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National and Transnational Censorship Guidelines and Advertising Codes for Radio and Television

by

Ameen Sayani
Tackling even one's own national codes for advertising and censorship in radio and television is difficult enough. And, with progressive globalisation, the matter becomes even more complex.

Let's take a look at All-India Radio's Code for Commercial Broadcasting, for instance. On page 4, the third paragraph says:

"All those engaged in advertising are strongly recommended to familiarize themselves with the legislation affecting advertising in this country, particularly the following Acts and the Rules framed under them:

(1) Drugs and Cosmetics Act.
(2) Drugs Control Act.
(3) Drugs and Magic Remedies (Objectionable Advertisement) Act.
(4) Copyright Act.
(5) Trade and Merchandise Marks Act.
(6) Prevention of Food Adulteration Act.
(7) Pharmacy Act.
(8) Prize Competition Act.
(9) Emblems and Names (Prevention of Improper Use) Act.
(10) Consumer Protection Act.
(11) Indecent Representation of women (prohibition) Act.
(12) AIR/Doordarshan Code. (Actually, both are considerably similar.)
(13) Code of Ethics for advertising in India issued by the Advertising Standards Council of India. (This is a Self Regulation Code.)
(14) Code of Standards in relation to the advertising of medicines and treatments.
(15) Standards of practice for Advertising Agencies. (The list is illustrative and not exhaustive.)"

The reference to at least one more major code is bound to be added to the list in its next reprint: the Code for Advertisements of Public Issues, recently formulated by the Securities and Exchange Board of India - SEBI, for short.
This kind of multi-pronged media-watch - especially for advertising - is prevalent in other countries, too. In the U.S.A., for instance, there are a number of government agencies and associations involved in overseeing advertisements. For instance:

(1) The Federal Trade Commission, for the prevention of unfair methods and misleading ads.
(2) The Food and Drug Administration.
(3) The Federal Communications Commission, which regulates foreign and inter-state communication, and is also responsible for licensing and regulating radio and television stations, and setting standards for modulation of commercial and programme content.
(4) The U.S. Postal Service, which watches commercial communication being routed through direct mail. And, along with an army of federal and local rules, regulations and acts, there are also:
(5) Various consumer protection organizations.
(6) Self Regulation through the Creative Code of the American Association of Advertising Agencies, endorsed also by the Association of National Advertisers and the Advertising Federation of America.

However, these hordes of Codes need not necessarily intimidate conscientious advertising and creativity in any country. The basic aim of all official regulation and self-regulation can be expressed in five cardinal qualities which are not too difficult to comprehend and conform to - provided the medium and its exploiters sincerely want to do so, and are efficient enough to do so without wasting their own and other people's time, effort and expense.

And what are these five qualities, particularly pertaining to advertising?

A. HONESTY: Ads should not distort facts, mislead, or make claims that cannot be substantiated. (However, the Advertising Standards Council of India's self-regulation code does give some leeway for creative over-statement. It says: "Obvious untruths or exaggerations intended to amuse or catch the eye of the consumer are permissible, provided that they are clearly to be seen as humorous or hyperbolic, and not likely to be understood as making literal or misleading claims." I must warn you, of course, that the officially regulated media of most developing countries do not always have too much of a sense of humour.)
B. DECENCY: Ads should contain nothing vulgar or repulsive, or derogatory that may cause grave or widespread offence. They must be executed in good taste, in the light of generally prevailing standards of decency and propriety. This aspect is all the more difficult in a multi-faceted, multi-lingual, multi-religious country like India, and further complications arise when satellite links connect various regions and countries. As Mr. Bruce Cormack of Australia’s Advertising Federation said in his speech at the Ad Asia Congress in 1990: "We are constrained by the rules of the society in which we live. These are often unwritten rules. Standards which come from different cultures and different religions... Whether the rules are written or not, all advertising has a responsibility not to give offence to the community."

