FTCP recommendations.
- vi. The advertiser is required to confirm compliance to ASCI and implement FTCP recommendations within **seven** business days of receiving the FTCP recommendations.
- vii. 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 static medium OR films or any other moving medium where the packshot with the objected claim/s form a dominant part of the screen with a presence of more than 2 secs, should be complied with within **Seven** business days of receipt of the FTCP recommendations from ASCI. Deletion, pixelation, blurring or similar changes such that the claim is not visible to the average consumer will be acceptable. In such cases, the complaint will be considered to be resolved.
- viii. The advertiser and the complainant are advised not to publish the FTCP recommendations in any news medium including newspaper, TV, media coverage, website, digital media, social media and others.
- ix. In the event any of the parties are aggrieved with the recommendations of the FTCP, a review of the same may be sought under the CCC-Review of CCC / FTCP-Review of FTCP Recommendations OR under the Independent Review Process.

- x. If confirmation of compliance with the 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 sent to the advertiser. This communication will request implementation of the recommendations within **five** business days from the date of receipt of the email/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.
  
- xi. In the event where the advertiser has confirmed compliance and modified the ad, however, the modified advertisement does not appear to be in line with the FTC/Review Panel recommendation, the revised advertisement shall be forwarded to the Chairperson/Vice-Chairperson (subject to availability) of the relevant meeting for their opinion. If the Chairperson/Vice-Chairperson opine that the modification/s made in the advertisement is/are not in letter and spirit of the recommendation, the advertiser will be requested to withdraw the same within **2 business days** of receipt of this opinion.
  
- xii. The FTCP shall be completed and disposed of, on the basis of available information / material within **14 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 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/ EXRS RECOMMENDATIONS

- i. In the event that an advertiser or a complainant is aggrieved by CCC / FTCP / EXRS recommendations, which are made exparte, a re-examination of such CCC / FTCP / EXRS recommendations may be sought by the advertiser/complainant 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 along with the fee 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.
  - 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. By submitting an application for re-examination, the advertiser undertakes to accept and comply with the recommendations made by the CCC.
  - f. 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 the Re-examination.
- iii. The advertiser and the complainant are advised not to publish the re-examination recommendations in any news medium including newspaper, website, digital media, social media and others.



# CCC-REVIEW PROCEDURE



# CCC-REVIEW OF CCC / FTC-REVIEW OF FTCP RECOMMENDATIONS

1. Under the Consumer Complaints Council-Review (“CCCR”) Fast Track Complaints-Review (“FTCR”) 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 when the complaint was examined by the CCC / FTCP .
2. CCCR/FTCR 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/FTCR 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/FTCR 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 the CCCR/FTCR.
  - 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/FTCR being held or prior to the release of the CCCR/FTCR recommendations, ASCI may decline to conduct that particular CCCR/FTCR and all further Re-examination / CCCR / FTCR / FTCP/ IRP requests from the advertiser for a period of **three** months and also withhold the CCCR/FTCR recommendations, 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.
3. **The CCC-Review Procedure is as follows:**
  - i. In the event of any of the parties being aggrieved with the recommendations of the CCC/FTCP, a review of the same may be sought under the CCC-Review / FTC-R/ Independent Review Process. The party seeking a review must inform ASCI within **five** business days and complete the prerequisites 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. The CCCR/FTCR procedure is as follows:
  - a. If the CCCR/FTCR submissions are technical in nature, then the designated officer will take the opinion of a technical expert from the panel of independent technical experts associated with ASCI within **two** business days of receipt of the advertiser's response. 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. Where a technical expert (individual or organisation), is not an employee of the advertiser's organisation, but has been closely associated with the claims made in the advertisement under consideration, he/she will be allowed to attend meetings with ASCI experts (to offer better clarity on claim support evidence provided). A total of three members representing the advertiser can attend these meetings including the aforementioned technical expert. A copy of the technical expert's opinion will be provided to the advertiser by **10:00 am on the third business day** of receipt of the advertiser's response. The advertiser may seek a meeting with the technical expert if such a request is placed by **2:00 pm on the same day**. If requested, the meeting with the expert will be scheduled at **10:00 am, the following day** (fourth business day of receipt of the advertiser's response). Post the meeting with the expert, the advertiser may submit a brief response along with any additional documents to the said opinion by **5:30 pm on the same day as the expert meeting**. ASCI may not consider responses that are received post 5:30 pm.

