

भारत सरकार
सूचना और प्रसारण मंत्रालय
केन्द्रीय फिल्म प्रमाणन बोर्ड



GOVERNMENT OF INDIA
MINISTRY OF INFORMATION & BROADCASTING
CENTRAL BOARD OF FILM CERTIFICATION

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No. M/595/2021

IMPORTANT COMMUNICATION NO. 2/2021

To
All Applicants/
CBFC Registered Users

Date: 24.3.2021

Subject: - CRITERIA FOR QUALIFICATION OF BRAND EXTENSION PRODUCT

As per Cable Television Network Rules 1994, under the provisions of Rule 7 (Advertising Code), sub-rule (2), clause (viii)(A), No advertisement shall be permitted which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants.

Provided that a product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants, may be advertised on cable service subject to the certain conditions being met. These conditions have been enforced vide Ministry of Information and Broadcasting Notification dated 27.2.2009 [GSR 138(E)] that is enclosed herewith.

The Advertising Code as amended vide the said GSR, makes it **mandatory for advertisers to approach Central Board of Film Certification (CBFC) to get such brand extension advertisements duly certified by it.**

Further, according to Sub-Rule (9) of Rule 7 (Advertising Code), 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, for time to time, shall be carried in the cable service. In this regard, it is to bring to the notice of all concerned that ASCI has recently amended its earlier 2012 Guidelines for Qualification of Brand Extension Products and these amended Guidelines (enclosed) will come into effect from 1st April 2021.

In the light of these amendments in ASCI Guidelines and under the provisions of Advertising Code, Advertisers of brand extension products, while applying to CBFC for certification, must ensure that following criteria is satisfied:

(I) **PRODUCT RELATED CONDITIONS: (in the form of documentary submissions at the time of application to CBFC)**

(1) Registration of Brand Extension Product with appropriate Government authority eg. GST/ /FDA/ FSSAI/Trademark Authority, etc

(2) A certificate by a registered Chartered Accountant establishing that the proposed expenditure on advertising of brand extension product shall not be disproportionate to the actual sales turnover of the product.

(3) **A) For a brand that is present in the market for >2 years,**

A valid certificate from an independent organization such as NielsenIQ or category specific industry association, or an **independent and reputed CA firm** clearly stating that Sales Turnover of the product or service exceeds Rs.5 crore per annum nationally or Rs 1 crore per annum per state where distribution has been established.

B) Brand extensions which have been launched in the market, but haven't yet completed 2 years :

A valid certificate from a **reputed and independent CA firm** establishing that **any one** of the following criteria is met by the advertiser:

- i. Achieve a net sales turnover of Rs. 20 lakhs per month from launch. Such sales should not be to a subsidiary or sister concern.
- ii. Demonstrate fixed asset investments which are exclusive to the advertised brand extension of not less than Rs. 10 crore. Such assets could be land, machines, factory, software, etc., in case the product is being manufactured/ developed by the advertiser. No advertising related expense should be part of such investments.
- iii. In case the manufacturing/ procurement of such brand extensions is being outsourced, then evidence may include board resolutions and purchase orders for long term (> 1 year) contracts with service providers/ manufacturing entities, stating their capacities, and contracted volumes/ Rupee value, that clearly demonstrate the possibility of achieving the turnover as laid out in criteria 3B (i).
- iv. Give evidence of turnover greater than 10% of the turnover of the same brand in the restricted category (including sub brands in the restricted category).

Irrespective of the length of time the brand has been in the market, date of launch would be considered as date of the first invoice for sale for the said brand extension.

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(II) CONTENT RELATED CONDITIONS:

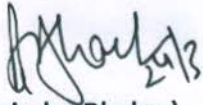
Advertisement of the product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants, must satisfy **all the following conditions**:-

- (i) the story board or visual of the advertisement must depict only the product being advertised and not the prohibited products in any form or manner;
- (ii) the advertisement must not make any direct or indirect reference to the prohibited products;
- (iii) the advertisement must not contain any nuances or phrases promoting prohibited products;
- (iv) the advertisement must not use particular colours and layout or presentations associated with prohibited products;
- (v) the advertisement must not use situations typical for promotion of prohibited products when advertising the other products:

If a brand extension cannot meet the qualification criteria as mentioned in (I) and (II) above, for the purpose of the CBFC Certification, it would not be considered a genuine brand extension, but rather a surrogate created to advertise a restricted category.

