



Annexure - VII

**PROHIBITION OF INDECENT REPRESENTATION OF WOMEN AND CHILDREN ACT, 2008.
AMENDMENT TO INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986.
(10TH AUGUST 2009)**

	PRESENT PROVISION	PROPOSED	Justification
Section 1 - Short title, extent and commence ment	<p>(1) This Act may be called the Indecent Representation of Women (Prohibition) Act, 1986.</p> <p>(2) It extends to the whole of India, except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	<p>Chapter 1 : short title</p> <p>(1) This Act may be called the Prohibition of Indecent representation of Women and Children Act, 2008.</p> <p>(2) It extends to the whole of India, except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	<p>It is proposed to recast the entire present Act and frame the legislation afresh</p>

Section 2 – Definitions		Chapter II Definitions	
Section 2 (a)	Section 2 (a) "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas;	Section 2 (a) "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light including laser Light, sound, smoke, gas, fibre optic, electronic or any other media.	To widen the scope of the Act and its applicability
Section 2(b)	Not present	Section 2(b) "authority" means the Central authority under section 9 of the Act designated to regulate/prohibit indecent representation of women	To create a mechanism within the act to ensure that provisions of the act are implemented
Section 2 (c)	"distribution" includes distribution by way of samples whether free or otherwise	Section 2 (c) "distribution" includes distribution by way of samples whether free or otherwise	



Section 2 (d)	(c) "indecent representation of women" means the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigrating, women, or is likely to deprave, corrupt or injure the public morality or morals;	Section 2 (d) "Indecent representation of women" means (i) depiction of women as a sexual object which is lascivious or appeals to the prurient interests; or (ii) depiction in any manner of the figure of a woman, her form or body or any part thereof In such a way as to have the effect of being indecent or derogatory to or denigrating women; or which is likely to deprave, corrupt or injure the public morality or morals."	
Section 2(d) (e) and	No change	No change proposed in the remaining sections	
(f)	proposed	2(d) (e) (f) but they will re-numbered as (e) (f) and (g)	

<p>New clause to be introduced after existing sec.2(f) as section 2 (g)</p>	<p>Not in present law</p>	<p>Section 2 (h) 'publish means to prepare, to print or to distribute to anyone for publishing in any book, newspaper, magazine, posters, graffiti or periodicals or electronically/digitally conceived/perceived files distributed through audiovisual media including computer, satellite related /connected intra or internet communications</p>	<p>To extend the applicability of the Act to visual media and computer, including internet</p>
		<p>Chapter III provisions relating to prohibition and penalties</p>	
<p>Section 3</p>	<p>Sec 3. Prohibition of advertisements containing indecent representation of Women-</p>	<p>Section 3 Prohibition of advertisements containing indecent or derogatory representation of</p>	



	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	Women- 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 or derogatory representation of women in any form	
Section 4 -	Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women No person shall produce or cause to produce, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film writing, drawing, painting, photograph, representation or figure which contains indecent representation of women	Section 4 .Prohibition of publication or sending by post of books, pamphlets, etc; containing indecent representation of women- No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post or by any other means any book, pamphlet, paper, slide, film writing, drawing, painting, photograph,	Widen the scope of the Act inclusion of term “ by any other means “

	in any form	representation or figure which contains indecent representation of women in any form	
Section 5	PRESENT section 5 Present provision deals with powers to enter and search which is proposed to be dealt with separately in the proposed amendment		
section 5 PRESENT section 6 Present provision deals penalty	section 6 Penalty- Any person who contravenes the provisions of Section 3 or Section 4 shall be punishable on imprisonment of either description for a term which may <i>extend to two years, and with fine which may extend to two thousand rupees</i> , and in the even of a second or subsequent conviction with imprisonment for term of <i>not less than six months but which may extend to five years and also with a fine not less</i>	Proposed section 5 Penalty- (1) Any person who Contravenes the provisions of Section 3 and 4 shall be punishable for imprisonment of either description for a term not less than to two months which may extend to <i>two years, and with fine which may extend to two thousand rupees</i> , and in the event of a second or subsequent conviction with imprisonment for	



	<p><i>than ten thousand rupees but which may extend to one lakh rupees.</i></p>	<p><i>term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to five lakh rupees.</i></p>	
<p>New section 6</p>	<p>Section 7 of present Act Offences by companies.- (1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this subsection shall render any</p>	<p>Proposed section 6 Offences by companies.- (1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p>	

