

# EXPLORING THE INTERPLAY BETWEEN ADVERTISEMENTS, MEDIA LAW, AND SOCIETY IN INDIA

## EXPLORANDO A INTERAÇÃO ENTRE PROPAGANDA, LEI DE MÍDIA E SOCIEDADE NA ÍNDIA

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**Resumo:** Este artigo investiga a intrincada relação entre anúncios, leis de mídia e sociedade no contexto da Índia. À medida que a publicidade indiana e o cenário da mídia continuam a evoluir, a compreensão dos aspectos sócio-legais desses domínios torna-se crucial para os formuladores de políticas, empresas e cidadãos. Esta exploração visa lançar luz sobre a interação entre os três componentes principais e suas implicações mais amplas para o tecido social da Índia. Examina o papel dos anúncios na formação do comportamento do consumidor e das normas sociais. Analisa a influência dos anúncios nas percepções, desejos e aspirações da população indiana, explorando como essas mensagens promocionais impactam os valores culturais e a identidade. O estudo também aborda preocupações relacionadas à ética da publicidade, examinando casos de alegações enganosas, conteúdo ofensivo e suas repercussões no sentimento público. A interação entre anúncios, leis de mídia e sociedade na Índia é um campo de estudo complexo e em evolução. Ele

**Abstract:** This paper delves into the intricate relationship between advertisements, media law, and society in the context of India. As the Indian advertising and media landscape continue to evolve, understanding the socio-legal aspects of these domains becomes crucial for policymakers, businesses, and citizens alike. This exploration aims to shed light on the interplay between the three key components and their broader implications for India's social fabric. It examines the role of advertisements in shaping consumer behaviour and societal norms. It analyzes the influence of advertisements on perceptions, desires, and aspirations of the Indian population, exploring how these promotional messages impact cultural values and identity. The study also addresses concerns related to the ethics of advertising, examining instances of misleading claims, offensive content, and their repercussions on public sentiment. The interplay between advertisements, media law, and society in India is a complex and evolving field of study. It advocates for a balanced approach that aligns the interests of businesses, regulators, and the Indian populace to create an inclusive and responsible advertising and media environment.

**Keywords:** Advertisements. Media law. India. Interplay. Society.

defende uma abordagem equilibrada que alinhe os interesses das empresas, reguladores e da população indiana para criar um ambiente de mídia e publicidade inclusivo e responsável.

**Palavras-chave:** Anúncios. Lei de mídia. Índia. Interplay. Sociedade.

## 1. Introduction

In the vibrant democracy of India's cultural, economic, and social landscape, advertisements and media play a pivotal role in shaping perceptions, aspirations, and behaviour. The intricate relationship between advertisements, media law, and society constitutes a compelling domain of study that holds immense significance for policymakers, businesses, and the general populace. As the Indian advertising and media sectors undergo rapid transformation in the digital age, understanding the socio-legal aspects of these realms becomes paramount (Mazarella, 2003, p. 215). This introductory exploration aims to delve into the interplay between advertisements, media law, and society in India, shedding light on their dynamic interactions and broader implications for the nation's fabric. By investigating the power of advertisements to influence societal norms, the legal framework governing their content and the impact of these factors on Indian society, this analysis seeks to elucidate the complexities and challenges of this symbiotic relationship. Advertisements are ubiquitous in modern India, permeating virtually every facet of daily life. From television screens to billboards, from social media feeds to the pages of print media, these promotional messages have become an integral part of the cultural landscape. Advertisements have the unique ability to captivate the imagination of the masses, promoting consumerism while reflecting and shaping the prevailing cultural values. In a diverse and pluralistic society like India, advertisements cater to a plethora of audience segments, necessitating a delicate balance between cultural sensitivity and commercial interest. This exploration seeks to understand how advertisements contribute to constructing identities and influencing the way people perceive themselves and others within the Indian social context.

