



## **GENDER ADVERTISING; RE-ESTABLISHING GENDER DIVIDE: A LEGAL DISCOURSE**

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### **ABSTRACT:**

This abstract examines how gender advertisements re-establish divides and reinforce biases, highlighting their significant impact on societal norms. Advertisements often depict men and women in traditional roles, perpetuating stereotypes that dictate appropriate behaviour and appearance, thereby limiting individual expression. The objectification of women, with a focus on their physical attributes rather than their skills or achievements, further normalizes the perception that a woman's worth is primarily tied to her looks. This biased portrayal shapes consumer behaviour and public attitudes, leading to the acceptance of restrictive gender roles across personal and professional contexts. Additionally, the unrealistic standards presented in advertisements can adversely affect self-esteem, particularly among women, fostering feelings of inadequacy and discontent. By consistently portraying gender in a limited manner, advertising plays a critical role in normalizing inequality and complicating efforts to challenge these entrenched views. To promote a more equitable society, it is essential for advertisers to shift away from traditional representations and embrace content that prioritizes diversity, empowerment, and equality, thus contributing to a more inclusive cultural landscape.

**KEYWORDS:** Gender advertising, indecent representation, Consumer Protection laws, Gender Bias, Gender Justice

### **INTRODUCTION:**

Gender advertising refers to the strategic approach of tailoring products, services, and advertising messages to appeal specifically to different genders. This concept is rooted in the understanding that men and women often have distinct preferences, behaviours, and needs shaped by societal norms and cultural expectations. The philosophy behind gender advertising delves into how these differences can influence purchasing decisions and brand loyalty<sup>1</sup>. From a philosophical

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<sup>1</sup>Pollay, Richard W. "The Distorted Mirror: Reflections on the Unintended Consequences of Advertising." *Journal of Advertising*, vol. 20, no. 4, 1991, pp. 2-20.



perspective, gender advertising raises important questions about identity, representation, and consumerism. It acknowledges that gender is not merely a biological characteristic but a complex social construct that influences how individuals perceive themselves and the world around them. Marketers utilize this understanding to create targeted campaigns that resonate with specific gender identities, aiming to reflect and amplify the values, aspirations, and lifestyles associated with each group<sup>2</sup>. However, this approach also invites critique and introspection regarding the potential for reinforcing stereotypes. Critics argue that overly simplistic gender categorization can perpetuate harmful norms and limit the diversity of individual expression. The challenge lies in navigating these complexities, fostering inclusivity while effectively addressing the unique desires of different consumer segments<sup>3</sup>. Ultimately, the philosophy of gender advertising calls for a nuanced understanding of gender dynamics, urging marketers to balance the drive for profitability with a commitment to social responsibility and ethical representation<sup>4</sup>. This reflective practice encourages brands to engage authentically with consumers, recognizing the diverse realities of gender in contemporary society.

## **GENDER ADVERTISING: TOOLS AND TECHNIQUES**

Gender advertising tools are strategic instruments and techniques employed by marketers to tailor their messaging, branding, and product offerings to meet the distinct preferences and needs of different genders. This approach acknowledges the nuanced ways in which gender identity influences consumer behaviour, preferences, and purchasing decisions. Understanding and effectively implementing gender advertising tools can significantly enhance a brand's ability to connect with its audience, improve customer loyalty, and ultimately drive sales.

Gender advertising tools are strategic instruments that help brands tailor their products, messaging, and overall advertising strategies to resonate with different genders. At the heart of this approach is a thorough analysis of demographic data, consumer behaviour, and cultural trends, allowing brands to identify distinct segments within the broader market based on gender<sup>5</sup>. By understanding how cultural, social, and economic factors shape the preferences of men, women, and non-binary individuals, companies can develop targeted advertising strategies that deeply connect with their audiences<sup>6</sup>.

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<sup>2</sup>Kotler, Philip, and Keller, Kevin Lane. *Marketing Management*. 15th ed., Pearson, 2016.

<sup>3</sup>Linder, Jennifer R. "Selling Women: Advertising and Gender." *Gender and Society*, vol. 18, no. 2, 2004, pp. 135-157.