If the advertiser does not wish to seek a meeting with the expert, they will be granted **one** business day from the receipt of the opinion to submit any additional responses to the expert's opinion. Any response received after the stipulated deadline may not be considered by ASCI.

The technical expert will be granted **one** business day to review the additional submissions.

- b. A summary (without confidential data as defined by standard business practices of the industry) of the technical expert's opinion will be provided to the complainant who will get **one** business day from the receipt of such opinions to highlight any concerns that were already raised in the complaint, but which might have not been considered by the expert. No new/additional documents or objections will be accepted by

ASCI at this stage. The technical expert would be granted **one** business day to review the brief response. The additional data submitted by the advertiser for the CCCR/FTCR will not be shared with the complainant.

- c. If the CCCR/FTCR is sought by the complainant, the complainant's grounds for review and documents submitted will be shared with the advertiser seeking their response within **four** business days from the date of receipt of such additional information / relevant material.
  - d. The parties (advertiser and complainant) will be intimated of the CCCR/FTCR meeting **four** days prior to the meeting. Not more than **three** members from either party may attend the meeting. The names of the attendees need to be submitted to ASCI **two** days prior to the meeting.
  - e. Submissions of the party seeking a review, response from the other party with all supporting information along with the Technical Expert's opinion, if any, will be tabled at the CCCR/FTCR meeting. The technical expert's views will be taken into consideration by the CCCR/FTCR.
- iv. To ensure efficient and effective functioning, the deliberations of the CCCR/FTCR are to be conducted in the following structured manner given below:-
- a) The Consumer Complaints Council (CCC) consists of **two** groups "A" and "B". Group "A" shall consist of 16 members from professions and activities not related to advertising. Group "B" shall consist of 24 members from amongst the member Companies of ASCI.
  - b) The number of members attending the CCCR/FTCR meeting shall not be more than **seven**. The Secretariat will send invitation to the CCC members for attending the CCCR/FTCR meetings on "rotational basis" and in a manner which is fair and equitable inasmuch as, and as far as possible, gives an opportunity to each CCC Member to attend equal or near to equal number of meetings conducted during a period of one year.
  - c) The CCCR/FTCR meetings shall be attended by four members from Group "A" and **two** members from Group "B". Additionally, the Board shall nominate one of the company's members to attend every meeting of each of the panels. The quorum for the CCCR/FTCR meeting shall be **five**, with majority representation from Group "A".

- d) Summary of the complaint and a summary of the advertiser's response and additional responses, as well as the technical expert's response, if any, to be deliberated, will be sent prior to the meeting by email to the CCCR/FTCR panel members who would be attending the CCCR/FTCR panel meeting, so that the panel members can examine the material in advance.
  - e) From amongst the CCCR/FTCR members present, selection of the Chairperson and Vice Chairperson of the meeting will be made on a lot basis. The board representative attending the meeting will not participate in this selection process.
  - f) Prior to the CCCR/FTCR panel meeting, personal representations will be offered to the complainant and advertiser with the CCCR/FTCR panel, of not more than **30 minutes** per party, and of not more than **three** employees of the complainant and advertiser. This may also be availed via telecon. If requested, ASCI may allow a maximum of **two** additional employees from either party to be present at the meeting. However, the rights of participation shall be reserved for **three** employees only. For deliberations on technical claims, the ASCI Secretariat may invite the Technical Expert for the CCCR/FTCR panel meeting.
  - g) Post personal representations, at the CCCR/FTCR panel 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 CCCR/FTCR panel.
  - h) 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 Chairperson abstains from voting and in case of a tie, he/she has the veto power. The designated officer shall record the overall vote only and not the specific vote of any individual CCCR/FTCR member. The technical expert who has provided technical evaluation for a complaint will not be part of the voting.
  - i) In the event that the complainant seeks a review, which is forwarded to the advertiser who does not respond within the prescribed time limit, or abstains from making a personal appearance, the CCCR/FTCR panel is free to arrive at its recommendations based on information available with it.
- v. By submitting an application for CCCR/FTCR, the advertiser undertakes to accept and comply with the recommendations made by the CCC/FTC panel.