The legal framework governing advertisements and media in India plays a pivotal role in regulating the content and ensuring responsible dissemination of information (Jeffrey, 1997, p. 57). Organizations such as the Ministry of Information and Broadcasting and Advertising Standards Council of India (ASCI) have developed guidelines and codes of conduct to uphold integrity and transparency in advertising practices. These laws aim to

protect consumers from false and misleading claims, uphold the dignity and ethics of advertising, and safeguard vulnerable groups, particularly children, from inappropriate content. However, as technology rapidly advances and new media platforms emerge, enforcing and adapting media laws to the digital age poses significant challenges. Therefore, this exploration seeks to examine the effectiveness and adequacy of existing media laws in addressing the complexities brought forth by the ever-evolving advertising landscape in India. Beyond their entertainment and promotional value, advertisements have a profound impact on Indian society's collective psyche. They influence consumer behaviour, shape lifestyle choices, and impact the way individuals perceive success and happiness. Moreover, advertisements wield the power to challenge social norms and perpetuate stereotypes, both positively and negatively. The study of advertisements' socio-cultural influence extends to understanding their implications on societal issues, such as gender roles, body image, and environmental consciousness. This exploration endeavours to analyze the broader implications of advertisements in India, discerning the transformative potential and ethical responsibilities they hold in shaping a socially conscious and inclusive society.

The evolving dynamics of the digital age have revolutionized the advertising and media landscape in India. With the advent of social media platforms, online advertising, and user-generated content, advertisements now reach audiences faster and more extensively than ever before. This digital revolution has not only opened new avenues for businesses but has also posed fresh challenges for media law and societal values. The interconnectedness of advertisements, media law, and society in the digital realm necessitates a careful examination of issues such as privacy, misinformation, and the spread of harmful content. Thus, this exploration seeks to discern how the interplay between advertisements, media law, and society has adapted to the digital era and the potential ramifications on Indian culture, democracy, and public discourse. The exploration of the interplay between advertisements, media law, and society in India constitutes an essential endeavour to comprehend the complex dynamics that influence the nation's cultural and social fabric. By investigating the persuasive power of advertisements, the regulatory framework governing their content, and the wider implications on Indian society, this study aims to offer valuable insights for policymakers, businesses, and citizens. Through understanding these interactions, India can foster a more responsible, inclusive, and culturally sensitive advertising and media environment that empower citizens and uphold the principles of transparency, integrity, and social consciousness.

## 2. Review of Literature and Methodologies

### 2.1. Review of Literature

Media is considered as the fourth pillar of democracy. Media plays a pivotal role in society by disseminating information, fostering public discourse, and shaping public opinion. Its ability to connect people and convey diverse perspectives makes it a crucial tool for promoting transparency, democracy, and social awareness.

Rajeev Dhavan (1984) in his article titled “On the Law of the Press in India” delves into the historical context of press regulations and highlights key legislative developments shaping media freedom in the country. The author critically examines the delicate balance between freedom of expression and the necessity for responsible journalism to avoid potential abuse. By drawing upon relevant case studies and landmark judgments, Dhavan offers valuable insights into the challenges faced by the Indian press in maintaining its independence while adhering to legal constraints. The article's relevance remains significant, particularly in today's digital age, as it provides a solid foundation for understanding the evolving dynamics between media, law, and society in India (Dhavan 1984).

K. D. Gaur (1997) in his article titled “Constitutional Rights and Freedom of Media in India” offers a comprehensive exploration of the constitutional underpinnings that safeguard media freedom in India. Gaur meticulously examines the fundamental rights enshrined in the Indian Constitution that protect the press's independence and right to expression. The author delves into significant legal cases and precedents that have shaped the understanding of media rights within the Indian legal framework. Moreover, Gaur critically analyzes the delicate balance between media freedom and the need for responsible journalism, especially in the context of India's diverse and multicultural society. By providing a thorough assessment of the legal landscape and the evolving dynamics of media freedom in the country, the article remains a crucial resource for scholars, policymakers, and media professionals seeking a deeper understanding of the constitutional protections and challenges facing the media in India. As the media landscape continues to evolve, Gaur's insights continue to hold relevance, guiding discussions on how constitutional principles can effectively safeguard media freedom while upholding societal responsibilities.

