

Skin Colour Bias: Understanding the Intersection of Media Representation and Advertising Ethics in India

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Abstract

This paper briefly highlights and comments upon the deteriorating ethics in advertising in India by using fairness cream advertisements as an example to show how such advertisements are indorsing existing biases of gender and skin colour in the society. Fairness cream brands are often accused of attaching too much importance to ‘whiteness’ or ‘fairness’ in their products by portraying that light and fair skin tone is key to having prestige, power and status in life. These advertisement are also accused of encouraging pre-existing gender and colour prejudices prevalent in the society by preying upon the careerist and consumerist desires of young women and men in the society. More importantly, such advertisements also raise issues of ethics or good conduct in doing business.

Keywords: Advertising, Ethics, Fairness Cream, Skin Colour and Television

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Introduction

The advertising industry in a short span of time has become a major symbol of India's globalized economy. Post globalisation, factors such as increase in the purchasing power of the middle class, higher demand for goods, more production to meet the growing demand etc., have contributed to the exponential growth of the advertising sector in India.¹ The advertising industry in India is currently worth Rs. 56,490 crore despite witnessing a slump in 2020 due to the Covid-19 pandemic. However, as per a recent report, 'the advertising industry is expected to make a comeback and will grow by 10.8 per cent to reach Rs. 62,577 crore by the end of 2021. Furthermore, it is expected to grow even more and reach Rs. 70,343 crore by 2022.'²

Due to the competitive nature of a globalized and liberalized market, businesses often use the tool of advertising to get ahead of their competitors. This is done in order to attract consumers and to ensure the continuous large scale production of goods.³ Note that, use of advertising in any given highly consumption rich culture (including the Indian market) is believed to be essential for businesses to stay both visible and relevant.⁴ Businesses use advertising not just to sell their products (based on usefulness) but they also try to shape a consumer's beliefs and values so as to influence his/her decision making abilities in choosing a particular product.⁵ However, in doing so, businesses tend to abuse the relationship between them and the consumers which is mostly built on trust. Most advertisements have often been accused of deception, of being offensive and promoting harmful stereotypes in the society.⁶ For example, fairness cream advertisements in India have been accused of promoting negative stereotype against dark-skinned people. The aggressive marketing campaigns by fairness cream brands often using Bollywood celebrities to promote 'fair' as beautiful and 'dark' as ugly has not only brought forth India's own understanding of colourism or colour based discrimination but has also raised the issue of ethical advertising.

¹ Kulveen Trehan and Gaurav Kr. Singh, *Deceptive Practices in Indian Advertising: A Content Analysis of Print and Television Advertisements Violating the Guidelines of Advertising Standard Council of India*, INTERNATIONAL JOURNAL OF BUSINESS ETHICS IN DEVELOPING ECONOMICS 30, 30 (2013).

² Indian advertising industry to grow 10.8% to Rs 62,557 crore by 2021-end, Business Today (May 08, 2021, 5.20 PM) <https://www.businesstoday.in/current/economy-politics/indian-advertising-industry-to-grow-108-to-rs-62557-crore-by-2021-end/story/430461.html>

³ Anisha Dutta, *Fair's Unfair: Simulations of Consumption and Career in Indian Advertising*, INTERNATIONAL JOURNAL OF THE HISTORY OF SPORT 1628, 1628 (2008).

⁴ Varisha Rehman, *Revisiting the fairness paradigm in India: Synthesis of literature and application of the self-concept theory*, SOCIETY AND BUSINESS REVIEW 31, 32 (2019).

⁵ Rabia Rauf, Sohail Kamran and Najeeb Ullah, *Marketing of Skin Fairness Creams And Consumer Vulnerability*, CITY UNIVERSITY RESEARCH JOURNAL 546, 550 (2019).

⁶ ROBERT AUDI, BUSINESS ETHICS AND ETHICAL BUSINESS 53 (Oxford University Press 2004).

In this backdrop, this paper will briefly highlight and comment upon the deteriorating ethics in advertising in India by using fairness cream advertisements as an example to show how such advertisements are indorsing the existing biases of gender and skin colour in the society.

