



Surrogate Advertising in India

–Yugank Goyal

'Surrogate advertising' is one of the emerging ethical issues in advertising in India. This is used as a strategy to advertise products like liquor or tobacco – advertisement of which otherwise, is banned in our country. It relates to advertising by duplicating the brand image of one product extensively to promote another product of the same brand. When consumers look at these advertisements, they associate these with banned products. Hence, such products are indirectly advertised, and therefore, influence their behaviour. There has not been any study or a survey that quantitatively confirms whether surrogate advertisements indeed increase the sale of liquor and tobacco. Such a study, would however, be a mammoth task.

This Briefing Paper lays stress on the need to undertake research on three studies on time periods. The first one for a period when surrogate advertisements were not in place, and all advertisements of liquor and tobacco were banned. Second phase will include the study of consumption pattern while surrogate advertisements were being aired. Econometric checks on other factors, like increase in purchasing power and reduction in prices of liquor need to be controlled to remove any spurious correlations. Such a research may shed light on whether surrogate advertisements actually inflate demand or not.

Introduction

The efficient regulation of consumer information is an essential feature of any active democratic society. However, its dimensions have constantly been a source of criticism from media and civil society groups, either for lack of effectiveness or for rigidity on supply-side. One important function, which remains the bone of contention amongst civil rights activists and liberals, is paternalistic purpose of information regulation. This has assumed a greater role in regulations that govern advertisements and their content. While it is imperative that consumers are informed about what they purchase in order to ensure their protection from unsafe products and unfair sales, it is widely held that many a times consumers, in their buying decisions, do not act in their own interest (even if informed appropriately).

Certain intervening steps, therefore, need to be undertaken by the government to regulate their consumption behaviour and force them do things which they would not do unless compelled by law. One way of achieving this is to manipulate information; primarily by withholding it. Low quantum of advertisements of certain goods means less information in the market, consequently reducing the demand and consumption of the product concerned. This is precisely the rationale of prohibition of advertisements of tobacco and liquor products in Indian Cable TV Network Regulation Act,

1995. The Indian government has banned advertisements of these products on grounds that they seriously jeopardise the health of the consumers, especially youth. The idea is to stop advertising these products so as to reduce the demand arising out of increased publicity. Another view is to bolster general public opinion whereby such advertisements are opposed by a major section of the society.

However, government's policy has not been entirely successful. Firstly, it is unwise to assume that such a regulation will have a sizeable impact, given that the same products, even if not advertised, are anyways available in the market and consumers are well aware of it. Secondly, and more importantly, affected companies have devised novel methods to circumvent the law and attune their strategy to exploit loopholes existing in the regulation. Companies have resorted to other means of advertising their brands. This chiefly comes in form of *surrogate advertising*.

Concept

Surrogate, in dictionary, means 'substitute'. The term has often been used in connection with 'surrogate motherhood'. The concept is not different in advertising as surrogate advertisements do not exhibit the banned product *per se*, with an aim to keep the brand name of those products alive, whose advertisements have been

banned. This is done by introducing, for example, other non-alcoholic or harmless products under the same brand name. This way liquor and tobacco companies launch entirely different products keeping the same brand name (hence the term, 'surrogate'). Such an alternative channel to remind prohibited products through constant publicity of its brand name used for other innocuous products is called surrogate advertising.

Consider the advertisement of Bagpiper soda – *khoob jamega rang jab mil baithenge teen yaar – aap, hum aur bagpiper club soda*. The advertisement basically promotes a soda manufactured by the company Bagpiper. Liquor manufactured by the same company is also branded under the same name, i.e. 'Bagpiper'. Hence, the soda advertisement actually acts as a surrogate to liquor manufactured under the same brand name. The advertisement, featuring cine star Akshay Kumar, is driven by sets, ambience and art that particularly suite a whiskey commercial. Such heavy and extensive promotion of another product of the same brand is surrogate in nature.

India under the Lens

Protests against liquor advertisements have taken place in the UK by British housewives. The liquor industry in the UK was innovative enough to figure a way out. It started a series of surrogate advertisements for fruit juices, cocktail mixers and soda water, using the same brand names of their popular alcohol¹. In India, prominent players in the field of surrogate advertising are liquor, cigarette and *paan masala* and *gutkha* manufacturing companies as the following examples show:

- Bagpiper Soda and Cassettes and CDs
- Haywards Soda
- Derby Special Soda
- Gilbey Queen Acqua
- Royal Challenge Golf Accessories and Mineral Water
- Kingfisher Mineral Water
- White Mischief Holidays
- Smirnoff Cassettes and CDs
- Imperial Blue Cassettes and CDs
- Teachers Achievements Awards
- Red & White Bravery Awards
- Wills Lifestyle
- Four Square White Water Rafting
- Manikchand Awards

It is clear that advertising these products serves the sole purpose of furthering the cause of banned products since there is nothing common in cassettes, CDs, sports accessories and liquor! In 2002, for example, the manufacturers of Aristocrat Whiskey, Jagjit Industries, advertised 'Aristocrat Apple Juice'. The company confirmed the availability of fruit juice in Delhi, Haryana, Punjab and Rajasthan; yet, no major shops have ever sold it². Obviously, the aim of launching these products is an effort towards bypassing the advertisement ban.