<sup>4</sup>Cuklanz, L. M., & Moorti, S. (2002). *Sexual Violence and the Media: A Critical Review of the Literature*. *Media Studies Journal*, 16(1), 55-70.

<sup>5</sup>McRobbie, A. (2009). "The Aftermath of Feminism: Gender, Culture and Social Change." *SAGE Publications*.

<sup>6</sup>Feminist Media Studies. (2010). "Advertising and the Body: An Overview of Research." *Feminist Media Studies*, 10(3), 317-331.



Branding plays a crucial role in gender advertising, as it goes beyond mere logos and slogans to encompass the emotional experiences consumers associate with a brand. Marketers often employ gender-specific imagery, colours, and language that align with societal norms surrounding masculinity and femininity. For example, products marketed to women may utilize softer colours and nurturing language, while those aimed at men might feature bolder visuals and themes of strength<sup>7</sup>. However, there is a growing emphasis on breaking traditional gender stereotypes, leading to more inclusive branding that reflects the diversity of contemporary society.

Product design and development are also essential components of gender advertising. Insights into gender preferences can guide the creation of products that cater to the specific needs of different genders. For instance, women may prefer personal care products focused on wellness and beauty, whereas men might prioritize practicality. The increasing recognition of non-binary and gender-fluid individuals has prompted brands to create more inclusive product lines that transcend conventional gender categories.

Advertising and promotional strategies must be carefully crafted to reflect gender dynamics and avoid misrepresentation. Marketers utilize a variety of channels, including social media and traditional media, to effectively reach their target audiences. Creative campaigns often depict relatable scenarios or aspirational lifestyles tailored to specific gender demographics, and the selection of endorsers is crucial for reinforcing brand values.

Digital advertising tools have revolutionized gender advertising by enabling direct consumer engagement and real-time feedback through social media platforms. Brands can analyse engagement metrics to understand gender-specific responses and employ targeted advertising to reach particular demographics effectively. Storytelling has also emerged as a powerful tool, allowing brands to forge emotional connections with consumers by sharing narratives that reflect the values and aspirations of different genders.

Market research is indispensable for gender advertising, providing ongoing insights into shifting gender norms and consumer preferences<sup>8</sup>. Continuous research informs product development and advertising strategies, ensuring brands remain relevant in a dynamic marketplace. Additionally, corporate social responsibility initiatives are increasingly intertwined with gender advertising, as consumers favour brands that demonstrate commitment to social issues, including gender equality.

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<sup>7</sup>Levine, M. P., & Murnen, S. K. (2009). "Everybody Knows That Mass Media Are/Are Not [Pick One]: A Critical Review of the Evidence for a Causal Link between Media, Negative Body Image, and Disordered Eating in Females." *Journal of Social and Clinical Psychology*, 28(1), 9-42.

<sup>8</sup>Tiggemann, M. (2004). "Media Exposure, Body Dissatisfaction and Disordered Eating: Television and Magazines Are Not the Same!" *International Journal of Eating Disorders*, 45(1), 50-55.



The rise of gender-neutral advertising signifies a shift towards inclusivity, as brands move away from strictly binary approaches to appeal to a broader audience<sup>9</sup>. This not only aligns with contemporary values of diversity but also opens new market opportunities for brands willing to embrace a more inclusive perspective.

Gender advertising tools encompass a multifaceted approach that combines various strategies, including market segmentation, branding, product development, advertising, digital advertising, storytelling, and corporate social responsibility<sup>10</sup>. By employing these tools thoughtfully, brands can build stronger connections with consumers, enhance loyalty, and contribute positively to societal change, all while adapting to the evolving complexities of gender dynamics in the modern marketplace.

### **GENDER ADVERTISING: A FEMINIST CRITIQUE**

Gender advertising, while often positioned as a strategic approach to cater to distinct consumer preferences, can also be critiqued as an anti-feminist concept. This perspective arises from the way gender advertising reinforces traditional gender norms and stereotypes, limiting individual identity to binary classifications and perpetuating systemic inequalities. It can undermine the progress toward gender equality and the broader feminist agenda.