1. India's Fairness Cream Market

The preference for fair skin and the stigma attached to dark skin in the Indian society is one of the main reasons that 'the Indian fairness cream market is reported to be worth nearly Rs. 3,000 crore, according to the India Fairness Cream & Bleach Market Overview (2018-2023).'⁷ Companies such as Hindustan Unilever Limited, Emami Limited, L'Oréal have earned profits for decades by encouraging negative stereotype against dark-skinned people through their marketing campaigns. For instance, one of the most recognized fairness cream brands in the Indian market, 'Fair and Lovely', is believed to be worth Rs. 2,200 crore with a market share of 42%. According to Hindustan Unilever, seven out of 10 women use 'Fair and Lovely' every year in India.⁸ Emami, maker of the 'Fair and Handsome' product also believes that 'a fair complexion has always been associated with success and popularity. Men and women alike desire fairness, it is believed to be the key to a successful life.'⁹

Every fairness cream brand operating in the Indian market essentially uses the same formula of always shaming a young girl either by her friends or family for having dark skin and not doing enough to lighten it. Each girl in these advertisements is seen doubting her self-worth and social position because of her dark skin. It is only when she applies a fairness cream and magically transforms her skin colour she becomes confident and is accepted by society.¹⁰ Thus, these advertisements legitimize the existing prejudices in our society especially those associated with gender and beauty. Further, a strong message in these advertisements is to simply whitewash one's skin in order to break free from social prejudices.¹¹

⁷ Pia Krishnankutty, Before Fair & Lovely, there was Afghan Snow - all about the fairness creams market in India, The Print (May 08, 2021, 5.50 PM) <https://theprint.in/theprint-essential/before-fair-lovely-there-was-afghan-snow-%E2%81%A0-all-about-the-fairness-creams-market-in-india/449045/>

⁸ Shuchi Bansal and Suneera Tandon, The big disruption for the cream of creams, Live Mint (May 08, 2021, 5.52 PM) <https://www.livemint.com/industry/advertising/the-big-disruption-for-the-cream-of-creams-11593950683076.html>

⁹ Shehzad Nadeem, *Fair and Anxious: On Mimicry and Skin-Lightening in India*, SOCIAL IDENTITIES 224, 224 (2014).

¹⁰ *Id* at p. 225.

¹¹ Srividya Ramasubramanian and Parul Jain, *Gender Stereotypes and Normative Heterosexuality in Matrimonial ads from Globalizing India*, ASIAN JOURNAL OF COMMUNICATION 253, 258 (2009).

‘The wish to lighten one’s skin is a way of fleeing the contingency of life, forged as it is in a crucible of status insecurity, economic uncertainty, and western hegemony. It is the flight from something pitied (darkness) and the chasing of something prized (fairness). Global processes intensify these aspirations, eliciting both curiosity about other ways of being and anxiety about one’s place in the world.’¹²

As mentioned above, fairness cream advertisements have only mirrored the pre-existing beliefs associated with gender and beauty in the Indian society. Being fair-skinned or having a light skin tone is somehow nowadays synonymous to having a successful life or having the possibility of attracting a successful life partner. Note that, traditionally, the pressure to have a fair skin tone has always been on young girls in the Indian society and as a result, most fairness cream brands have marketed their products to attract female consumers, however, in recent years, a number of products have been launched claiming to give men fair skin as well. Words such as, ‘white’, ‘bright’, ‘light’, ‘fair’, ‘high-definition glow’, ‘dark spot removal’ are now aggressively used as part of marketing strategy by brands to attract as many consumers as possible.

Note that, Hindustan Unilever Limited recently had to rebrand, post criticism, its popular skin lightening cream ‘Fair and Lovely’ and drop the word ‘fair’ from it and replace it with the word ‘glow’ (‘Glow and Lovely’).¹³ However, the commercial providing this information uses a fair-skinned actress to model the new product. Further, the actress is seen claiming that ‘Glow and Lovely’ will go beyond giving ‘*nikhaar*’ (Glow) to the skin and now will provide HD glow to the skin.¹⁴ But, the question is, will replacing the word ‘fair’ in a product that has made profits for decades by promoting whiteness, put an end to discrimination based on skin colour in India?

Further, in a television commercial for ‘Fair and Handsome’, a “dark-skinned” young man (who has been made to look dark for the commercial) in a gym is seen applying a fairness cream meant for women. He is noticed doing this by Shah Rukh Khan (popular Bollywood actor) who advises him to use ‘Fair and Handsome’ because it is meant for men’s tough skin

¹² Nadeem *supra* note 9 at 225.

