



**The Drugs and  
Magic Remedies  
(Objectionable  
Advertisements)  
Act 1954**

BY

Sohansinh Vaghela  
SIPS, Gandhinagar

# Introduction

- The Drugs and Magic Remedies (Objectionable Advertisements) Act is an Act No. 21 of 1954,
- Enforced on 1st of April 1955.
- The Drugs and Magic Remedies (Objectionable Advertisements) Rules, 1955.



# Introduction

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# Introduction

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# OBJECTIVE

- An Act To control the advertisement of drugs in certain cases
- To prohibit the advertisement for certain purposes of remedies alleged to possess magic qualities...



## (Section 1)

- **The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 is an Act No. 21 of 1954**
- It extends to the whole of India, except the state of Jammu & Kashmir.
- It was came into force by Gazette notification on 1st April, 1955.

## (Section 2) Definitions

- **‘Drug’ includes**
- (i) A medicine for the internal or external use of human beings or animals;
- (ii) Any substance intended to be used for or in the diagnostic, cure, mitigation , treatment or prevention of disease in human beings or animals;
- (iii) Any article, other than food, intended to affect or influence in any way the structure or any organic function of the body of human beings or animals;
- (iv) Any article intended for use as a component of any medicine, substance/article, referred to in sub-clauses (i), (i) and (iii);

## (Section 2) Definitions

- **‘Magic remedy’ includes**
- A talisman, mantra, kavacha and any other charm of any kind which is alleged to possess miraculous powers for or in the diagnosis, cure, mitigation, treatment or prevention of any disease in human beings or animals or for affecting or influencing in any way the structure or any organic function of the body of human beings or animals;