	<p>such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.</p>	<p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.</p>	
6(2)	<p>Present section 7 (2)</p> <p>Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager,</p>	<p>Proposed section 6 (2)</p> <p>Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such</p>	



	<p>secretary or other officer shall be proceeded against and punished accordingly.</p> <p>Explanation – For the purpose of this section.-</p> <p>"company" means any body corporate and includes a firm or other association of individuals; and</p> <p>"Director", in relation to a firm, means a partner in the firm.</p>	<p>director, manager, secretary or other officer shall be proceeded against and punished accordingly.</p> <p>Explanation – For the purpose of this section.-</p> <p>"company" means any body corporate and includes a firm or other association of individuals; and</p> <p>"Director", in relation to a firm, means a partner in the firm.</p>	
New section 7	Present section 8 Offences to be cognizable and bailable (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable.	Proposed section 7 Offences to be cognizable and bailable (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this	

	(2) An offence punishable under this Act shall be cognizable.	Act shall be bailable. (2) An offence punishable under this Act shall be cognizable.	
		Chapter IV CENTRAL AUTHORITY	
Section 8	Does not exist	8. Central Authority- 1. The Central Government shall appoint a Central Authority to govern and regulate the manner in which women are represented in any document published/broadcast/telecast; 2. The Authority shall be headed by the Member Secretary, National Commission for Women and shall have representatives from Advertising Standards Council of India, Press Council of India, Ministry of Information and Broadcasting and one	



		member experienced in working on women's issue to be nominated by the National Commission for Women;	
Section 9	Present section 9 deals with Powers to enter and search which is dealt with separately	Section 9 – Powers and functions of the Central Authority – The Central Authority shall have the following powers and functions in respect of complaints a. To receive appeals/complaints or grievances regarding a programme or an advertisement broadcast or publication and adjudicate on the same in accordance with its procedure ; b. investigate , take suo moto notice and examine all matters relating to complaints under section 292-294 of the IPC , in so far it	

		<p>relates to and concerns women and the indecent representation of women Act as defined under Section 2 of the Act;</p> <p>Or refer the case to the authorized bodies under section 9 of the Act</p> <p>c.To requisition tapes of any program or advertisement or publication as deemed necessary.</p> <p>d. To consider such complaints and facilitate their settlements by passing a reasoned decision in writing within 60 (sixty) days of receipt of the said appeal/complaint.</p> <p>e. To function in consonance with the principles of natural justice and give its</p>	
--	--	---	--



		<p>decisions based on the written statement filed by a complainant and after providing a reasonable opportunity.</p> <p>f. Recommend to the Central Government, guidelines or norms or amendments of prescribed guidelines or norms, in the light of its experience in the discharge of its functions, as well as on such other issues as may be referred to it by the Government;</p> <p>g. Lay-down the standards of quality of service to be provided by the service providers/advertisers /publishers etc and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of</p>	
--	--	---	--

		<p>broadcasting service;</p> <p>h. coordinate with the respective state governments for effective implementation of the provisions of the Act;</p> <p>i. monitor administer and promote standards of advertising practices in India with a view to ensuring that Advertising is not offensive to generally accepted norms and not indecent as defined in the Act</p> <p>j. promote code for Self-Regulation in Advertising, media and publishing</p> <p>(2) For the purpose of performing its functions or holding any inquiry under this Act, the Committee l shall have the same powers throughout India as are vested in a civil court</p>	
--	--	---	--



		<p>while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:--</p> <p>(a) summoning and enforcing the attendance of persons and examining them on oath;</p> <p>(b) requiring the discovery and inspection of documents;</p> <p>(c) receiving evidence on affidavits;</p> <p>(d) requisitioning any public record or copies thereof from any court or office;</p> <p>(e) issuing commissions for the examination of witness or documents; and</p>	
--	--	--	--

		<p>(f) Any other matter, which may be prescribed.</p> <p>(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).</p>	
Section 10	Does not exist	<p>10. Orders that may be passed by the Authority:</p> <p>1. If the Authority comes to a conclusion that the advertiser or the publisher is at default, it may:</p> <p>(i) Direct it not to telecast or advertise or publish the objectionable programme or advertisement pending decision;</p> <p>(ii) Direct suitable edition to the advertisement or the programme, as the case</p>	