# POST CCCR/FTCR MEETING PROCEDURE

1. The CCCR/FTCR will provide to the designated officer its recommendations laying down the basis on which the review is either **upheld** or **not upheld** within **one** business day of the conclusion of its meeting.
2. The designated officer shall, on the basis of the views of the panel, communicate the recommendations of the panel to the advertiser and the complainant within **one** business day of the receipt of the CCCR/FTCR recommendations.
3. If the CCCR/FTCR was sought by the complainant and the recommendations are unfavourable to the advertiser, 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 CCCR/FTCR recommendations. For **upheld** recommendations, ASCI will copy the advertiser's agency (if name is disclosed) and the media referred to in the complaint, while sending the recommendation to the advertiser.
4. 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 static medium, OR films, or any other moving medium, where the packshot with the objected claim/s form a dominant part of the screen with a presence of more than 2 secs, should be complied with within **seven** business days of receipt of the CCCR/FTCR recommendations from ASCI. Deletion, pixelation, blurring or similar changes such that the claim is not visible to the average consumer will be acceptable. In such cases, the complaint will be considered to be resolved.
5. The advertiser is required to confirm compliance to ASCI and implement CCCR/FTCR recommendations within **seven** business days of receiving the CCCR/FTCR recommendations.
6. The advertiser and the complainant are advised not to publish the CCCR/FTCR recommendations in any news medium including newspaper, TV channels, website, digital media, social media and others.

7. In the event any of the parties are aggrieved with the recommendations of the CCCR / FTCR, a review of the same may be sought under the Independent Review Process (IRP). A request for the same needs to be sent to ASCI within **five** business days and the IRP pre-requisites to be completed within **ten** business days of receipt of the CCCR/FTCR recommendations.
8. If confirmation of compliance with the CCCR / FTCR recommendations is not received or implementation of CCCR / FTCR recommendations is not ensured by the advertiser within **five** business days as above, a communication (letter/email) from the Vice-Chairman, ASCI, will be sent to the advertiser. This communication will request implementation of the recommendations within **five** business days from the date of receipt of the email/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.
9. In the event where the advertiser has confirmed compliance and modified the ad, however, the modified advertisement does not appear to be in line with the FTC/Review Panel recommendation, the revised advertisement shall be forwarded to the Chairperson/ Vice-Chairperson (subject to availability) of the relevant meeting for their opinion. If the Chairperson/Vice-Chairperson opine that the modification/s made in the advertisement is/are not in letter and spirit of the recommendation, the advertiser will be requested to withdraw the same within **2 business days** of receipt of this opinion.

# INDEPENDENT REVIEW PROCESS (IRP)

1. The ASCI provides the Advertiser and the Complainant with the option of an Independent Review Process (IRP). 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 review state their case and deal with objections against them, there by 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 Complaints Panel (FTCP) / CCC Review (CCCR) / FTC-Review (FTCR), 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 / statutory regulator 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 / FTCP / re-examination / CCCR / FTCR;
  - iii. Where it is alleged that there has been a substantial flaw in adhering to the prescribed procedure by the CCC / Re-examination / FTCP/ CCCR.
  
3. IRP will be conducted based only on the material/evidence submitted before the CCC/FTCP/Re-examination/CCCR/FTCR. No additional material/evidence will be permitted for submission for review under IRP.
  
4. IRP shall not be applicable in case of exparte CCC / exparte FTCP recommendations / Exparte Resolution by Secretariat (EXRS).
  
5. IRP shall be taken up on fulfilling the following conditions by the applicant :-
  - i. A written application, in the prescribed form must be submitted within **ten** business days of receipt of CCC / FTCP / Re-examination / CCCR / FTCR recommendations.