At the heart of the critique is the notion that gender advertising often relies on reductive and essentialist views of gender. By categorizing individuals strictly as "male" or "female," marketers can perpetuate stereotypes that define masculinity and femininity in narrow terms. This is evident in advertising campaigns that emphasize traditional roles—such as depicting women primarily as caregivers and men as providers—reinforcing societal expectations rather than challenging them. Scholars like Judith Butler, in her seminal work "Gender Trouble," argue that gender is performative and constructed through repeated behaviours, suggesting that strict advertising categories hinder the fluidity and complexity of gender identity.

Moreover, gender advertising tends to ignore the experiences of non-binary and gender-fluid individuals, further entrenching a binary understanding of gender that is fundamentally exclusionary. Thinkers such as bell hooks have emphasized the importance of intersectionality in feminism, asserting that the fight for gender equality must consider the varied experiences shaped by race, class, and sexuality. Gender advertising's failure to acknowledge and address these complexities can alienate significant portions of the consumer base, sidelining those who do not fit neatly into traditional gender roles.

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<sup>9</sup>Stankiewicz, J. M., & Rosselli, F. (2008). "Women in Ads: A Study of Gender Role Portrayals in Advertisements." *Sex Roles*, 58(9-10), 647-655

<sup>10</sup>Sammells, M. (2015). "The Aesthetics of Gender: Representations of Women in Advertising." *Journal of Gender Studies*, 24(3), 251-267.



Jurists and legal scholars have also critiqued the implications of gender advertising from a legal and ethical standpoint. For instance, feminist legal theorist Catharine MacKinnon<sup>11</sup> has argued that the commercial representation of women often serves to objectify and commodify their identities, reinforcing a patriarchal structure that prioritizes male perspectives. This commodification can manifest in advertising strategies that emphasize women's appearance and desirability over their agency and individuality, further entrenching systemic inequalities.

The impact of gender advertising on societal norms cannot be understated. By consistently portraying gender in limited ways, advertising perpetuates a culture that values traditional roles and behaviours. This is particularly concerning in a media landscape that shapes public perception and attitudes. As media theorist Jean Baudrillard<sup>12</sup> notes, the simulation of reality through media representations can influence how individuals understand their identities and roles in society. Consequently, gender advertising can contribute to a culture that prioritizes appearance and adherence to traditional roles over authentic self-expression and equality.

Critics also point to the implications of gender advertising for women's empowerment. While some brands have attempted to present feminist messages in their advertising—such as promoting female empowerment or body positivity—these efforts can sometimes be superficial. The feminist movement, as articulated by figures like Gloria Steinem, emphasizes the need for systemic change rather than mere representation. When advertising strategies focus on empowering messages without addressing the underlying societal structures that perpetuate inequality, they risk commodifying feminism itself. This phenomenon, often referred to as "marketplace feminism"<sup>13</sup>, can dilute the core messages of the movement, transforming genuine advocacy into an advertising ploy.

In response to these critiques, there is a growing movement towards more inclusive and equitable advertising practices. Advocates for change emphasize the need for brands to adopt a broader understanding of gender that transcends binary classifications, promoting authenticity and diversity in their messaging. Thinkers such as Rupi Kaur<sup>14</sup>, through her poetry and social media presence, challenge traditional narratives around gender and identity, urging brands and consumers alike to embrace a more nuanced understanding of self-expression.

While gender advertising may aim to cater to consumer preferences, it often reinforces traditional gender norms and perpetuates systemic inequalities, raising significant concerns from

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<sup>11</sup>Baudrillard, J. (1981). *Simulacra and Simulation*. University of Michigan Press.

<sup>12</sup>MacKinnon, C. (1989). *Sexual Harassment of Working Women: A Case of Sex Discrimination*. Yale University Press.

<sup>13</sup>Elliott, R. & McFadden, M. (2015). "Feminism and the Role of Marketing: Implications for Theory and Practice." *Journal of Marketing Management*, 31(5-6), 619-634.