The essence of the Constitution pertaining to press freedom and freedom of expression profoundly influences the role of media. While the right to press freedom is not absolute, it is governed by a clearly defined restrictive framework primarily focused on the reasonableness of such limitations. The author addresses the grounds for imposing restrictions on freedom of speech and expression, yet the discussion remains narrowly confined. Understanding this restrictive regime highlights its contrasting nature with the concept of press freedom, serving as an antithesis to the unrestricted dissemination of information and ideas through the media. The appropriate legal framework for exercising press freedom lies in the reasonable restrictions outlined in the Indian Constitution. The main objective is to offer comprehensive insights into media law, encompassing the liberties granted by the Constitution, information dissemination, restrictions on these rights, and the available remedies. The coverage extends to all related aspects of media law, including ancillary and incidental matters. (Nanda, 2014).

## **2.2. Methodologies**

The research presented here adopts a doctrinal research approach, focusing on legal theories and propositions. This approach entails conducting an analytical examination of pertinent cases, existing statutes, and reputable literature related to a specific subject. The primary focus of this research is on secondary sources, such as scholarly articles, research summaries, journals, textbooks, and relevant websites. To analyze the concept of media law, multiple secondary sources have been thoroughly examined. A critical aspect of the current study involves reviewing case laws. The methodology adopted is largely analytical and descriptive.

## **3. Results and Discussion**

### **Media Influencing Consumer Behaviour and Aspirations:**

The ability of any sensory-perceived visual to exert influence on individuals is evident today. Advertisements have emerged as a highly effective tool for shaping people's thought processes. An illustrative case is the Surf Excel advertisement from February 2019, which stirred significant controversy by being labelled as “anti-Hindu.” The use of children to convey a message in the advertisement raised concerns about its potential influence on

the youth. Consequently, in the contemporary world of television and social media, where visuals can portray diverse messages, advertisements possess the capacity to wield substantial influence over society. It can be confidently asserted that advertising mirrors society, and in turn, society mirrors advertising. On a certain level, advertisements derive their story and their message from the society. Therefore, the relatability factor of advertisements plays a significant role in shaping the social fabric of any country. Various social changes are brought about by advertisements, *vis a vis*, public service advertisements, awareness campaigns by governments, integration of values and morals (anti-alcohol and anti-tobacco campaigns). In developing countries like India, issues such as adult education, family planning and pulse polio campaigns are examples of successful social advertising campaign that the government has promulgated (Singh, 2013).

Advertisements also leverage role models, such as prominent sports figures, celebrities, and other influential individuals whom people admire, to bring about societal change. Moreover, advertisements serve as an effective means of disseminating information about product quality, new innovations and products, the latest technology, and affordability. Advertisements contribute to reducing distribution costs and the need for door-to-door marketing. They foster competition and enhance product quality by establishing strong brand identities and promoting a highly competitive environment. When used ethically, advertisements also enable mass media to maintain independence from government, political parties, and other special interest groups.

The influence that advertisements have is not always positive. They may be construed as objectionable when the intent behind the advertisement is intrusive, sets unreal standards, is offensive or depressing. The fear appeal that advertisements include, often create anxiety within the audience, anxiety that the advertisement depicts as being reduced with the usage off the product shown. Such ill intended advertisements may create emotional instability for the viewing audience. Products such as germ-killing toothpaste, fairness cream and insurance all attempt to capitalize on this fear factor.

Today, there is wide exposure for advertising as it is promulgated through social media and television, mediums that reach crores of people. It has an effect on what people buy, what they think and the opinions they form. Advertising is a persuasive medium that significantly influences the values and lifestyles of people in society. Undoubtedly, advertising has both negative and positive impacts. On a more general note, advertising also creates and fosters materialism. Individuals purchase high-end luxury products to

enhance their social status, which mirrors the shifting values and attitudes influenced by broader sociological forces. Notably, advertising plays a significant role in both perpetuating harmful stereotypes of women and ethnic minorities and, when utilized appropriately, challenging and dismantling these stereotypes. Additionally, advertisements contribute to the promotion of harmful products, such as tobacco and alcohol, often through surrogate advertising.