C. SAFETY: Ads must avoid indiscriminate promotion of products and concepts which are regarded as hazardous to society, or to individuals to a degree or of a type which is unacceptable to society at large. (This aspect could cover the indiscriminate advertising of alcohol and tobacco-based products, the incitement to violence and crime, the exposure of children to dangerous or despicable habits, etc.)

D. FAIRNESS: Ads should avoid comparisons with competitors’ products, unless the comparison is accurate and substantiable, and provides fair and factual information. Ads must also desist from plagiarising competitors’ advertisements to gain unfair advantage and confuse the consumer. (With globalisation, the problems in this field are likely to further multiply in countries where the import of goods was hitherto restricted, but the import of plagiarised ideas wasn’t.)

E. LEGALITY: Ads must not contain anything which is in breach of the law, or omit anything which the law requires. (But then, again, laws change with national boundaries - sometimes even over inter-regional boundaries within a nation - so careful pruning for broadcasts becomes all the more crucial.)

So those are the five ideal cardinal qualities to ensure healthy advertising and therefore healthy business activity. All one has to do is conform to them, and all is well with the world. The confidence of the public is preserved and the consumer is not duped.
"The mind is without fear", as Rabindranath Tagore said, and "is led forward into ever-widening thought and action". Social, cultural, industrial and economic concepts develop, fuse and flourish. Communication—and, in fact, civilization itself—blooms in kaleidoscopic ecstasy to obliterate all recession, ignorance, disease, discontent and boredom!

But that is mere Utopian fantasy. The facts are just the opposite. Circumstances and pressures lead to non-conformation and conflict. Truth is degraded to a mere point of view. Rules are broken to suit commercial or political interests—and, often, faulty rules actually encourage contravention.

As a brochure of America's Centre for the Study of Commercialism proclaimed in 1990: "It's time we said, "ENOUGH!" With the globalisation of communications, everybody is being looked at by the whole world—no one can afford to languish in small and shallow cesspools of smugness and ignorance. And that is why this seminar achieves immense importance.

But I will not transgress into the areas being covered by the other speakers in this Seminar. All I'm going to do now is to narrate some instances where complications have arisen in the scope and implementation of Codes of advertising and censorship, and shall leave it to my colleagues to think of what should have been done—and what should be done—to help ensure some sort of reasonable, acceptable uniformity in the fusion of diverse national and transnational commercial cultures.

I'll divide the instances under three headings, and I'll request all of you to mentally jot down similar cases from your own experience. These, instead of having a question time after this seminar, my paper, we could have an exchange of experiences and views on all relevant points including the following:

1. Political Exigencies: This is a highly sensitive area and can play havoc with a medium and its staff—and needs to be carefully studied.
   (a) In the late fifties, political tension had already commenced in Sri Lanka. The amended articles of Radio Ceylon, of which I had been associated from 1951 through its agency in Bombay. There was some serious health problem with the two Indian announcers handling the Indi Service of Radio Ceylon, now known as Sri Lanka Broadcasting Corporation. Since I had been to Colombo earlier and was familiar with the running of the service, I was told to immediately pack my bag, rush off to Colombo and report for duty. But when I turned up there, I was informed that something had gone wrong at Radio Ceylon and that I would not be allowed to broadcast "live"—I could only train and help the local stand-in announcers by sitting beside them.
On one particular occasion during those early troubled times, a pre-recorded message to the nation by the Prime Minister was to be broadcast on all the services of Radio Ceylon including the commercial service, preceded and followed by a sober piece of music. The Director of the Commercial Service — a most sincere and dedicated man — personally and carefully selected the music piece from a western classical L.P. disc, and instructed his most dependable disc spinner-cum-programme-assistant to be on duty to play that sober piece of music before and after the Prime Minister’s speech. The spinner was ready with the disc at the right time, but — by sheer mistake — cued track 3 instead of the selected track 4 on the L.P. disc. The music that went on the air was sober enough, so even she didn’t realise that the wrong track had been played. The fact was that the music played was entitled “Sonata Pathetique” — which, too would have gone unnoticed. But, the leading opposition newspaper flashed a bold headline next morning, proclaiming that before and after the Prime Minister’s speech, Radio Ceylon had played Chaupin’s Funeral March! And, the next day, the Director of the Commercial Service was suspended — just because of an incorrect news-item!