<sup>14</sup>Kaur, R. (2021). *Home Body*. Andrews McMeel Publishing.



feminist perspectives. Thinkers like Judith Butler<sup>15</sup>, bell hooks<sup>16</sup>, and Catharine MacKinnon<sup>17</sup> provide critical insights into how gender advertising can undermine the feminist agenda by reducing complex identities to simplistic categories and commodifying women's experiences. As society continues to evolve, the challenge remains for brands to engage with gender in a way that reflects authenticity, inclusivity, and a genuine commitment to equality.

### **Examples of gender advertising include:**

- Selling pink clothes for girls and blue clothes for boys
- Packaging women's skincare products in lighter colours, while men's packaging uses deep shades of black, grey, or navy blue
- Advertising toys like robots and cars to young boys, and dolls and stuff toys to girls
- Advertising Coca-Cola Zero Sugar with male professional soccer players

Feminists perceive gender advertising as a concept that increases consumer appeal and make products more attractive to intended customers by utilising the gender insecurities, stereotypes and biases hence, create separation around genders and perpetuate stereotypes. Socially and economically such gender advertising is bad for business because it distracts from other things that could drive growth. Men tend to take a more linear path to their product, while women tend to go through a spiralling thought process. However, these findings are based on stereotypes and statistical values, and not every man or woman is the same, which seems to be an alien concept for the pronouncers of gender advertising as a business strategy

### **LAWS PROHIBITING GENDER ADVERTISEMENT**

There is no specific definition of gender advertisement given in law in India but an idea can be drawn from the Danish law that explains that an advertisement is considered discriminatory based on gender if it<sup>18</sup>:

- a. Portrays the gender in a derogatory or disrespectful way;
- b. Features nudity or erotic content that appears to be demeaning to the relevant gender;
- c. Suggests that one gender holds a socially, financially, or culturally inferior position compared to the other;
- d. Implies that one gender is less capable, less intelligent, or less suited to perform tasks

<sup>15</sup>Butler, J. (1993). *Bodies That Matter: On the Discursive Limits of "Sex"*. Routledge.

<sup>16</sup>Hooks, B. (1981). *Ain't I a Woman: Black Women and Feminism*. South End Press.

<sup>17</sup>MacKinnon, C. (1987). *Feminism Unmodified: Discourses on Life and Law*. Harvard University Press.

<sup>18</sup> A gender-related advertisement must be designed in accordance with good marketing practice (see section 1 of the Marketing Practices Act (A Danish Law)) to the effect that it does not contain or is suited to promote sex discrimination.





that both genders can equally handle physiologically; or  
e. Conveys a derogatory or contemptuous impression that one gender possesses particular negative personality traits or characteristics.

As in India there are rarely any specific law that directly relate to gender advertising, however gender advertising within the context of international law, as it pertains to India, can be understood as an intersectional global framework that advocate for gender equality and the prohibition of discrimination. International conventions and treaties play a significant role in shaping national policies and practices regarding gender representation in advertising. One of the most influential documents is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which India ratified in 1993. CEDAW aims to eliminate discrimination against women in all areas, including media and advertising. It emphasizes the need for positive portrayals of women and calls for measures to combat stereotypes that perpetuate inequality. By aligning with CEDAW, India is encouraged to adopt regulations that promote gender-sensitive advertising practices.

Additionally, the Universal Declaration of Human Rights (UDHR) 1948, articulates fundamental rights and freedoms applicable to all individuals, including the right to freedom of expression. However, this right must be balanced with the responsibility to avoid harmful or discriminatory representations, particularly in advertising. The principles outlined in the UDHR can guide advertising practices to ensure they uphold human dignity and respect all genders.

Moreover, the Beijing Declaration and Platform for Action from the 1995 Fourth World Conference on Women provides a comprehensive policy agenda for promoting gender equality. It highlights the importance of media in shaping perceptions and encourages member states to eliminate gender stereotypes in advertising. The commitments made under this declaration can serve as benchmarks for India in developing its policies on gender advertising.