Brands today have used advertisements to send strong social messages that have deeply impacted the audience within those two minutes of screen time. The past couple of years have seen a transformation in advertising. Social messages against discrimination, sexism, false ideas of masculinity, anti-nationalism etc. have been portrayed beautifully in these advertisements. Havells, an appliance company, targeted sexism by sending across the message that women are not meant for the kitchen and are not 'kitchen appliances'. An ad campaign by Vogue called 'Vogue Empower' highlights the pressure put on men to be “manly” as opposed to what they should actually be taught. An ad campaign by The Hindu which displays the notorious behaviour of our leaders in parliament ends with the message of 'behave yourself, India. The youth is watching', a statement which gives us all something to think about. These are a few instances where advertisements have been used as effective tools to influence mindsets of people in society and shape their ideas of morality and distinguish right from wrong.

### **Advertisement as a tool to fulfil unethical purposes:**

As established above, advertisements influence societal mind sets. Hence, it is important to analyse whether they are used today, as tools to achieve unethical goals. Additionally, the legal consequences of doing so will also be analysed. This question will be addressed in a twofold manner: first, the usage of stereotypes in advertisements will be examined and second, the manner in which advertisements are created with the intention to mislead in order to achieve an unethical purpose will be examined. The consequences of the same will also be described.

Communication serves as a tool that enables individuals to cultivate and uphold their relationships (Sillars *et al*, 2012). It can be inferred from this definition that in the present era, communication is an important global process which reaches and covers the entire world. Communication encompasses not just interpersonal relationships but also

interactions among society members through diverse media. Advertisements, in particular, function as potent instruments of communication

Mass communication involves the methodical spread of institutional information and the transmission of carefully crafted messages using various technical mediums to vast, anonymous, and scattered audiences. It holds a vital significance in governing dynamic processes within the collective social consciousness, consolidating mass attitudes, and acting as a powerful tool for influencing both individuals and groups.

### **Whether advertisements target a particular part of the society through stereotypes?**

In contemporary society, numerous stereotypes are linked to various domains of human activity. The system of stereotypes is a social reality, although an unfortunate one. A society tends to be based on stereotypes (Prabhash, 2005, p. 53). Stereotypes such as women being the “weaker sex”, men being strong and emotionless, always portraying “masculine” roles such as police officers or fire fighters, are prevalent. It is important to quell such portrayals. However, advertising agencies tend to use these stereotypes for their benefit, in order to appeal to society and make their campaigns relatable and hence increase sales.

It must be noted that 2019 has seen a transformation in advertising. Ads have been effectively used to demolish stereotypes. There is evidence that advertising campaigns frequently have the ability to challenge stereotypes associated with religion, cultural aspects, and more. New ground has been broken when it comes to refuting gender stereotypes in Indian advertisements. Gender stereotypes encompass the perceived qualities and characteristics commonly attributed to men and women as a whole, and encompass prescribed normative behavioural patterns for each gender. From an advertising perspective, it is crucial for gender stereotypes to align with prevailing opinions, judgments, and societal perceptions regarding the distinctions between men and women within a specific culture. This indicates that gender stereotypes are contingent on the cultural context and environment in which they are employed. In the Indian context, women are the “homemakers” and men are the “bread winners”. Women are also used for sex appeal to sell products. For example, the BMW car advertisement where a woman is showed in a



sexual manner with the BMW car symbol on her brassiere, intends to lure buyers because of the attractive women advertising the product. This qualifies as a negative stereotype.

The issue of employing negative advertising/stereotypes remains highly pertinent in contemporary times, given that its repercussions can manifest as dissatisfaction among specific groups of people (Edell *et al*, 1987, p. 421). The Surf Excel Holi ad of 2019 caused major dissatisfaction amongst the Hindus, as they felt that their culture had been insulted, there were calls for boycotting the product all over the country. However, the response was tremendous as people came forward with massive support for Surf excel's attempts to spread their actual message of unity amongst different religions. Therefore, skilful utilization of stereotypes can foster the conditions required for shaping public opinion. However, it is crucial to note that stereotypes can sometimes assume an insulting form, leading to the humiliation of the particular segment of society they are directed towards.