Further, the revenue generated by such products is only a small fraction of the entire turnover of the company. Had it only been for the sale of these products, the companies would never be spending such huge amounts of money in advertising. Of course, exceptions of Kingfisher Airlines and the like apply, which generate a sizeable proportion of revenue for the brand 'Kingfisher.'

The Industry Argues....

The primary defence from the industry sector comes in the form of undeniable necessity. If brand has equity, which is truly an achievement, why should it not be allowed to advertise? Also extending a brand to other products is available in plethora of other commodities, not necessarily liquor or tobacco. In such debates, a strong stance has been maintained by the Confederation of Indian Alcoholic Beverages Companies (CIABC). Their argument seems logically easy to a layman's understanding. However, on closer look, the hidden agenda of eclipsing liquor and tobacco in the cover bearing same names in different products cannot be ignored. This is clearly meant to taking advantage of legal loopholes.

Moreover, it is argued that once a product is sold, whether advertisement ban has any sizeable effect, if at all. Others argue that if the government is so keen on 'refining' society by curtailing sale and discouraging people from buying liquor or tobacco, it should ban the product itself. This standpoint gains more favour in view of the fact that as long as a product is sold, prospective buyers will have information regarding the same anyways, and efforts in curtailing the information flow will be exercised in futility.

Another important point is that curtailed and incomplete information does more harm than good however important a restriction is. In fact, the more harmful a product is, the higher a need arises for accurate and full fledged information. In absence of information, consumers – who would anyway buy – fail to distinguish between varying qualities of the product. For example, without proper knowledge, a more refined and a less refined tobacco would be difficult to be differentiated by a consumer. Such an information asymmetry has severe side effects.

Demand pattern for these products may cease to be quality driven. In such a scenario, prices will not reflect quality. One can imagine a scenario where poor quality goods assume high value, and good quality ones are sold at lower prices. Also, bad quality products may outsell their good quality counterparts³, which in extreme cases may be driven out of the market. These scenarios have never been so explicitly observed in markets, but they do not refute any economic analysis of market.

In the tobacco market, sale of *bidis* (inferior quality smoking tobacco) is in large numbers, even when many rich consumers (in villages) can afford cigarettes (notwithstanding the addictive effects of inferior quality tobacco too). It is also observed that people smoke

unfiltered tobacco, because they do not know about comparative benefits of a filter. By the time they receive information indirectly, they are already addicted to unfiltered quality of cigarettes.

Goods sold in the market can be of three kinds: search, experience and credence goods. Search goods are those whose quality can be determined during purchase, and prior to their consumption. Sale of vegetables in an open market (*mandi*) is an example of the same. Quality of experience goods can be ascertained only after the purchase and consumption. Canned vegetables or a car constitute its examples. Lastly, for credence goods, quality can never be ascertained. Think of the example of bio-fresh vegetables. Even after consumption, one cannot know whether the egg he consumed was biologically farmed.

It is easy to imagine that experience and credence goods *must* be advertised. Success of credence goods mainly depends on trust between manufacturing company and customer. In case of experience goods, information dissemination assumes a pivotal role too. Since people will not be able to know the quality of such a product before they consume it, they need to be aware of the options and possible benefits from each of different alternatives they have before deciding upon their purchases. It is easy to imagine liquor and tobacco products as experience goods, or credence goods in certain circumstances. One cannot know whether a specific whiskey or cigarette really gives a consumer the satisfaction promised outside. Also customer relies on information provided by different tobacco or liquor companies on the packet/bottle.

Such information can be ignored by a large number of buyers. This is because of: (a) illiteracy of consumers in India; and (b) consumer's choice of being rationally ignorant. After all, transaction cost (in terms of time and efforts) of reading the fine print on bottle and going through the minutest detail about ingredients is high; and practically, nobody does so. This makes it all the more important for these products to be advertised. Consumers, without proper information, can never make intelligent and appropriate decision about buying such experience and credence goods. Withholding information in this sector therefore builds a case for exploitation more than benefit, in one sense. Some classification can put liquor and tobacco strictly under credence goods too, without altering the necessity of advertisement.