In practice, India's legal framework, including the Advertising Standards Council of India (ASCI) guidelines and the Consumer Protection Act of 2019, reflects the principles of these international instruments. ASCI's guidelines advocate for respectful and dignified representations of all genders, aligning with global standards for ethical advertising. The Consumer Protection Act empowers consumers to challenge misleading or harmful advertisements, promoting accountability within the advertising sector.

Overall, the impact of the harmonious approach between international law and India's national policies regarding gender advertising fosters a framework aimed at promoting gender equality and preventing discrimination. By adhering to these international standards, India can advance ethical advertising practices that respect the rights and dignity of all genders, contributing to a more equitable society.



## **CONSTITUTION OF INDIA: CONCEPT OF GENDER JUSTICE ENCIRCLING ANTI-GENDER ADVERTISEMENT APPROACH**

The Constitution of India establishes a foundational framework for gender equality and the protection of women's rights, which significantly influences gender marketing practices. Key provisions advocate for the empowerment and fair representation of women, particularly in advertising. Article 14 ensures equality before the law, mandating that marketing practices treat all individuals equally without derogatory representations. Article 15 prohibits discrimination based on gender, reinforcing the legal framework against gender bias and allowing for special provisions for women's welfare.

Article 21, which guarantees the right to life and personal liberty, has been interpreted to include the right to dignity, urging gender marketing to avoid objectification and harmful portrayals. The Directive Principles of State Policy, especially Articles 39(a) and 39(e), promote equal pay for equal work and advocate for equitable opportunities, encouraging advertisers to consider gender parity in their campaigns. Overall, the Constitution provides a robust legal framework that fosters ethical and responsible gender marketing, contributing to an inclusive society that respects the dignity of all genders.

The inappropriate and stereotypical portrayal of women is a global issue, affecting both developed and developing countries. Despite the presence of laws and policies, this problem persists. Numerous studies conducted in India indicate a regressive narrative regarding women in advertising, which has sparked significant public concern and outrage, prompting policy interventions over time. Notably, the enactment of the Indecent Representation of Women (Prohibition) Act in 1986, along with efforts to amend it in 2012 and 2018, highlights this ongoing issue. According to the Act, "No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of any advertisement which contains indecent representation of women in any form." However, the term "indecent" is subject to interpretation.

Guidelines such as the Doordarshan Code for Advertisers and the codes set forth by industry self-regulatory bodies, including the Advertising Standards Council of India (ASCI) and the Broadcasting Complaints Council of India (BCCI), reference Rule 7 of the Advertising Code from the Cable and Television Network Rules of 1994. This rule states that no advertisement should present a derogatory image of women. It emphasizes that women should not be depicted in ways that highlight passive or submissive traits, nor should they be encouraged to assume subordinate roles in family and society. Additionally, cable operators must ensure that the portrayal of women in programs adheres to standards of good taste and decency. Nonetheless, many advertisements from various brands continue to violate these established norms.





A Gender-sensitive regulation in advertising is a pressing global issue. Different countries have adopted various strategies to tackle the problematic representation of women in media, including advertising. Some have chosen legislative measures, while others rely on self-regulation within the industry. There are also perspectives that advocate for a collaborative approach between governments and the industry to achieve gender-sensitive advertising. In Europe, many countries have developed regulatory frameworks, while India stands out in Asia as the only nation with specific legislation addressing the indecent representation of women. The Indian government actively issues advisories to the industry and relevant bodies, a practice that often attracts criticism from free speech advocates.

It's important to note that prior to the establishment of such laws, the issue of "freedom of speech and expression" was addressed by the Supreme Court in 1960 during the case of *Hamdard Dawakhana v. The Union of India*<sup>19</sup>. In this ruling, the Court stated that a distinction should be made between commercial advertising and advertising that aims to express or propagate ideas. Only the latter, the Court ruled, could claim full protection under Article 19(1)(a) of the Constitution. This means that while advertisements are a form of speech, their true essence is determined by the purpose for which they are created. Consequently, the right to publish and distribute commercial advertisements is seen as a means of promoting personal business interests, which does not fall under the freedom of speech guaranteed by the Constitution.