¹³ Geeta Pandey, Fair and Lovely: Can renaming a fairness cream stop colourism?, BBC (May 08, 2021, 5:55 PM) <https://www.bbc.com/news/world-asia-india-53182169>

¹⁴ Fair & Lovely is now Glow & Lovely Glow and Lovely India, Youtube (May 08, 2021, 5:59 PM) <https://www.youtube.com/watch?v=p9oJrnP3p0A>

and will give him instant fairness. After applying 'Fair and Handsome' the "dark-skinned" young man is transformed into a fair-skinned man and as he walks out of the gym, several fair-skinned girls are seen immediately attracted towards him because of his fair skin.¹⁵

The next section discusses why television as a medium is used by popular fairness cream brands to reinforce skin colour preference in India.

2. Media Influence on Identity Formation in India

The role of contemporary media, especially television and its influence on identity formation based on skin colour is often overlooked in the discourse on ethics in advertising. Most fairness cream brands rely heavily on the use of television advertisements to sell their products. Fairness cream brands use popular media personalities such as actors, actresses, models who are light-skinned to market their products and promote a homogenised body image. Television as a medium is chosen by businesses simply because of its vast reach and impact on the Indian society. Television plays a significant role in shaping our attitude, outlook and lifestyle and moulds the stances we take in our everyday lives.¹⁶ Yet, there has been no extensive research done to examine the enforcement of skin colour bias through television advertisements in India.

It is argued that television plays a significant role in perpetuating skin colour bias in the Indian society.¹⁷ Note that, portrayal of various social stereotypes by the media through advertising are only the reflection of prevailing social norms in the society. Most of such images that are communicated through advertisements present a narrow view on gender and gender roles and target women and minority groups.¹⁸ For instance, the manner in which fair-skinned people are depicted as more beautiful, worthy, intelligent, and competent and dark-skinned people as dirty, lazy, and ignorant not only reinforces existing stereotypes of gender and body image but also ensures the continuity of such stereotypes.¹⁹ Again, compared to men, women tend to

¹⁵ Fair and Handsome - World's no.1 fairness cream for men - Full Commercial Fair and Handsome, Youtube (May 08, 2021, 6.01 PM) <https://www.youtube.com/watch?v=Zv0vhpaB2Zo>

¹⁶ Cynthia Sims and Malar Hirudayaraj, *The Impact of Colorism on the Career Aspirations and Career Opportunities of Women in India*, ADVANCES IN DEVELOPING HUMAN RESOURCES 38, 46 (2016).

¹⁷ Mallika Das, *Gender Role Portrayals in Indian Television Ads*, SEX ROLES 208, 208 (2011) - 'Television ads present idealized (rather than typical) images of appropriate behaviours and roles for men and women, making television advertising an important factor in developing notions of what appropriate behaviours and roles are for each sex.'

¹⁸ Aisha Phoenix, *Colourism and the politics of beauty*, FEMINIST REVIEW 97, 101 (2014).

¹⁹ Nazia Hussein, *Colour of Life Achievements: Historical and Media Influence of Identity Formation Based on Skin Colour in South Asia*, JOURNAL OF INTERCULTURAL STUDIES 403, 405 (2010).

appear more often in advertisements for household products and personal or beauty products and are often shown in the role of housewives. Television because of its impact is seen as a critical agent of shaping social behaviour as it influences all age groups in accepting a certain notion of gender and gender roles. More importantly, televised images transfer information at a rate where it is nearly impossible to escape its influence.²⁰

Having briefly mentioned about fairness cream advertisements and the role of television in promotion of socially constructed stereotypes in the society, the next section highlights some of the key features of the regulatory framework in place to ensure the use of ethics in the promotion of products through the mode of advertising in India.

3. Regulation of Advertising in India

A. ASCI's Code for Self-Regulation

The self-regulatory body for advertising in India, the Advertising Standards Council of India (ASCI) says that it is committed to ensuring the protection of the interest of consumers.²¹ ASCI's Code for Self-Regulation, a step in this direction, seeks to ensure that advertisements are legal, decent, honest and truthful and not hazardous or harmful.²² As per the fundamental principles of the ASCI's Code for Self-Regulation, the practice of advertising is required to ensure that there is truthfulness and honesty of representations in the claims made in advertisements and that the consumers are to be protected from misleading advertisements.²³ The Code also emphasises upon the general public's right to expect that the content of advertisements will be presented fairly, intelligibly and responsibly.²⁴ It can be argued that, the guidelines in the ASCI's Code is largely based around the idea of following ethics (meaning good conduct). Advertisers, advertising agencies and media to whom the Code is applicable are expected to adopt a practice that differentiates between good and bad conduct. In other words, their actions should be governed by moral values and principles keeping in mind the best interest of the consumers and the society at large.

²⁰ Das *supra* note 17 at 210.