In the present day, advertising should be seen not only as a means of conveying product information to consumers but also as a powerful tool to influence and alter an individual's perspective on various matters. It serves as a significant factor in shaping meanings and ideals, becoming an element of meaning and ideal formation. Consequently, advertisements must effectively interact with the existing societal values and beliefs. The ultimate role of advertising is to craft a desired and relatable image tailored to the target audience.

### **Whether there are any legal consequences for commercial stereotypical/misleading advertisements?**

The term 'misleading' has not been defined under the Monopolies and Restrictive Trade Practises Act, 1969. There are stringent regulations in developed nations with respect to misleading advertisements (Rai, 2015, p. 437). However, India does not have much jurisprudence apart from, ASCI guidelines. There are no specific, established case laws. Commercial advertisements have been dealt with by the Supreme Court in one noteworthy case, Hamdard Dawakhana vs. Union of India (1959): the protection enjoyed by advertisements with respect to the constitution was discussed in this case:

“An advertisement is no doubt a form of speech but its true character is reflected by the object for the promotion of which it is employed. It assumes the attributes and elements of the activity under Article 19(1)(a) which it seeks to aid by bringing it to the notice of the public. When it takes the form of a commercial advertisement which has an

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element of trade or commerce it no longer falls within the concept of freedom of speech for the object is not propagation of ideas- social, political or economic or furtherance of literature or human thought ; but as in the present case the commendation of the efficacy, value and importance in treatment of particular diseases by certain drugs and medicines. In such a case, advertisement is a part of business even though it was being used for the purpose of furthering the business of the petitioners and had no relationship with what may be called the essential concept of the freedom of speech. It cannot be said that the right to publish and distribute commercial advertisements advertising an individual's personal business is a part of freedom of speech guaranteed by the Constitution.”

The court held that any propagation of information which has the intent or motive of furthering any commercial interest, cannot fall within the ambit of 'speech' under Article 19(1)(a) of the Constitution of India, 1950. Hence, it does not enjoy any constitutional protection:

“It cannot be said therefore that every advertisement is a matter dealing with freedom of speech nor can it be said that it is an expression of ideas. In every case one has to see what is the nature of the advertisement and what activity falling under Article 19(1) it seeks to further. The advertisements in the instant case relate to commerce or trade and not to propagating of ideas; and advertising of prohibited drugs or commodities of which the sale is not in the interest of the general public cannot be speech within the meaning of freedom of speech and would not fall within Article 19(1)(a). The main purpose and true intent and aim.”

Examples of misleading advertisements include ones where dark-skinned people are demeaned and put down by “fairness” products, but are also given false hope about the usage of such creams guaranteeing instant fairness. Other examples include Dr. Bathra's hair treatments and Vibes clinic where if you accept the offered 'two-week challenge' you lose weight instantly, which is highly unrealistic.

Misleading advertisements, particularly within the food, nutrition, health, and cosmetic industries, can pose significant harm. Such ads not only infringe upon a viewer's right to accurate information but also have the potential to jeopardize their well-being and safety.

A few examples and trends of misleading advertisements, today, include a comparison between products and brands which is either incorrect, or done with an intention to degrade the brand being compared to, false environment friendly claims, bait advertising, printing false information about the product, claiming false promises and exaggerated results or hiding relevant and important information.

Celebrities are often used as a means to increase sales of products by using the person's mass appeal (Tripp *et al*, 1994, p. 535). People tend to take the words of their idol as the gospel truth. However, the usage of celebrities is unethical as they do not always represent the truth. The strategic use of celebrities to boost product sales has become a prevailing marketing tactic in today's consumer-driven landscape. Leveraging the popularity and influence of well-known personalities, brands seek to create a powerful association between their products and the public figures endorsing them. Celebrities' charisma and reputation often resonate with their fan base, leading consumers to perceive the endorsed products as desirable and trustworthy. This phenomenon is especially prevalent in industries such as fashion, beauty, and technology, where celebrity endorsements can generate a significant surge in sales and brand visibility. However, while celebrity marketing can be highly effective, it also carries inherent risks, as the reputation of both the product and the celebrity can become intertwined, potentially affecting consumer perception in both positive and negative ways.