(b) But governments do tend to get edgy in times of stress, especially when elections are round the corner. The Election Commission of India has ordered that anyone who is standing for election, or is actively campaigning for any party, should not be seen, or heard or even named on All-India Radio and Doordarshan for two weeks before the election date. This causes severe problems when well-known filmstars get actively involved with politics — since India has quite a history of filmstars swaying or winning elections, and even becoming Chief Ministers. So, no film in which these stars appear are shown on Doordarshan. Even on radio, where a number of feature-film publicity programmes and spots are broadcast, we have to edit all the promotional material to remove those temporarily banned names, and cut out dialogue pieces which may have featured their voices. If our well-known singers have sung political campaigns, all their songs are banned for the period.

Quite a few well-known commercial radio commentators, too, lend their voice to political campaigns — and, if their so-called misdemeanour is recognised, they too get black-listed. Although I have begun to meticulously avoid campaigning for political candidates since the election Commission order was promulgated, I once almost got into hot water because a certain expert mimicry artiste had so beautifully copied my voice and style, that even I couldn’t believe it wasn’t me! My attempt to identify the voice to the authorities, to say
(c) Governments are often prevailed upon by pressure groups to legislate on advertising norms - even though it may mean losing immense revenue through direct media earning or taxation. In the USA, for instance, the Surgeon General issued a report on the dangers of smoking in 1964 - and the very next year, President Lyndon Johnson signed a federal act requiring warning labels on cigarette packages. In 1970, President Nixon signed the Public Health Cigarette Smoking Act banning tobacco ads on TV and radio. But the 1980s saw a double-sided situation emerge: on the one hand, the champions of commercial free speech had gained ground, and the Reagan administration relaxed broadcasting regulations and the policing of unfair advertising - but the fitness movement and other trends increased public opposition to smoking and drinking. As a result, the U.S. Supreme Court laid down restrictions on commercial free speech - and, in 1984, the Reagan Administration signed a bill requiring health warnings on cigarette ads. You'd also be interested to know that, in 1988, a U.S. district judge awarded 400,000 dollars to a widower who claimed his wife had died from smoking caused by cigarette ads!

(d) I'll give you just two more instances of government censorship brought about by political exigency. One of them again concerns Sri Lanka - and refers to the same period as the "Funeral March" episode. The opposition party's election symbol those days was: the Elephant, and the colour Green. And so, both these words were taboo over Radio Ceylon - and even well-known songs containing those words were banned: songs like "Green Eyes" and "Baby Elephant Walk"!

We had a slightly different situation during the Emergency in India. For almost a year before the Emergency was declared, one of the most successful films was "Roti Kapda aur Makaan" (which means "food, clothing and shelter") - and its song "Mehengai Maar Gayi" (meaning that "high prices have killed us") was the major hit number one of the year. During the emergency, someone high up heard the song, and decided that it was right to highlight the fact that prices had gone up - even if they were - and banned the song from playing on All India Radio!

I must tell you, here, of another amusing incident that happened during the emergency - not in radio or TV, but in bill board advertising. All advertisers were ordered to give the utmost
prominence to national messages - like "Talk Less, Work More", "Work is Worship", etc. - and to reduce the product message to just a by-line on the billboard. The agency for Amul Butter did a brilliant job for their billboard - comprising a big bold national message and a small product by-line. It said: "SERVE THE NATION - Amul Butter!"

2. Dichotomy (and, sometimes, Trichotomy, or more):
This usually happens in large countries like India, which comprises a fascinatingly diverse pattern of languages, customs, religions and political ideologies. One often finds differences in approach and implementation between centre and state, one state and another, between Doordarshan and All-India Radio, and even between two channels of the same medium. If we were to learn to get this dichotomy straightened out in our own countries, we could then work with greater efficacy in tackling transnational problems.