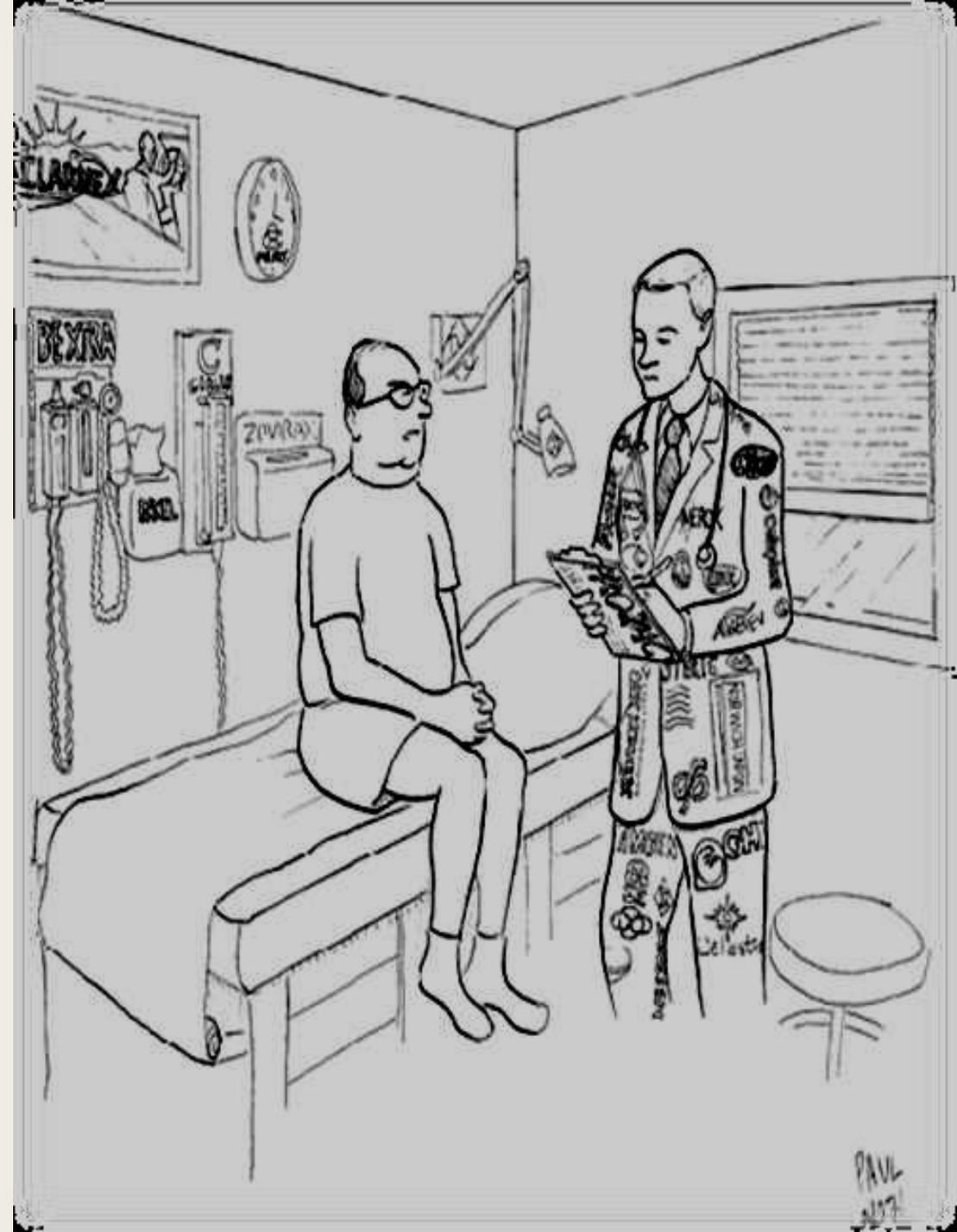
## (Section 2) Definitions

- ‘Advertisement’
- ‘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;



## (Section 2) Definitions

- ‘Taking any part in the publication of any advertisement’ includes -
  - (i) the printing of the advertisement;
  - (ii) the publication of any advertisement outside the territories to which this Act extends by or at the instance of a person residing within the said territories;



# Prohibitions - Section 3

- Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement referring to any drug in terms which suggest or are calculated to lead to the
- use of that drug for –
  1. *The procurement of **miscarriage in women or prevention of conception in women**; or*
  2. *The maintenance or **improvement** of the capacity of human beings for **sexual pleasure**; or*
  3. *The **correction of menstrual disorder** in women; or*

# Prohibitions - Section 3

- use of that drug for –
  4. *The diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the **Schedule J**, or any other disease, disorder or condition (by whatsoever name called) which may be specified in the rules made under this Act.*

# Prohibitions - Section 3

**Provided that no such rules shall be made except –**

- (i) in respect of any disease, disorder or condition which requires **timely treatment in consultation with a registered medical practitioner** or for which there are normally **no accepted remedies**, and
- (ii) after consultation with the Drug Technical Advisory Board constituted under the Drugs and Cosmetics Act, 1940 and, if the Central Government considers necessary, with such order persons having **special knowledge or practical experience in respect of Ayurvedic or Unani systems** of medicines as that Government deems fit.

# Prohibitions - Section 3

## **Prohibition of Misleading Advertisements Relating To Drugs**

- Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement relating to a drug if the
- advertisement contains any matter which –
  - a) Directly or indirectly gives a false impression regarding the true character of the drug; or
  - b) Make a false claim for the drug; or
  - c) Is otherwise false or misleading in any material particular.

# Prohibitions - Section 3

## Prohibition Of Advertisement Of Magic Remedies For Treatment Of Certain Diseases And Disorders

- No person carrying on or purporting to carry on the profession of administering magic remedies shall take any part in the publication of any advertisement referring to any magic remedy which directly or indirectly claims to be efficacious for any of the purpose specified in Section 3.



# Prohibitions - Section 3

## **Prohibition of Import Into, And Export From India of Certain Advertisements**

- No person shall import into, or export from, the territories to which this Act extends any document containing an advertisement of the nature referred to in Section 3, or Section 4, or Section 5, and any documents containing any such advertisement shall be deemed to be goods of which the import or export has been prohibited under Section 19 of the Sea Customs Act, 1878 and all the provisions of that Act shall have effect accordingly.