Research has shown that when a product is endorsed by a celebrity, its sales volume tends to rise significantly, thanks to the influence they have over their followers (Dean, 1999, p. 1). However, viewers are often aware that such endorsements might merely be marketing strategies, and the celebrity may not genuinely use the product or service in their daily life. Despite this awareness, there are no stringent laws in India that classify celebrity endorsement as a criminal offense. However, a viewer can sue the actor endorsing any product which is misleading or deceiving in forums like the Consumer forum.

**Whether there are legal guidelines that are in place, which help in the regulation of advertisements?**

Bodies such as the Advertising Standards Councils of India (ASCI), Indian Broadcasting Foundation and Broadcasting Content Complaints Council, Telecom Regulatory Authority of India, News Broadcasters Association and News Broadcasting Standards Authority etc. Are responsible for the regulation of advertisements in India. The agency that is responsible for issuing guidelines for the same is majorly the ASCI. ASCI is a tribunal that is non-statutory which ensures that advertising practises in the country are ethical. It has a rules called the Code of Advertising Practises, based on which the tribunal

entertains and disposes of complaints. Legislations that govern the regulation of advertisements are:

- 1) Cable Television Networks(Amendment) Rules, 2006
- 2) Press Council of India Act, 1978
- 3) Cable Television Networks (Regulation) Act, 1995

The Cable Television Networks (Amendment) Act, 1995, mentions the guidelines in the form of a Code of Ethics for Advertising under Rule 7, through Section 6:

*“Advertisement code.—No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code”.*

Rule 7: *“No advertisement which violates the Code for self-regulation in advertising, as adopted by the Advertising Standard Council of India (ASCI), Mumbai, for public exhibition in India, from time to time, shall be carried in the cable service.”*

The code states that all advertisements must be truthful and honest representations of the concerned situation. All the material stated must be substantiated by the creators. Facts should not be distorted in any manner and should not mislead the viewers and customers. Additionally, advertisements should not contain anything indecent, vulgar, especially in the depiction of women, or nothing repulsive which is likely, in the light of generally prevailing standards of decency and propriety. Also, an advertisement should not encourage an individual to perform a dangerous act (ex. Smoking for minors) or buy harmful products. There has to be a certain degree of fairness in competition that is maintained: consumers must be aware of all the choices that are available in the market.

The ASCI acknowledges separate, statutory guidelines issued by the Bar Council of India, the Ministry of Health, and The Food Safety Standards Authority of India etc. Each advertisement, depending on the topic it involves, falls under such sub-category.

In the case of Havells India Limited vs. Advertising Standards Council of India, which was filed in the high court of Delhi, asking for a stay on the order issued by the ASCI against Havells India Limited for publishing advertisements with the tagline of 'wires that do not catch fire'. The council was of the opinion that the tagline was misleading and hence violated the guidelines issued in the code advertising code.

### Freedom of Speech and Reasonable Restrictions:

Freedom of speech and expression is a fundamental right that is the heart of the natural right of an organised democratic country to “impart and acquire information about that common interest”. If any limitation or restriction is placed which results in any person in the society being deprived of such a right then it would fall within the guaranteed freedom under Article 19(1)(a) of the Constitution of India, 1950 (Verghese, 1977, p. 731). However, if the restriction placed is reasonable, then it would be allowed under Article 19(2). In the aforementioned case, the only restriction placed deprived a trader from selling his wares it would not fall within that term. Hence, it could not be termed as depriving any person from the guaranteed right.

In *John W. Rast vs. Van Deman & Lewis Company* (1916), Justice McKenna, when addressing the issue of advertisements said:- “*Advertising is merely identification and description apprising of quality and place. It has no other object than to draw attention to the article to be sold and the acquisition of the article to be sold constitutes the only inducement to its purchase.*”

Under the Constitution of India, 1950, Article 19(1)(a) safeguards the right to freedom of speech and expression, which can also be applicable to advertisements. However, akin to any other right, this freedom is subject to reasonable limitations as set forth in Article 19(2) of the Constitution of India.