For instance:

a) A very popular song two years ago, inspired by a major western hit - was "Jumma Chumma Day Day" : a raucous Romeo asking his girlfriend to give him a kiss. (And, until almost the end of the song, the girl keeps saying "no".) The song was banned over All-India Radio, but was shown merrily on Doordarshan with all the prudish bravado of Amitabh Bachchan. But now, with MTV having helped us to grow up - or corrupted us, depending on which side of youth you happen be looking at it from - one of this year's naughtiest chart-busters has been allowed both on TV and radio. The song is "Choli Kay Pechhlay Kya Hai" (Which means "What is behind the blouse"). One of the things that helped the song to scrape through the censors was its second line, which says: "What is behind the blouse is my heart." The song has become the main anthem of love-teasers this year - but no one seems to be minding too much any more, except the few outraged people who tried without success to get the song banned. But the point is: in view of the current relaxation in censorship, are songs, advertising copy themes or promotional visuals censored earlier, going to get reviewed or get passed if presented again? Would it be possible for the media - especially the government-regulated media - to itself keep periodically reviewing its earlier policies and censored material?

The most pronounced dichotomy occurs when two channels of the same medium follow two absolutely different forms of regulatory rules. For instance, The Primary Channel of Doordarshan and the commercial
service of AIR functioning through the Vividh Bharati stations, both have similar codes and similar pre-clearance procedures. But now the media have started licencing out time chunks to buyers - on Doordarshan's Metro Channel (currently known as the "Entertainment Channel") and on FM Radio. These semi-privatised channels have no pre-clearance, they are supposed to be self-regulated according to guidelines laid down in the Commercial Broadcasting and Telecasting Codes. Provided the licencees indemnify the medium for all damages and claims that may arise in terms of commercial or programming content and copyright, they can do just what they please. The answer, of course, once commercial publishers like letting the commercial content to 10 minutes per hour, of which 1 minute is to be reserved for public service messages. (10 minutes per hour, incidentally, works out to 10.66% - while the non-privatised channel ceiling for ad content is 10%.) To balance all this freedom, there is a policy clause of licence cancellation.

But this leads to two totally different programming and commercial Cultures - and the unfettered programming allowed in the privatised channels tends to wean away viewers and listeners from the Primary TV channels and the commercial radio channels. Would the privatised channels also continue to steal the audiences away from ZEE, ATN, STAR, CNN and BBC? Or would it start serving our audiences to these external satellite programmes on a platter? And which situation will be more beneficial to audiences?

Without commenting on the comparative quality of the various radio and TV programming and commercials now available to listeners and viewers in Asia, I would like to read out to you the mini-review of a book, contained in the American Center Library's publication covering new books available in July-August 1993. The title of the book is:

"Carnival culture: the trashing of taste in America". By James B. Twitchell.

The mini-review says:

"According to Twitchell, the three great purveyors of mass culture in the United States - book publishing, motion pictures and television - are creating a culture that glorifies the vulgar and mediocre at the expense of worthwhile qualities in American life. He argues that the media has raised the "low-brow" to a level of respectability that excludes what used to be high-brow from American life. He analyses such icons as "America's Funniest Home Videos", Stephen King novels, professional wrestling and Madonna to examine whether vulgarity is the result of repression or of freedom. What the relationship..."
3. Health Hazards

This is an area which needs to be most carefully studied - by those who control economic policy as well as those who plan, man and use the media in its programming as well as commercial content.

The two most important aspects in this area are alcohol and tobacco products. Both are generally recognised as harmful, and both provide gigantic revenue and employment potential. Most official and self-regulatory codes seek to curb their advertising and glorification, and yet most governments tend to encourage their manufacture or import, and therefore their consumption.

Let's take a look at some of the anti-tobacco and anti-alcohol trends gathering momentum in the United States:

(a) A feminist group protesting against the sexist ads of Kool cigarettes has slapped a sticker on the ads reading: "Keep your ads off my body."

(b) A commissioner who has led ad protests in Detroit against glorifying ads says that such ads promote the lethal message "that success and glory and power come from alcohol and smoking".