### **INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986**

This law prohibits the depiction of women in a way that is indecent, derogatory, or denigrating. It applies to print, media, and advertisements. It is a significant piece of legislation in India aimed at addressing the portrayal of women in media and advertising. This act is crucial for understanding gender advertising, as it seeks to prohibit the indecent representation of women in advertisements, films, and publications. Below is a detailed overview of the Act and its implications for gender advertising.

The Act was enacted in response to growing concerns about the objectification and commodification of women in media. The Act defines "indecent representation" as any depiction of a woman's form or figure in a manner that is derogatory, promotes stereotypes, or is intended to be sexually provocative. It explicitly prohibits the depiction of women in a manner that is indecent or derogatory. This includes representations that exploit or demean women's dignity, reinforce stereotypes, or depict them in sexually suggestive contexts. The Act applies to various media forms, including advertisements, films, and publications. This broad scope underscores the government's commitment to combating the objectification of women across different platforms.

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<sup>19</sup>AIR 1960 SC 554.



The Act prescribes penalties for those found guilty of violating its provisions, which can include fines and imprisonment. This deterrent aims to encourage compliance among advertisers and media producers. While empowering the government to regulate content that is deemed indecent, thereby holding advertisers accountable for the representations they choose to promote.

The Indecent Representation of Women Act serves as a crucial regulatory framework for advertisers. By prohibiting indecent representations, the Act compels companies to be more mindful of how they portray women in their marketing campaigns. This can lead to a more respectful and dignified representation of women, ultimately contributing to changing societal attitudes toward gender.

The focus on preventing derogatory portrayals helps challenge long-standing stereotypes that have been perpetuated through advertising. By setting legal boundaries, the Act encourages brands to explore diverse and empowering narratives for women, moving away from traditional roles that often limit their representation to domestic or sexualized images. The Act aligns with broader goals of gender equality by addressing the ways in which advertising can influence public perception and societal norms. By curbing indecent representations, the law aims to create a more equitable environment where women are depicted as individuals with agency and capabilities, rather than as objects.

In response to the provisions of the Act, many companies have begun to adopt more gender-sensitive advertising strategies. This includes using diverse representations of women, highlighting their achievements, and steering clear of stereotypical portrayals. The Act has led to a shift in the advertising landscape, where brands are increasingly aware of the potential backlash from consumers and advocacy groups for non-compliance.

### **THE ADVERTISING STANDARDS COUNCIL OF INDIA (ASCI)**

ASCI has guidelines that address stereotyping in advertising. The Advertising Standards Council of India (ASCI) was established in 1985 as a self-regulatory body with the primary aim of promoting ethical advertising practices across the nation. This initiative was a response to rising concerns about misleading advertisements and the need for a framework that could govern advertising standards effectively. ASCI's core mission revolves around ensuring that advertisements are truthful, decent, and not misleading, which fosters a sense of trust between consumers and brands. In the context of gender advertising, ASCI plays a pivotal role by advocating for responsible representations of gender and addressing issues related to stereotypes and discrimination.

ASCI was formed to uphold the interests of both consumers and advertisers, emphasizing the need for ethical standards in advertising. Its formation reflects a collective acknowledgment



within the industry about the responsibility that advertisers hold in shaping public perceptions. Membership in ASCI includes representatives from a variety of sectors, such as advertising agencies, media outlets, and advertisers themselves. This diversity within the council allows for the development of comprehensive guidelines that resonate with best practices in the industry, providing a solid foundation for ethical advertising.

Central to ASCI's efforts is the Code for Self-Regulation in Advertising, which outlines the standards advertisers are expected to follow. This code acts as a reference point for advertisers and agencies, ensuring compliance with ethical norms. Within this framework, ASCI has established specific guidelines that address gender representation in advertising. These guidelines are designed to promote gender sensitivity and prevent the reinforcement of harmful stereotypes. For instance, ASCI explicitly discourages advertisements that portray individuals in ways that reinforce traditional gender roles. Advertisements should avoid depicting women solely in domestic roles or men as overly aggressive, thereby promoting a more balanced representation of gender.

