

Advertising to children in India

Continuing our series of legal briefings, **Sharad Vadehra** outlines Indian law relating to advertising to children and explains why legislation in India still has a way to go to meet European and American standards

LIKE CANADA, THE UK, and other countries featured in this series, in India there are specific rules and legislation concerning advertising and children. However, children in India seem to be particularly vulnerable to the infringement of these regulations, which is unfortunately a common occurrence.

Television

The Cable Act provides guidelines for programmes and advertisements on television. All programmes must adhere to the codes before being transmitted. The codes of the Cable Act include the following provisions relating to children:

- Programmes on cable television should not denigrate children.
- Programmes meant for children should not contain any bad language or explicit scenes of violence.
- Programmes for adults should normally be aired after 11 pm and before 6 am.
- Programmes unsuitable for children must not be shown at times when the largest numbers of children are viewing.
- 'Unhealthy practices' showing children begging or acting in an undignified or indecent way are prohibited.

A first offence for contravening the Cable Act is punishable with up to two years imprisonment or with a fine of up to 1000 rupees (£12) or

both. For subsequent offences, the punishment is prison for up to five years and a fine of up to 5000 rupees (about £60).

Books and magazines

Publications that are deemed 'harmful' to children in India are regulated by the Young Act. 'Harmful publications' are defined as 'books, magazines, pamphlets, leaflets ... wherein stories are told portraying criminal offences, acts of violence or cruelty, incidents of repulsive or horrible nature, in such a way that the publication as a whole tends to corrupt a child into whose hands it might fall, whether by inciting or encouraging the child to commit offences or acts of violence or cruelty or in any other manner.'

The Young Act details penalties for the sale, hire, distribution, public exhibition, circulation, printing, production or possession of harmful publications. Advertising a 'harmful publication' is punishable by up to six months imprisonment, with or without a fine. The court can also order destruction of the offending publication.

Shaktiman

The children's television series Shaktiman has been a cause of controversy in India for several years. Children across the country have attempted to emulate their hero, Shaktiman, with tragic consequences. Since 1998 there have been several accidents and fatalities as children have risked their lives believing that Shaktiman

The promotion of infant foods, infant milk substitutes and feeding bottles is prohibited - punishable by up to three years in prison

will save them, or that they can assume his powers. There have been several court cases to stop broadcast of the programme, but as litigation in India often takes place over several years, most of the cases are still pending. However, the legal process has resulted in a caution notice being displayed at the beginning of the programme, aimed at children and parents, highlighting that Shaktiman is a fictional character and his actions should not be imitated. Unfortunately the law does not seem to have solved the problem. On 23 June 2004 a nine-year-old school girl in Kolkata accidentally hung herself by attempting to twirl in the air like the superhero.

Advertisements

There are no specific guidelines about acceptable advertisements aimed at children in India. However, if there is a complaint about an ad it may be withdrawn after consideration by the Advertising Standards Council. For example, an advertisement for a child's drink was withdrawn as it featured six children at the top of their class at school, implying the drink had given them exam success.

There is also no law in India which lays down guidelines for the use of child models in advertisements. Whether children should work in this way is a matter of current debate, but there has been no legislation passed as yet.

However, there are some strict laws relating to advertising and children. Selling, hiring, distributing, exhibiting or circulating an obscene object to a person under the age of 20 years is

punishable with imprisonment for a term of up to three years or fine of up to 2000 rupees (£26) or both. Subsequent offences are punishable with an imprisonment of up to four years and a fine of up to 5000 rupees (£60).

Internet

Regulation on the internet in India is strict. The IT Act penalises publication and transmission of material which is obscene, lascivious or appeals to prurient interest. The Act can be invoked for such material on the ground that it has the propensity to corrupt the minds of children.

Film

The Board of Film Certification grants appropriate viewing ratings for films. If a film is suitable for all and subject to no restrictions it will be given a U certificate. A UA certificate is granted for films where children under 12 must be accompanied by an adult in the cinema. A film that is not suitable for under-18s is given an A certificate. The granting or refusal of film certificates is published in the Gazette of India (an official government publication that discloses changes in the law or the introduction of new regulations). The certification once granted is valid for a period of 10 years.

Infant milk substitutes

The Indian government is committed to promoting and protecting breastfeeding. The parliament passed the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act in 1992. This act prohibits the promotion of infant foods, infant milk substitutes and feeding bottles. This is to ensure 'that no impression is given that feeding of these products is equivalent to, or better than, breastfeeding'. Violations of the act result in imprisonment for up to three years and/or a fine of up to 5000 rupees.

Cigarettes and alcohol

In India there are central government guidelines on the sale of cigarettes and alcohol, but each state has a different age limit for the consumption of alcohol and tobacco – for example, you must be over 25 years of age to buy alcohol in New Delhi. Most shops that sell cigarettes and alcohol display a sign showing the age restrictions in that state.

Advertising in schools

There are no bars on advertising in schools in India. In fact, Coca-Cola and Pepsi offer several sponsorships to schools, particularly for sporting activities.

Summary

There are a few laws which deal with child-related advertising issues in India, although

these are by no means comprehensive. In practice television channels often flout even the existing vague laws with great impunity. Also there is no particular legal framework for sponsorship of children's programmes on television so advertising to children in this way is unregulated. The debate over advertising junk food to children is also raging in India. However, despite these negatives, advertising law has come a long way in India and increased awareness of the issues concerning advertising to children is improving the situation.

Sharad Vadehra works for Kan & Krishme in Delhi, and is one of the senior Patent Attorneys in India. He has several years of experience in handling both domestic and international companies and research institutions. He handles the Patent matters of most of the leading Pharmaceutical and Chemical companies in India. patents@del6.vsnl.net.in

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