		<p>maybe,</p> <p>(iii) Direct that such an advertisement or the programme, as the case maybe, shall not be broadcast;</p> <p>(iv) Direct to broadcast/publish an apology/disclaimer/warning in a suitable manner as may be prescribed by it;</p> <p>(v) Pass any other orders as it may deem fit.</p> <p>2. In cases where the Authority does not find any merit in the Complaint, the authority may:</p> <p>i. Dismiss the complaint;</p> <p>ii. Dismiss the Complaint with costs in cases where the Committee finds that the complaint was with malafides;</p>	
--	--	--	--

		3. The orders passed by the authority shall be sent to the complainant and the advertiser /publisher /broadcaster.	
Section 11	Not present in the previous act	11. Complaints: 1. Any person, group of persons, organization may make a complaint before the Central Authority about the any representation in violation of section 3 and 4 of the Act after paying the requisite fee; 2. The Complaint shall be in writing and indicate clearly the nature of publication and the manner in which it came to the notice of the Complainant;	
New section 12	Present section 5 Powers to enter and search.- (1) Subject to such rules as may be	New section 12 Powers to enter and search.- (1) Subject to such rules as may be	



	<p>prescribed, any Gazetted Officer authorized by the State Government may, within the local limits of the area for which he is so authorized:-</p> <p>enter and search at all reasonable times, with such assistance, if any , as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;</p> <p>seize any advertisement or any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;</p>	<p>prescribed, any Gazetted Officer authorized by the Central authority may, within the local limits of the area for which he is so authorized enter and search at all reasonable times, with such assistance, if any , as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;</p> <p>seize any advertisement or any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;</p> <p>examine any record, register, document or</p>	
--	--	---	--

	<p>examine any record, register, document or any other material object found in any place mentioned in Cl.(a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.</p> <p>Provided that no entry under this sub-section shall be made into a private dwelling-house without a warrant:</p> <p>Provided further that the power of seizure under this sub-section may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing if the advertisement cannot be separated by</p>	<p>any other material object found in any place mentioned in Cl.(a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.</p> <p>Provided that no entry under this sub-section shall be made into a private dwelling-house without a warrant:</p> <p>Provided further that the power of seizure under this sub-section may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or</p>	
--	---	---	--



	reason of its being embossed or otherwise from such document, article or thing without affecting the integrity, utility or saleable value thereof.	thing if the advertisement cannot be separated by reason of its being embossed or otherwise from such document, article or thing without affecting the integrity, utility or saleable value thereof.	
12 (2)	Present section 5(2) The provisions of the Code of Criminal Procedure, 1973(2 of 1974), shall, so far as may be, apply to any search or seizure made under the authority of a warrant issued under Sec.94 of the said Code.	Renumbered as section 12(2_)	
12(3)	Present section 5 (3) Where any person seizes anything under Cl.(b) or Cl.(c) of sub section (1), he shall, as soon as may be, inform the nearest Magistrate and take his orders as to the custody thereof.	Renumbered as section 12(3)	

12(4)	Not in present provisions	Section 12(4) the state governments shall within a period of 3 months from the date of commencement of the Act , by official notification nominate such number of gazetted officers as considered necessary for the purposes of section 22(1) (2) and (3)	Make provisions mandatory for notification of officers
New section 13	Present sec 9 Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or intended to be done under this Act.	Proposed sec 13 Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against any member /official of the council , the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or	



		intended to be done under this Act.	
New section 14	No provision in present law	Section 14 Duty to self regulate Every advertisement agency, media group, production house, publications engaged in the production/display of ad-films, advertisements shall be under an obligation to create and maintain a self regulatory mechanism , which would scrutinize examine every such film, advertisement both in print and film and any other entertainment product made for public circulation and private circulation and shall certify the document fit for public use and not contravening provisions of the Act then permit	

		exhibition to the public or any group of body;	
Section 15 -	<p>Present section 10</p> <p>Power to make rules</p> <p>(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>-</p> <p>(a) the manner in which theseizure of advertisements or other articles shall be made, and the manner in which the seizure list shall be prepared and delivered to the person from whose custody any advertisement</p>	Renumbered as section 15	



	<p>or other article has been seized;</p> <p>(b) any other matter which is required to be, or may be, prescribed.</p> <p>(3) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be;</p>		
--	--	--	--

	<p>so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>		
<p>New section 16</p>		<p>Section 16 - Repeal and savings - Repeal and savings.- (1) The Indecent representation of Women (prohibition) Act, 1986 is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.</p>	