Respectful representation is another cornerstone of ASCI's guidelines. Advertisements must depict individuals in a dignified manner, steering clear of derogatory or degrading portrayals of any gender. This approach not only promotes equality but also fosters inclusivity within advertising narratives. ASCI also aims to combat the objectification of women in advertisements. Rather than focusing solely on physical appearance or sexualization, advertisements should highlight the capabilities, achievements, and individuality of both men and women. This shift towards recognizing the full humanity of individuals helps to reshape societal attitudes about gender.

Given India's diverse cultural landscape, ASCI emphasizes the importance of sensitivity to cultural context in advertising. Advertisers are encouraged to consider the societal norms and values that prevail in different regions, ensuring that their representations are appropriate and respectful. This cultural awareness is crucial for ensuring that advertisements do not inadvertently offend or alienate segments of the population.

ASCI also provides a platform for consumers and stakeholders to lodge complaints regarding advertisements they find misleading or objectionable, including those related to gender representation. Upon receiving a complaint, ASCI initiates a review process that evaluates the advertisement against the established code and guidelines. If a violation is identified, ASCI may recommend modifications or withdrawal of the advertisement. Additionally, ASCI periodically issues advisories and updated guidelines to address emerging trends in advertising, ensuring that advertisers stay informed about best practices and evolving societal expectations.



The impact of ASCI's guidelines on gender advertising has been significant. Many brands have begun to reassess their advertising strategies in light of these guidelines, recognizing the importance of responsible portrayals of gender. This shift can positively influence brand reputation and consumer trust. By challenging traditional stereotypes and promoting diverse representations, ASCI contributes to broader efforts aimed at fostering gender equality within society. Advertisements that reflect varied roles for both genders can play a vital role in reshaping societal attitudes and perceptions.

Despite its positive contributions, ASCI faces challenges. As a self-regulatory body, its authority is limited compared to statutory regulatory agencies, relying largely on the voluntary compliance of advertisers. This can sometimes lead to inconsistent adherence to the established guidelines. Moreover, public awareness of ASCI's guidelines and complaint processes remains limited, making it essential to increase understanding of its role and the importance of responsible advertising among both consumers and advertisers. Additionally, the subjectivity inherent in interpreting what constitutes a stereotype or offensive portrayal can complicate the review process, highlighting the need for clearer definitions and standards.

The Advertising Standards Council of India plays a crucial role in fostering responsible gender advertising in India. Through its guidelines and self-regulatory framework, ASCI encourages advertisers to adopt ethical practices that respect and dignify all genders. While there are challenges related to enforcement and public awareness, ASCI's influence on the advertising landscape contributes significantly to broader societal goals of gender equality and respect. As India continues to evolve, ASCI's role in monitoring and shaping gender representations in advertising will remain vital, influencing how gender is perceived and portrayed in the media.

### **THE CONSUMER PROTECTION ACT OF 2019**

The Act of 2019 is a significant piece of legislation in India that aims to safeguard consumer rights and promote fair trade practices. While the Act encompasses various aspects of consumer protection, it indirectly addresses issues related to gender advertising by emphasizing the need for truthful and non-misleading representations in advertisements. The Act defines various consumer rights, including the right to be informed about the quality, quantity, and price of goods and services, which implicitly includes the nature of advertisements that consumers are exposed to.

In the context of gender advertising, the Act mandates that all advertisements must not only be truthful but also respectful, thereby encouraging brands to avoid reinforcing harmful stereotypes or presenting gender in a derogatory manner. Advertisers are held accountable for misleading or offensive representations that could exploit societal norms or perpetuate discrimination based on gender. The Act empowers consumers to file complaints against misleading advertisements,



which can include those that violate principles of gender sensitivity and equality. This framework encourages brands to adopt responsible advertising practices, ensuring that their messaging aligns with contemporary values of inclusivity and respect for all genders. By reinforcing consumer rights in the context of advertising, the Consumer Protection Act of 2019 contributes to a more equitable representation of gender in the advertising landscape, promoting a culture where all individuals are portrayed with dignity and fairness.