For compliance,

Enclosures: as above


(Ravinder Bhakar)
Chief Executive Officer

Copy to,

- 1 Joint Secretary(P&A) , Ministry of I&B
- 2 Director (BC) Ministry of I&B
- 3 Director (Films) Ministry of I& B
- 4 All Regional Officers
- 5 Secretary General ASCI
- 6 NSDL e-Gov (for website upload)
- 7 Notice Board

ASCI. Guidelines for Qualification of Brand Extension- Product or Service

In order to evaluate the genuineness of an unrestricted product or service brand extension of a product (e.g. liquor and tobacco) whose advertising is prohibited by law, The Advertising Standards Council of India (ASCI) has decided the following objective criteria to be used to qualify a correct Brand Extension product or service (see Chapter III Clause 3.6 (a) of ASCI code):

1. Brand Extension Product or Service should be registered with appropriate Government authority eg. GST/ /FDA/ FSSAI/TM etc.
2. **A) For a brand that is present in the market for >2 years, the following criteria would apply**
 - i. Sales Turnover of the product or service should exceed Rs .5 crore per annum nationally or Rs 1 crore per annum per state where distribution has been established.

A valid certificate from an independent organization such as NielsenIQ or category specific industry association, or an independent and reputed CA firm would be required to prove the concerned criteria.

B) Brand extensions which have been launched in the market, but haven't yet completed 2 years must meet any one of the following criteria

- i. Achieve a net sales turnover of Rs. 20 lakhs per month from launch. Such sales should not be to a subsidiary or sister concern.
- ii. Demonstrate fixed asset investments which are exclusive to the advertised brand extension of not less than Rs. 10 crore. Such assets could be land, machines, factory, software, etc., in case the product is being manufactured/ developed by the advertiser. No advertising related expense should be part of such investments.
- iii. In case the manufacturing/ procurement of such brand extensions is being outsourced, then evidence may include board resolutions and purchase orders for long term (> 1 year) contracts with service providers/ manufacturing entities, stating their capacities, and contracted volumes/ Rupee value, that clearly demonstrate the possibility of achieving the turnover as laid out in criteria 2B (i)
- iv. Give evidence of turnover greater than 10% of the turnover of the same brand in the restricted category (including sub brands in the restricted category)

All the above evidence should be certified by a reputed and independent CA firm.

Irrespective of the length of time the brand has been in the market, date of launch would be considered as date of the first invoice for sale for the said brand extension.

If a brand extension cannot meet the qualification criteria, for the purpose of the ASCI code it would not be considered a genuine brand extension, but rather a surrogate created to advertise a restricted category.

MINISTRY OF INFORMATION AND BROADCASTING

NOTIFICATION

New Delhi, the 27th February, 2009

G.S.R. 138(E).— In exercise of the powers conferred by sub-section (1) of Section 22 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995); the Central Government hereby makes the following rules further to amend the Cable Television Networks Rules, 1994, namely:-

1. (1) These rules may be called the Cable Television Networks (Amendment) Rules, 2009.

(2) They shall come into force on the date of their publication in the official gazette.

2. In the Cable Television Networks Rules, 1994, in rule 7, in sub-rule (2), in clause (viii), after sub-clause (A), the following shall be inserted, namely :—

“Provided that a product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants, may be advertised on cable service subject to the following conditions that –

(i) the story board or visual of the advertisement must depict only the product being advertised and not the prohibited products in any form or manner;

(ii) the advertisement must not make any direct or indirect reference to the prohibited products;

(iii) the advertisement must not contain any nuances or phrases promoting prohibited products;

(iv) the advertisement must not use particular colours and layout or presentations associated with prohibited products;

(v) the advertisement must not use situations typical for promotion of prohibited products when advertising the other products:

Provided further that -

(i) the advertiser shall submit an application with a copy of the proposed advertisement along with a certificate by a registered Chartered Accountant that the product carrying the same name as cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants is distributed in reasonable quantity and is available in a substantial number of outlets where other products of the same category are available and the proposed expenditure on such advertising thereon shall not be disproportionate to the actual sales turnover of the product:

(ii) all such advertisements found to be genuine brand extensions by the Ministry of Information and Broadcasting shall be previewed and certified by the Central Board of Film Certification as suitable for unrestricted public exhibition and are in accordance with the provisions contained in sub-clause (i) to (v) of the first proviso, prior to their telecast or transmission or retransmission.”

[F. No. 3105/14/2008-BC-III]

ZOHRA CHATTERJI, Jt. Secy.

Foot Note:- The principal rules were published in the Gazette of India in Part II, Section 3, Sub section (i), vide number G.S.R. 729 (E), dated the 29th September, 1994 and lastly amended vide number G.S.R. 104 (E), dated 25th February, 2008.