ASCI GUIDELINES FOR DISCLAIMERS MADE IN SUPPORTING, LIMITING OR EXPLAINING CLAIMS MADE IN ADVERTISEMENTS

Chapter I (4) of the ASCI code states that "Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions." Therefore it is important that certain claims be appropriately explained to ensure that consumers with average intelligence are not misled, nor deceived by means of implications or omissions. These guidelines are meant to help Advertisers, Agencies and the Media to better understand the rules in the ASCI Code for Self-Regulation in Advertising in so far as they relate to disclaimers used in Advertising.

Guidelines:

1) A Disclaimer can expand or clarify a claim, make qualifications, or resolve ambiguities, to explain the claim in further detail, but should not contradict/modify the material claim made nor contradict the main message conveyed by the advertiser or change the dictionary meaning of the words used in the claim as received or perceived by a consumer.

For Example

- If the claim is to offer a product or service for "free", then the disclaimer should not contradict the claim by seeking some form of payment for the product or service.
- If the claim is for giving "cash back", the disclaimer should not contradict the claim by giving the payback only in kind. However, the disclaimer can explain that "cash back" can be construed to mean virtual wallet or credit to be used as a form of online payment.
- If the claim in the advertisement is for a discount on all products, then the disclaimer should not limit the offer to only a few select products.

2) A disclaimer should not attempt to suppress material information with respect to the claim, the omission / absence of which is likely to make the advertisement deceptive or conceal its commercial intent.

For Example

- A claim of "best food processing equipment in India" should not be disclaimed by stating "for vegetable processing only" or "in major metros only"
- Disclaimer such as "T&C apply" should indicate where this information is available to consumers for further reference.

3) A disclaimer should not attempt to correct a misleading claim made in an Advertisement.

For Example

- A claim of internet speeds of "up to 10 mbps" should not be limited to "between 12 am to 6 am only".
- Disclaimer for a claim of "lose up to 2 kgs of weight" should not be "when calorie consumption is limited to xx per day".

4) Legibility of Disclaimers

a) The aim is to achieve a level of legibility that will enable an interested viewer, who makes some positive effort, to read all the information contained in the disclaimers. The general principles in this section are recommendary in nature to aid Advertisers and the Agencies to better understand the rules provided in the more specific, technical guidance in the sections that follow in order to achieve this aim.

b) TV/ Video advertising is inherently limited by time and space. Viewers can only reasonably be expected to absorb information, if it is conveyed clearly. The use of disclaimer should, therefore, be kept to a minimum. Long or otherwise complex disclaimers with large blocks of text and difficult words are a deterrent to viewers attempting to read the contents of the disclaimer. This defeats the purpose of providing clarity regarding a material claim made in the advertisement and the ASCI may conclude that the advertisement, taken as a whole, does not comply with the Code.

c) In such cases, alternative improvements should be considered by the advertisers, for example:

i) Modification of the headline claim to reduce the need for further qualification through disclaimers.

ii) Removal or modification of words or phrases that are not simple and direct.

iii) Breaking messages down into shorter, more viewer-friendly phrases or sentences.

iv) Removal of words, phrases or sentences from the disclaimer that serve no essential purpose but might detract from more important information in the disclaimer or ad creative more generally.

v) Advertisers should take all steps to ensure that the disclaimer/s is/are kept to a minimum and are as straight-forward and simple to comprehend.

Applicability:

The ASCI Guidelines for Disclaimers made in supporting, limiting or explaining claims apply to only disclaimers linked to product claims. Additional information provided in the advertisement which falls within following classification will not be treated as a disclaimer if:

a) Information not related to product claim i.e. if the information is delinked from the product claim or from a disclaimer related to the product claim (for instance, additional information provided in a different line); or

b) Information provided in connection with a legal or regulatory or ASCI code requirement; or

c) Information provided solely for consumer education / awareness

For eg: Claim is ""Product with 'X' removes malodor and kills germs for overall protection".

*Line 1- Tested under lab conditions on representative organisms.

Line 2- Please dispose of plastic packaging material responsibly and segregate plastic wastes from other biodegradable or compostable waste.

In the above illustration, Line 2 is additional information provided by a responsible manufacturer for consumer awareness.

Requirements for the disclaimers also cover the following:

I. A disclaimer shall be in the same language as that of the claim/s of the Advertisement. In case of bilingual advertisements, the disclaimer should be in the dominant language of the advertisement.

II. The font type should be the same as the claim or sans serif for better readability, and NOT in italics.

III. The placement position of disclaimers of a claim on packaging should be in a prominent and visible space and should ideally be on the same panel of the packaging as the claim.

IV. The direction of disclaimers should be along the direction of the majority of the copy, such that no rotation of head or medium would be needed to read it. Preferably, this should be along the natural reading direction of the medium. Exceptions could be for small packs with limited space (e.g., packaging less than 25 ml/gms).