²¹ The Code for Self-Regulation of Advertising Content in India (May 08, 2021, 6.21 PM) <http://iprmentlaw.com/wp-content/uploads/2018/03/ASCI-Code.pdf>

²² The Code for Self-Regulation of Advertising Content in India.

²³ The Code for Self-Regulation of Advertising Content in India.

²⁴ The Code for Self-Regulation of Advertising Content in India.

Note that, after concerns were raised about fairness cream brands misleading the public, the ASCI framed specific guidelines for advertising of fairness and skin lightening products. As per the guidelines:

- ‘1. Advertising should not communicate any discrimination as a result of skin colour. These advertisements should not reinforce negative social stereotyping on the basis of skin colour. Specifically, advertising should not directly or implicitly show people with darker skin, in a way which is widely seen as, unattractive, unhappy, depressed or concerned. These advertisements should not portray people with darker skin, in a way which is widely seen as, at a disadvantage of any kind, or inferior, or unsuccessful in any aspect of life, particularly in relation to being attractive to the opposite sex, matrimony, job placement, promotions and other prospects.
2. In the pre-usage depiction of product, special care should be taken to ensure that the expression of the model/s in the real and graphical representation should not be negative in a way which is widely seen as unattractive, unhappy, depressed or concerned.
3. Advertising should not associate darker or lighter colour skin with any particular socio-economic strata, caste, community, religion, profession or ethnicity.
4. Advertising should not perpetuate gender based discrimination because of skin colour.’²⁵

B. The Drugs and Magic Remedies (Objectionable Advertisements) (Amendment) Bill, 2020

The Ministry of Health and Family Welfare, Government of India has also proposed amendments to The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954. The proposed bill is called The Drugs and Magic Remedies (Objectionable Advertisements) (Amendment) Bill, 2020.²⁶

Under the proposed bill some of the notable amendments are as follows:

1. Section 2 (a) of the 1954 Act which defines ‘advertisement’ is amended in the following manner:

²⁵ The Code for Self-Regulation of Advertising Content in India.

²⁶ Draft of the Drugs and Magic Remedies (Objectionable Advertisements) (Amendment) Bill 2020.

1954 Act – (a) ‘advertisement’ includes any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light, sound or smoke;

2020 Bill – (a) ‘advertisement’ means any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice, banner, poster or such other documents;

2. Section 7 of the 1954 Act which deals with penalty is amended in the following manner:

1954 Act – Whoever contravenes any of the provisions of this Act [or the rules made thereunder] shall, on conviction, be punishable—(a) in the case of the first conviction, with imprisonment which may extend to six months, or with fine, or with both;

(b) in the case of a subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.

2020 Bill – Whoever contravenes any of the provisions of this Act [or the rules made thereunder] shall, on conviction, be punishable—(a) in the case of first conviction, with imprisonment which may extend to two years and fine upto ten lakh rupees.

(b) in the case of a subsequent conviction, with imprisonment which may extend to five years and fine upto fifty lakh rupees.

3. The 2020 bill also proposes adding ‘**Fairness of the skin**’ to The Schedule of the 1954 Act (The Schedule provides a list of diseases and disorders which are prohibited under the Act from being advertised).

Conclusion

Fairness cream advertisements appeal to the pre-existing prejudices associated with gender and skin colour in the Indian society. While most fairness cream brands blatantly contravene the specific ASCI’s guidelines on advertising fairness products, some brands have now cleverly chosen to escape scrutiny by highlighting certain ‘other benefits’ (such as protection of the skin) in their products through advertisements than choosing to solely rely on the fairness aspect. However, a close perusal of such advertisements only reveal the many manipulative and deceptive techniques adopted by fairness cream brands to attract more young consumers by giving them false hope. The proposed amendments to The Drugs and Magic Remedies

(Objectionable Advertisement) Act, 1954 is a welcome step in putting a stop to such advertisements. Further, inclusion of audio or visual publicity, representation in the definition of 'advertisements' under the proposed amendments will also help in the regulation of media and stop the promotion of skin colour bias through the use of television advertisements.

It will be, however, a challenge for the new law when it comes into force to differentiate between the many claims and counter claims vis a vis the benefits (real or perceived) that these fairness cream advertisements make considering the fact that people (both producers and consumers) are still caught up in the vicious cycle of fairness, whiteness and beauty. Moreover, the success or the failure of the law in curbing advertisements that perpetuate biases associated with gender and skin colour will also have a lasting impact on the level of importance given by advertising industry to ethics in conducting business or building trust with the consumers.