- ii. The application must be accompanied by a non-refundable prescribed fee. However, if the applicant seeking review is a recognized NGO working for furthering the interest of consumer protection 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 / FTCP / re-examination / CCCR / FTCP by suspending / modifying the objected advertisement / by removing all claim/s objected to by the CCC / FTCP / 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. 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 / FTCP requests from the advertiser for a period of **three** months and may also withhold the IRP recommendation, as applicable.
7. IRP meetings 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. The IRP Chairperson will be assisted by the designated officer who is familiar with the proceedings and the independent technical expert/s, where a technical expert (individual or organisation), is not an employee of the advertiser's organisation, but has been closely associated with the claims made in the advertisement under consideration, he/she will be allowed to attend meetings with ASCI



experts (to offer better clarity on claim support evidence provided). A total of three members representing the advertiser can attend these meetings including the aforementioned technical expert.

9. 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 may 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. If requested, ASCI may allow a maximum of **two** additional employees from either party to be present at the meeting. However, the rights of participation shall be reserved for **three** members only. 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. In case the consumer complainant does not wish to disclose his/her identity, the Chairperson, IRP, at his/her discretion may hear the consumer complainant in absence of the advertiser, either before or after the hearing with the advertiser.
10. 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.
11. 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 material/evidence.
12. The IRP Chairperson, after completion of final hearing of 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.
13. The IRP shall be completed and disposed of by the IRP 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 status report on timely completion of the process shall also be placed before the Board of Governors from time to time.
14. If the IRP was sought by the complainant and the recommendations are unfavourable to the advertiser, then the advertiser will have to inform the media concerned within **two** business days to withdraw

the advertisement and ensure its implementation within **five** business days of notification of IRP recommendations or the due date applicable as per the CCC/FTCP/re-examination/CCCR/FTCR recommendations, whichever is earlier.

15. No product should be packed with old packaging material beyond four months from the date of the receipt of IRP recommendations or the due date applicable as per the CCC / FTCP / re-examination / CCCR recommendations, whichever is earlier. However, the modified or replaced pack visuals depicting such claims in advertisements in static medium OR films or any other moving medium where the packshot with the objected claim/s form a dominant part of the screen with a presence of more than 2 secs, should be complied with within **seven** business days from the date of the receipt of the CCC / FTCP / re-examination / CCCR / FTCT recommendations from ASCI. Deletion, pixelation, blurring or similar changes such that the claim is not visible to the average consumer will be acceptable.
16. If confirmation of compliance with the IRP recommendations is not received, or implementation of IRP recommendations is not ensured by the advertiser within **five** business days as above, a communication (letter/email) from the Vice-Chairman, ASCI, will be sent to the advertiser. This communication will request implementation of the recommendations within **five** business days from the date of receipt of the email/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.
17. In the event where the advertiser has confirmed compliance and modified the ad, however, the modified advertisement does not appear to be in line with the FTC/Review Panel recommendation, the revised advertisement shall be forwarded to the Chairperson/Vice-Chairperson (subject to availability) of the relevant meeting for their opinion. If the Chairperson/Vice-Chairperson opine that the modification/s made in the advertisement is/are not in letter and spirit of the recommendation, the advertiser will be requested to withdraw the same within **2 business days** of receipt of this opinion.
18. The advertiser and the complainant are advised not to publish the IRP recommendations in any news medium, including newspaper, website, digital media, social media and others.

# RECUSAL & CONFIDENTIALITY POLICY OF CCC AND TECHNICAL EXPERT(S)

- i.** A CCC / technical expert must disclose on appointment to ASCI his / her affiliations, whether personal/commercial with any advertiser(s) and update the ASCI Secretariat immediately on any change in status.
- ii.** Soon after his/her appointment and thereafter by 31<sup>st</sup> March 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 / CCCR / FPCR / IRP.
- iv.** A CCC / FTCP member / technical expert who has an "interest" in the complaint is defined as:
  - a.** Being associated with the complainant, 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 / FTCP 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 organisation 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 examined.
- 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 examined
- ix.** The Technical Expert who has provided technical opinion for a complaint will not be part of the decision making of that specific complaint / CCC / FTCP/ Re-examination / CCCR / FTCCR/ IRP.
- x.** The information provided to the CCC / FTCP Member / Technical Expert, deliberations at the CCC / FTCP / Re-examination / CCCR / FTCCR / 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.