The Flip Side of the Coin

Surrogate advertisements have several undeniable disadvantages, which have outweighed the industrial standpoint. The products are undoubtedly harmful for health. But they contribute huge revenue to the government exchequer at the same time too⁴. Hence, a complete ban on those products is not practical. What could be possible policy alternatives with the government by way of which their consumption can be inhibited? One way is to restrict its supply only to those

who value it most. Hence, heavy excise duty and import tariffs are imposed. Product prices are therefore kept artificially high, so as to take it away from reach of those who cannot afford – and thereby, reducing its impact on those who would not be able to afford the treatment of after-effects of consumption of such products.

Another added restriction is placed by banning the sale of tobacco and liquor to citizens below a certain age. This is a blanket restriction policy to suppress demand and therefore supply. People below a certain age cannot be relied to take best decision for themselves, especially because of the intoxicating effect, addictive nature and short term pleasure entailed in consumption of liquor and tobacco. Hence, these products are kept out of reach of certain section of population. However, a large chunk of population still has undeterred access to liquor and tobacco. One way of reducing that number further is to shrink the publicity and glorification of these products so as to deflate the public hysteria and attraction associated with them.

Advertisements are a means of information exchange that help in placing a check on deceptive and incomplete information. However, advertisements of liquor and tobacco products can be viewed as a publicity exercise. It is believed that withholding publicity naturally brings a drop in buying pattern of individuals. It is important to note that advertisements of liquor and tobacco cannot show positive or beneficial effects of consumption simply because there are none. However, they lure customers by establishing their products as status symbols. In other words, such advertisements try to affix a 'social standard' to consumption of their brand of liquor or tobacco. Usually, they employ cine-celebrities and the like to establish a link between high social strata individuals and liquor/tobacco.

This creates an artificial demand, because people can easily get carried away looking at their idols endorsing certain product. The manner in which these products are shown to be endorsed evolves a positive connotation with them. Affinity of liquor/tobacco is shown to be exercised by a class of individuals who general masses look up to. Once consumption of the same starts in society's upper class, members right below start imitating them. This gives a hugely inflated push to image of the brand, which subsequently turns into a chain reaction, whereby brand following and loyalty trickles down slowly through social ladder. Over a period of time, consumers cease to think of harmful affects of liquor/tobacco and start thinking of them as brands.

Once the commodity dilutes itself in brand name, it is extremely difficult to alter buying behaviour of the consumers. People have stopped wearing ordinary shirts, but only wear Louis Philippe, Van Heusen or Arrow. Similarly, how a person will not drink anything but Johnny Walker. And it goes without saying that once a person starts buying brand (and not commodity) he ends up over-spending and over-consuming. This is important to realise. Brands create an aura around themselves. This compels loyal followers to remain anywhere but outside

that aura. This is especially true when brands become a means to reflect well-being or status consciousness, especially in middle and upper middle class, the culture of brands has had an irreplaceable impact. How brands have shaped consumer preferences and inflated consumerism in itself is amply evident in any survey of economies growing at seven-eight percent per annum, which is definitely the case with India.

The point of the matter is, therefore, that advertisements of liquor and tobacco have been successful in creating a brand image, which drives an excessive demand of these products. Clearly, the government does not want that. Hence, regulation placed a ban on advertising in any form of these products. This ban is not only justified in light of the above mentioned arguments, but also due to the forced demand effect of advertisements in general. By banning advertisements of these products, the government's aim is to restrict the growth of a product as a brand. In doing so, it rightly targets in removing the status associated with a brand of liquor or tobacco, so that consumption and demand is not artificially created.

It goes without saying, therefore, that surrogate advertising actually renders this very purpose of government's policy void. Surrogate advertising does exactly the opposite of what government proposes to do. They infuse life into a brand which the government would rather see dead. Not only that; surrogate advertisements grow the brand name under new product launch. This retains the vigour and vitality of a brand, thus enlivening it in minds of people who would otherwise might not buy them. In other words, surrogate advertisements encourage dormant consumers. By dormant, they are characterised by those consumers who would otherwise not buy liquor/tobacco but do so only when enticed by glorious advertisements. The government targets precisely this class of population to disenchant them from consuming alcohol/tobacco. And surrogate advertisements aim to bring back the same group into their following!

Naturally, all harm associated with drinking and smoking accruing to that group can be attributed to surrogate advertisements. A market survey in 2001 revealed that advertising has a direct influence on the consumption habits of 431 million people in India and an indirect impact on 275 million 'aspirants' from the lower income group. Considering this, and realising that nearly 50 percent of the television owners have access to cable channels, there is no doubt that the hidden call for alcohol consumption behind the surrogate advertisements is not escaping the eyes of viewers in the world's fourth highest liquor-consuming country.

The very purpose of banning liquor advertisements is defeated by surrogate advertising. This is exacerbated by the fact that several sociological studies show that, in India, a significant share of income of a large section of the population is spent on liquor, potentially leading to financial distress and health hazards. According to the

International Wine and Spirit Board, a liquor industry publication, there will be a jump in the number of people reaching the legal drinking age of 25 within the next few years⁵. The implication is that the problem is going to grow.