Hence, even though the right to freely advertise falls within the ambit of Article 19, reasonable restrictions can be placed on this right. Additionally, the guidelines drafted also are not *ultra vires* to the Constitution, since statutory bodies and the parliament have the authority to impose such guidelines.

Furthermore, when it comes to advertisements, artistic freedom is not without limits or absolutes. Such freedom is bound by reasonable restrictions deemed essential in upholding public decency and morality. It must always take a backseat to personal rights.

In the case of *Roth v. U.S* (1957), it was held that:

“*All ideas having the slightest redeeming social importance – unorthodox ideas, controversial ideas – have the full protection of the guarantee unless excludable because they encroach upon the limited area of more important interests.*”

In the past, authorities used the *Hicklin* test as a criterion to ascertain what qualifies as 'obscene.' But, in the case of *Aveek Sarkar v. State of West Bengal* (2014), it was held that the *Hicklin* test is not the correct test to be applied to determine “what is obscenity”

instead, the "community standard test" rather than the "*Hicklin test*" to determine what is "obscenity".

The justification for rejecting obscenity lies in upholding its social significance. In a previous case, the court held the view that material is considered obscene when it addresses sex in a lascivious manner. However, the mere depiction of sex in art and literature does not automatically warrant the denial of constitutional protection for freedom of expression. To make this distinction, the Court adopted a standard based on whether the material's dominant theme appeals to an average person, using contemporary community standards, in a lascivious manner.

Ergo, if any advertisement falls within the definition of 'prurient' or 'obscene', after the application of any of the tests, it can be curtailed.

Justice D.Y. Chandrachud wrote in *F.A. Picture International v. Central Board of Film Certification* (2005):

"Artists, writers, playwrights and film makers are the eyes and the ears of a free society. Our constitutional democracy guarantees the right of free speech and that right is not conditional upon the expression of views which may be palatable to mainstream thought. Hence, those who express views which are critical of prevailing social reality have a valued position in the constitutional order. Those who question unquestioned assumptions contribute to the alteration of social norms. Democracy is founded upon respect for their courage."

Hence, even though the right to freely advertise, when not in a commercial manner, falls within the ambit of Article 19, reasonable restrictions can be placed on this right.

#### **4. Conclusion**

The interplay between advertisements, media law, and society in India is a complex and dynamic relationship that shapes the country's media landscape and influences its people's perceptions and behaviour. Advertising serves as a powerful tool for communication, commerce, and cultural influence, but it must also navigate the regulatory framework imposed by media laws to ensure ethical practices and protect consumers' rights (Rudolph, 1992, p. 1489). This interplay is not just confined to the realm of commerce; it also intertwines with societal norms, values, and aspirations. India's media laws play a pivotal role in striking a balance between freedom of expression and responsible advertising. As technology continues to evolve, the challenges for regulators to keep pace

with the ever-changing advertising landscape increase. Balancing the interests of advertisers, media houses, and the public requires constant evaluation and adaptation of legal frameworks. The impact of advertisements on society is profound, shaping consumer preferences, societal attitudes, and cultural norms. Ethical advertising practices can empower consumers and promote social responsibility, while misleading or manipulative advertisements can lead to negative consequences for individuals and society at large.

The evolution of the advertising industry and its regulation is closely intertwined with broader societal changes. As India undergoes social, cultural, and economic transformations, advertisements are both a reflection and driver of these changes. It is crucial for advertisers, media professionals, policymakers, and the public to engage in continuous dialogue to ensure that advertising remains a force for positive change, without compromising on ethics and societal values. To move forward, it is essential to promote media literacy among the public, enabling them to critically analyze advertisements and their impact on society. Additionally, collaboration between the government, industry stakeholders, and consumer advocacy groups can help shape effective and responsive media laws that address emerging challenges while safeguarding the interests of all. The interplay between advertisements, media law, and society in India is an intricate and multifaceted relationship that warrants ongoing attention and responsible action from all stakeholders. By fostering an environment of transparency, accountability, and social responsibility, India can harness the potential of advertisements as a positive force for societal progress while ensuring a fair and balanced media landscape for its citizens.

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