### Judicial Intervention in the Field of Gender Advertisement

Judicial activism against commodification of women in the form of gender advertisement can be seen by the sensitive yet stringent approach reflected in few of the very progressive judgments in this context. In the case of *Ranjit D. Udeshi vs. State of Maharashtra*<sup>20</sup>, the criteria for determining obscenity were established. The appellant, a bookseller, was convicted under Section 292 of the Indian Penal Code for selling an unexpurgated edition of *Lady Chatterley's Lover*. The ruling emphasized that when evaluating a work, one should not focus solely on individual words or passages; instead, the entire work must be considered as a whole. However, any obscene content should also be examined separately to assess whether its nature is so offensive that it could corrupt those susceptible to such influences. The interests of contemporary society, particularly the potential impact of the disputed book, should not be overlooked in this assessment. When obscenity is intertwined with artistic expression, art must dominate to the extent that the obscenity is diminished or trivialized, rendering it inconsequential. It is essential to strike a balance between "freedom of speech and expression" and "public decency or morality," but if the latter is significantly violated, the former must yield.

In the case of *Chandrakant Kalyandas Kakodar vs. State of Maharashtra and Ors*<sup>21</sup>, the Court noted that there are no fixed rules for determining obscenity, as its interpretation can vary widely from one country to another based on the prevailing moral standards of society. In the case of *Chandra Raja Kumari v. Police Commissioner, Hyd*<sup>22</sup>, it was determined that the right to life encompasses the right to live with human dignity. As a result, beauty contests were deemed incompatible with the dignity of women, violating Article 21 of the Constitution. Similarly, in *Ajay Goswami v. Union of India*, the case addressed obscene content in newspapers by referencing various laws, including the Indian Penal Code and the Indecent Representation of Women (Prohibition) Act. It also suggested that the Press Council's authority to impose censure should be reevaluated. The petitioner, a lawyer, argued that the freedom of speech for newspapers does not adequately protect children from harmful content. Although the writ

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<sup>20</sup>AIR 1965 SC 881

<sup>21</sup>AIR 1970 SC 1406.

<sup>22</sup>AIR 1991 SC 1848.



petition was dismissed, the court urged the government to consider the Press Council's request for amendments in the interest of public safety.

In the case of *Laxmi v. Union of India*<sup>23</sup>, although primarily a case about acid attacks, the Supreme Court's observations about media portrayals and the objectification of women were significant. The court pointed out the need for responsible media representation that does not commodify women or reduce them to objects of desire. In *Ajay Goswami v. Union of India*<sup>24</sup>, the court addressed the balance between freedom of speech and protecting children from harmful content in media. The Supreme Court noted the importance of regulating content that objectifies women and can have adverse effects on societal attitudes and children's development.

### **CONCLUSION:**

In conclusion, gender advertisements frequently reinforce existing divides and perpetuate harmful biases by portraying men and women in traditional roles that dictate their behavior, appearance, and interests, thus limiting individual expression and choices. They often objectify women, focusing on their physical appearance rather than their skills or achievements, which not only diminishes their value to mere attractiveness but also normalizes the notion that their worth is tied to their looks. This portrayal influences consumer behavior and public perceptions, fostering acceptance of traditional gender roles in various contexts. Moreover, the unrealistic standards set by these advertisements can negatively impact self-esteem, especially among women, leading to a cycle of discontent and feelings of inadequacy. By continually depicting gender in a biased manner, advertising plays a significant role in shaping societal norms and values, contributing to the normalization of inequality and making it more challenging to address these entrenched issues. To promote a more equitable society, it is crucial for advertisers to challenge these representations and create content that embraces diversity, empowerment, and equality, ultimately reshaping perceptions of gender and reducing biases to foster a more inclusive environment.

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<sup>23</sup>(2014) 4 SCC 427.

<sup>24</sup>AIR 2007 SC 493.