Scope of Regulations

Surrogate advertising basically reflects a loophole in the law. The government issued a notification banning surrogate advertising of liquor in print, electronic and outdoor media. A notification was issued on February 25, 2008, amending the Cable Television Networks Rules, 1994 to the effect that no advertisement shall be permitted which promotes directly or indirectly, sale or consumption of cigarettes, tobacco products, wine, alcohol or liquor. Information and Broadcasting Minister P R Dasmunshi told *Lok Sabha* (Lower House of Parliament) in a written reply that even the Press Council of India, a statutory autonomous body, has laid down norms for journalistic conduct under Article 13 (2)(b) of the Press Council Act 1987, stating that "*no advertisement shall be published, which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products and other intoxicants*"⁶.

Dasmunshi verbally assured his cabinet colleague and Union Health Minister A Ramadoss that all surrogate advertisements would soon be barred from appearing in any form of media and stricter measures of surveillance to identify such advertisements would be put in place. Ramadoss has been spearheading a campaign against tobacco and alcohol companies on the ground that the products seriously jeopardise the health of the youth⁷. It also ruled that that if liquor companies promote any juice, mineral water or soda, these should be shown in a proper manner and not as trimmings to liquor advertisement. These steps, although welcome are set to blow up in a full fledged dispute between the Government and broadcasters/advertisers. How justified is government's decision is a matter of numbers and opinions.

Conclusion

There has not been any study or a survey that quantitatively confirms whether surrogate advertisements indeed increase the sale of liquor and tobacco. Such a study, would however, be a mammoth task as well. The recourse left with government is to take a policy decision based on the public opinion. Usual public debate generates strong sentiments against liquor companies. Several tobacco campaigns are a result of rise in number of smoking related diseases in young population of the country. Health problems are increasing in upwardly mobile population of the country as consumption is rising alarmingly. Around 15 to 20 percent of Indians consume alcohol and over the past 20 years, the number of drinkers has increased considerably from one in 300 to one in 20⁸!

A feasible research is to undertake three studies on time periods. The first one for a period when surrogate advertisements were not in place, and all advertisements of liquor and tobacco were banned. Second phase will include the study of consumption pattern while surrogate advertisements were being aired. Econometric checks on other factors, like increase in purchasing power and reduction in prices of alcohol need to be controlled to remove any spurious correlations. Such a research may shed light on whether surrogate advertisements actually inflate demand or not.

However, as of now, there is near unanimity in policy circles that surrogate advertisements should be banned. Even though regulatory authorities have taken heed, enforcement is still elusive. There should be more stringent regulatory measures to curb the practice, such as⁹:

- making transparent laws banning surrogate advertisements for different products under a single brand names, for instance, by amending the Trade Marks Act;
- providing teeth to the Advertising Standards Council of India (ASCI) to enable it take action against false and misleading advertisements, and keep a close vigil over clever evasion of the law;
- asking the electronic and print media to adhere to the advertisement codes and not to entertain surrogate advertisements;
- calling on the ASCI address complaints received from consumers against surrogate advertisements and taking appropriate actions immediately;
- creating a consumer awareness programme to help people understand the negative impact of surrogate advertisements;
- adopting strict laws to penalise those companies featuring surrogate advertisements without any real existence of the product; and
- requiring advertising agencies to have full knowledge of the products under the same brand for which they are promoting advertisements, and taking legal actions against those agencies which design surrogate advertisements.

Endnotes

- 1 Mehta, Pradeep S, "Surrogate Advertising – Needed a spirited attack", *The Hindu Business Line*, May 23, 2003
- 2 *Ibid*
- 3 Akerlof, George A. (1970). "The Market for 'Lemons': Quality Uncertainty and the Market Mechanism". *Quarterly Journal of Economics* 84 (3): 488–500
- 4 Most of the states obtain 15-20 percent of their revenue from alcohol. This is the second largest source of a states' exchequer
- 5 Supra No.1
- 6 "Government issues notification banning surrogate liquor ads" *The Economics Times*, March 18, 2008
- 7 "Surrogate Ads will be stopped, assures I&B" *The Times of India*, March 08, 2008
- 8 Choudhary, Pritha Roy "Young India says Cheers as alcohol consumption goes up". <http://www.merinews.com/catFull.jsp?articleID=126059> last accessed on June 25, 2008. Also quoted with added information in http://www.ias.org.uk/resources/publications/theglobe/globe200103-04/gl200103-04_p27.html accessed on June 30, 2008
- 9 Supra No.1

This Briefing Paper is written by **Yugank Goyal**, for CUTS Centre for Competition, Investment & Economic Regulation (CUTS C-CIER)

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