(c) In the wake of a nationwide protest led by religious leaders and 21 health groups, the Federal Bureau of Alcohol, Tobacco and Firearms forced G. Heilman Co. to stop selling a high-alcohol malt liquor called "PowerMaster", which was being promoted to blacks.

In the (1980s and 1990s saw more legislative proposals than ever before to ban ads, restrict the content of ads, tax ads, or end tax deductibility for ads. (Some of these legislations I have covered earlier in this paper.)
All this information on trends in the USA is contained in an article in the CQ Researcher of September 13, 1991 entitled “Advertising Under Attack”.

And what is happening elsewhere? Most television and radio codes abroad tend to allow beer ads and restrict hard liquor ads. Britain's Independent Television has strict guidelines about what can and cannot be shown in cigarette ads. The Star TV group frowns on cigarette advertising, but we see some pretty glorifying TV ads of hard liquor. The European Community countries have been attempting to ban even the use of known brand names, logos and ad themes linked up with sports and other sponsored events!

In India, the picture is somewhat confusing. Radio and TV does not take alcohol and cigarette ads, but there is no restriction on sports and other sponsorships where the name and logo of the products are boldly and abundantly portrayed. In fact, there is even a news-clip of a press conference showing the President hiding away a sports trophy named after a famous brand of cigarettes.

There have also been cases where a sponsor's pack of cigarettes has been telecast, because it came through on a "live" sports coverage from abroad and couldn't be deleted.

But, in order to regulate alcohol and tobacco products with justice and efficacy, one should also take into account the points of view of cigarette and alcohol manufacturers. Broadly speaking, their arguments are:

(i) Cigarettes and alcohol are less hazardous than diesel fumes and drugs.

(ii) Curbs on advertising will eventually lead to curbs on manufacture and employment. And what would happen in India if the axe were also to fall on the bidi industry, one of the largest cottage industries in the sub-continent?

(iii) The excessive consumption of anything is harmful - even food. Why not then allow the advertising of careful consumption of cigarettes and liquor?

(iv) In India, while cigarettes are allowed to be advertised with statutory warnings about their health hazards - why not alcohol? Would the addition of warnings in permitted liquor ads not help to avoid excessive consumption? And wouldn’t that also help to do away with the flimsy use of "surrogate" advertising - in the guise of almost non-existing products like playing cards, tumblers and cocktail snacks, or of concepts of well-being - where the copy and illustrations point quite clearly to alcohol?
There's a quote from the USA that I'd like to read out to you in this connection. The speaker, Burt Neuborne, counsel for the Association of National Advertisers, attempting to take advertising under the protection of freedom of speech, has said: "We tend to see advertising as a metaphor for a great society. If it's doing its job, it is the ideal. But if you have doubts about the quality of life, you'll criticize ads." (I don't agree entirely with this point of view, but one does have to concede that the quality of life is falling almost all over the world.)

Conclusion

At a recent function organised in Bombay by the Advertising Standards Council of India and the Indian branch of the International Association of Advertisers, the chief guest was the Secretary of the Ministry of Information & Broadcasting, Government of India. He was most impressed about the strides that the movement of Self-Regulation in Advertising had taken. He noted that the freedom being allowed in the Metro TV channels and the FM radio channels was also conducive to Self-Regulation, and suggested that advertising professionals join up with Doordarshan and All-India Radio to help in streamlining screening processes. It was a healthy suggestion that could be applied to all media that are still officially regulated, and the process of Self-Regulation could spread the spirit of excellence through responsible freedom of action.

As Bruce Cormack of the Advertising Federation of Australia has suggested, "Resist unnecessary regulation in advertising. When regulation is fair and reasonable, or necessary, try to ensure that interpretation is also fair and reasonable. The mainstream community is usually reasonable. Dissenting minorities must have their voice, but we must be sure they do not overwhelm the fair-minded majority."

May I, then, invite all the speakers at this seminar, all its participants, and all at AMIC to join "the fair-minded majority", and encourage all communicators all over the world to do the same.

The task of streamlining communications and advertising in the media is a gigantic one, and the only way we can do it is to do it together.