# ASCI'S POLICY ON COMPLAINTS AGAINST POLITICAL AND GOVERNMENT ADVERTISEMENTS

**ASCI does not accept and process complaints against political and non-commercial government advertising for the following reasons:**

- 1) ASCI's self-regulation system is established as an industry initiative with the objective of regulating commercial communication i.e. advertising which, directly or indirectly, solicits exchange of money for goods and services. ASCI's code specifically states that "The code for self-regulation has been accepted by individuals, corporate bodies and associations engaged in or otherwise concerned with the practice of advertising in the best interest of the ultimate consumer." Therefore, political, and non-commercial government advertising attempting to influence voters does not come under the ambit of ASCI.
- 2) It is important for ASCI's integrity that it is seen as an impartial adjudicator, free from the perception of political bias. It is not possible to make decisions about whether a political or non-commercial government advertisement breaches the Code without the potential for being seen as taking a political viewpoint.
- 3) ASCI has mandates from industry associations such as ISA, AAI, INS, IBF, etc. representing India's advertisers, advertising agencies and media to self-regulate advertising content. ASCI currently has no mandate to regulate government or political advertising. Complainants need to be aware that the ASCI is an industry-funded body. It is inappropriate for ASCI to assume jurisdiction over the content of political or government advertising in the absence of political parties' or government's support for such advertising to be regulated by ASCI.

ASCI recommends that anyone who has complaints against any political advertisements should write to the Election Commission of India and send complaints against non-commercial government-released TV advertisements to Ministry of Information and Broadcasting, New Delhi which is the regulator for TV content and for press advertisements to the Press Council of India, New Delhi which is the regulator for print content.

## **Chairman**

Board of Governors, ASCI  
October 24<sup>th</sup> 2013

## Suspension Pending Investigation

In exceptional circumstances, when it appears prima facie that an advertisement is in serious breach of the Code and its continued transmission on / through / by any medium causes, or has the effect of causing, public harm and / or injury, or its continuation is against public interest, then the company would, pending investigation, forthwith direct the advertiser / the advertising agency / the media buying agency and the media concerned to suspend the advertisement. In the event of suspension of any advertisement in the manner as aforesaid, the Consumer Complaints Council shall, at the earliest, and not later than 30 days from the date of the suspension, adjudicate whether or not the advertisement is in breach of the Code and pass appropriate orders accordingly, after giving a reasonable opportunity of hearing to the advertiser whose advertisement has been suspended.

The decision of the suspension pending investigation has to be taken by the Chairman of the ASCI (or, in his absence, the Vice Chairman) of the company, in consultation with two members of the Consumer Complaints Council.

### **Chairman,**

Board of Governors, ASCI

December 2012

# AWARDS



European Advertising Standards Alliance -  
Global Best Practice Awards



ASCI Mobile App  
"ASCIOnline" for prompt  
and efficient complaint  
handling at no cost to the  
consumer.



Reduced the time taken  
to process complaints



National Advertising  
Monitoring Service (NAMS)



Three Pronged Awareness  
Campaign (Regulators, Ad  
Agencies, Consumers)



Guidelines for Advertising  
of Educational Institutions



Collaboration with the  
Indian Government to  
spread Self-Regulation

## Maddies Mobile Awards 2015

ASCIOnline Mobile App wins a bronze at E4M's. The Maddies Mobile Awards 2015 for the Social/ Not for Profit Campaign Category.



## International Recognitions

ASCIOnline Mobile App wins a bronze at E4M's. The Maddies Mobile Awards 2015 for the Social/ Not for Profit Campaign Category.



## Special Recognition awarded by ICAS in 2019

For ASCI's "Guidelines for Celebrities in Advertising" at the first-ever 'Global Awards for Effective Advertising Self-Regulation'

## Special Category awarded by ICAS in 2021

In 2021, ASCI also won two ICAS awards, one for the ASCI scroll telecast across television in the 'Best Awareness Raising Initiative' and for its extensive digital suo-motu monitoring through NAMS initiative, in the 'Special Category'. It also got a special mention in the 'Best Sectoral Initiative' category for its efforts and regulatory recognition of its Gaming Guidelines.





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