V. For comparative claims, the basis of comparison must be stated in a font size that is at least 25% of the font size of the claim which is being made and positioned in close proximity of the claim i.e. immediately next to or immediately below the claim.

VI. If the claim is presented as a voice over (VO), then the disclaimer should be displayed in sync with the VO.

VII. A disclaimer should be clear, distinct from the background, prominent enough and legible. Disclaimer should be clearly readable to a normally-sighted person reading the marketing communication once, from a reasonable distance and at a reasonable speed.

- i. Text height of the disclaimer in television commercials or videos shall conform to the following:
  1. For standard definition images, the height of the text lower case elements shall be NOT LESS THAN 14 pixels [14 lines] in a 576 line raster.
  2. For high-definition images, the height of the text lower case elements shall be NOT LESS THAN 26 pixels [26 lines] in a 1080 line raster.
  3. For 4K/UHD images/video, the height of the text shall be NOT LESS THAN 57 pixels [57 lines] in a 2160 line raster.
- ii. In print advertising, the font size of disclaimers shall be NOT LESS THAN 7 points for advertisements of 50 cc or less, NOT LESS THAN 9 points for advertisements of 100 cc or less and NOT LESS THAN 10 points for advertisements of more than 100 CC.
- iii. In static medium like hoardings or point-of-sale advertising, disclaimers should have font sizes equivalent to 2.6% of the height of the medium and NOT LESS than 10 points font size. For large hoarding of 400 sq. feet or more, the font size should be NOT LESS than 100 points.

VIII. Visual presentation in terms of contrast and color, an advertiser shall ensure that all disclaimers:

i. Be in a colour that contrasts with the background, such that it allows the text to be clearly legible.

ii. Not be designed in a way such that the text keeps fading in and out of vision. In such cases, it will normally be necessary to place the text on an opaque single-coloured block.

IX. Comprehension - Disclaimers in advertisements should use simple words that are easy to understand and avoid the use of unfamiliar abbreviations or long and complex words that may not be readily understood by a consumer.

X. Hold duration and readability of disclaimer -

A. In television commercials or any other video advertisement on digital media, all disclaimers should be clearly readable to consumers. In a single frame in an advertisement:

i. There should not be more than one disclaimer. Provided, for an advertisement carrying combination claims, interlinked claims or more than 1 claim in a single frame, the disclaimers related to the said claims shall be published in the same frame as the claim.

ii. The disclaimer should be restricted to two full length lines (unless as mentioned in Clause 4(c)(vi)) and remain on screen for AT LEAST 4 seconds for every line

B. Disclaimers that take up more than two full length lines are likely to necessitate higher requirements for both size of text and the duration of hold. Viewers must be given an appropriate length of time to read the same. This part of the guidance outlines a method for establishing the duration of hold in the context of a particular advertisement.

In general, disclaimers should be held for a duration calculated at the rate of 5 words per second. An additional 'recognition period' should be added to the duration of hold calculated.

i. Where the disclaimers concerned contain:

(a) 9 words or fewer, the recognition period is 2 seconds; and

(b) 10 words or more, the recognition period is 3 seconds.

ii. For the purposes of calculating the duration of hold of a disclaimer, **all forms of text appearing on screen at any one point in time should be counted.** This includes both disclaimer text and any text content in the main ad creative

regardless of where on screen it appears and whether or not it is repeated in audio.

An advertiser may either follow the technical specifications of the hold durations or publish the disclaimer for the required duration spanning the entire length of the advertisement.

iii. However, the following information when appearing in an advertisement, will be excluded from being included within the requirement specified under this clause:

- a company name, brand name or logo;
- text that is included for reasons of a purely technical legal nature unrelated to consumer protection or the offer (in practice this will almost always apply only to film and video trailer credits and to copyright disclaimers or the like);
- text that is purely incidental to the advertisement and of such a kind that viewers will be unlikely to believe contains information (e.g., text on packaging where this is not being used to convey any part of the claim or offer); and
- abstract signs such as 'Rs' or '%' or decimal point, in numbers or prices.

iv. Furthermore, the following miscellaneous expressions should usually be counted as one word:

- e-mail addresses;
- internet URLs; and
- common abbreviations.

The factors influencing readability of disclaimers can work in combination to frustrate viewers' attempts to read and understand them. Advertisers are cautioned that the ASCI will consider the factors individually and cumulatively when investigating complaints.

XI. Speed for audio disclaimer - In advertisements in Radio / TV / Internet etc., the speed of spoken disclaimers should not exceed 6 syllables per second and its volume should be at the same volume level as the rest of the audio.

Chairman
Board of Governors, ASCI
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