# Classes of Exempted Advertisements - Section 3

- Any advertisement relating to a drug printed or published by GOVT. or any person with prior per mission of the Government
- Any advertisement relating to a drug which is sent confidentially in the prescribed manner to RMP.
- Advertisement s including any treatise or book dealing with any of the matters relating to diseases which are otherwise prohibited, provided published from a bonafide scientific or social point of view
- Any signboard or notice displayed by a RMP on his premises indicating that treatment for any disease, disorder or condition specified in Section 3
- Any advertisement relating to a drug printed or published by any person with the previous sanction of the Government granted prior to the commencement of the Drugs and Magic Remedies Act

# Classes of Exempted Advertisements - Section 3

- The advertisement should contain only the information, required for the guidance of RMP regarding:
  - *Therapeutic indications*
  - *Route of administration*
  - *Dosage and side effects of such drug or drugs and*
  - *The precaution to be taken in treatment with the drug*
- The distribution to such literature should be given to RMP, dispensaries, hospitals, medical and research institutions, chemists and druggists or pharmacies.



# Powers of Entry, Search etc (Section-7)

1. Subject to the provisions of any rules made in this behalf, **any Gazetted officer authorised by the state Government** may, within the local limits of the area for which he is so authorised –
  - a) **enter and search at all reasonable times**, with such assistants, 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;
  - b) **seize any advertisement** which he has reason to believe contravenes any of provisions of this act;

## Powers of Entry, Search etc (Section-7)

- c) **Examine any record, register, document** or any other material object found in any place mentioned in clause (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.
2. Provisions of the code of criminal procedure, 1898 shall may apply to any search under this act.
3. Where any person seizes anything under clause (b) or clause (c) of sub section (1), he shall, as soon as may be inform a Magistrate and take his orders as to the custody thereof.

# Offences By Companies (Section-8)

1. If the person contravening any of the provisions of this Act is 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 contravention and shall be liable to be proceeded against and punished accordingly:
2. Notwithstanding anything contained in sub-section (1) where an offence under this act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

# Jurisdiction To Try Offences (Section-9)

- No court inferior to that of a Presidency Magistrate or a Magistrate of first class shall try any offence punishable under this Act.

## **Forfeiture**

- Where a person has been convicted by any court for contravening any provision of this Act or any rule made there under, the court may direct that any document (including all copies thereof), article or thing, in respect of which the contravention is made, including the contents thereof where such contents are seized under clause (b) of sub-section (1) of section 8, shall be forfeited to the Government.

# **Jurisdiction To Try Offences (Section-10,11,12)**

## **Officers to be deemed to be public servants**

- Every person authorized under section 8, shall be deemed to be a public servant within the meaning of section 21 of Indian Penal Code.

## **Indemnity**

- No suit, persecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

## **Other laws not affected**

- The provisions of this Act in addition to, and not in derogation of, the provisions of any other law for the time being in force.

# **Savings (section-13)**

## **Savings: nothing in this act shall apply to:**

- a) Any signboard or notice displayed by a registered medical practitioner on his premises indicating that treatment for any disease, disorder or condition specified in Section 3, the Schedule or the rules made under this Act, is undertaken in those premises; or
- b) Any treatise or book dealing with any of the matters specified in Section 3 from a bonafide scientific or social standpoint; or
- c) Any advertisement relating to any drug sent confidentially in the manner prescribed under Section 16 only to a registered medical practitioner; or

# Savings (section-13)

## Savings: nothing in this act shall apply to:

- d) Any advertisement relating to a drug printed or published by the Government; or
- e) Any advertisement relating to a drug printed or published by any person with the previous sanction of the Government granted prior to the commencement of the Drugs and Magic Remedies (Objectionable Advertisement) Amendment Act, 1963 (42 of 1963);

# **Power to exempt from application of act (section-14)**

- **POWER TO EXEMPT FROM APPLICATION OF ACT**
- If in the opinion of the Central Government public interest requires that the advertisement of any specified drug or class of drugs 1[or any specified class of advertisements relating to drugs] should be permitted; it may, by notification in the Official Gazette, direct that the provisions of sections 3, 4, 5 and 6 or any one of such provisions shall not apply or shall apply subject to such conditions as may be specified in the notification to or in relation to the advertisement of any such drug or class of drugs 1[or any specified class of advertisement relating to drugs].

# Power to make rules (Section-14)

## POWER TO MAKE RULES

1. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
2. In particular and without prejudice to the generality of the foregoing power, such rules may-
  - a) *specify any [disease, disorder or condition] to which The provisions of section 3 shall apply;*
  - b) *prescribe the manner in which advertisements of articles or things referred to in clause (c) of section 14 may be sent confidentially.*

## **Power to make rules (Section-14)**

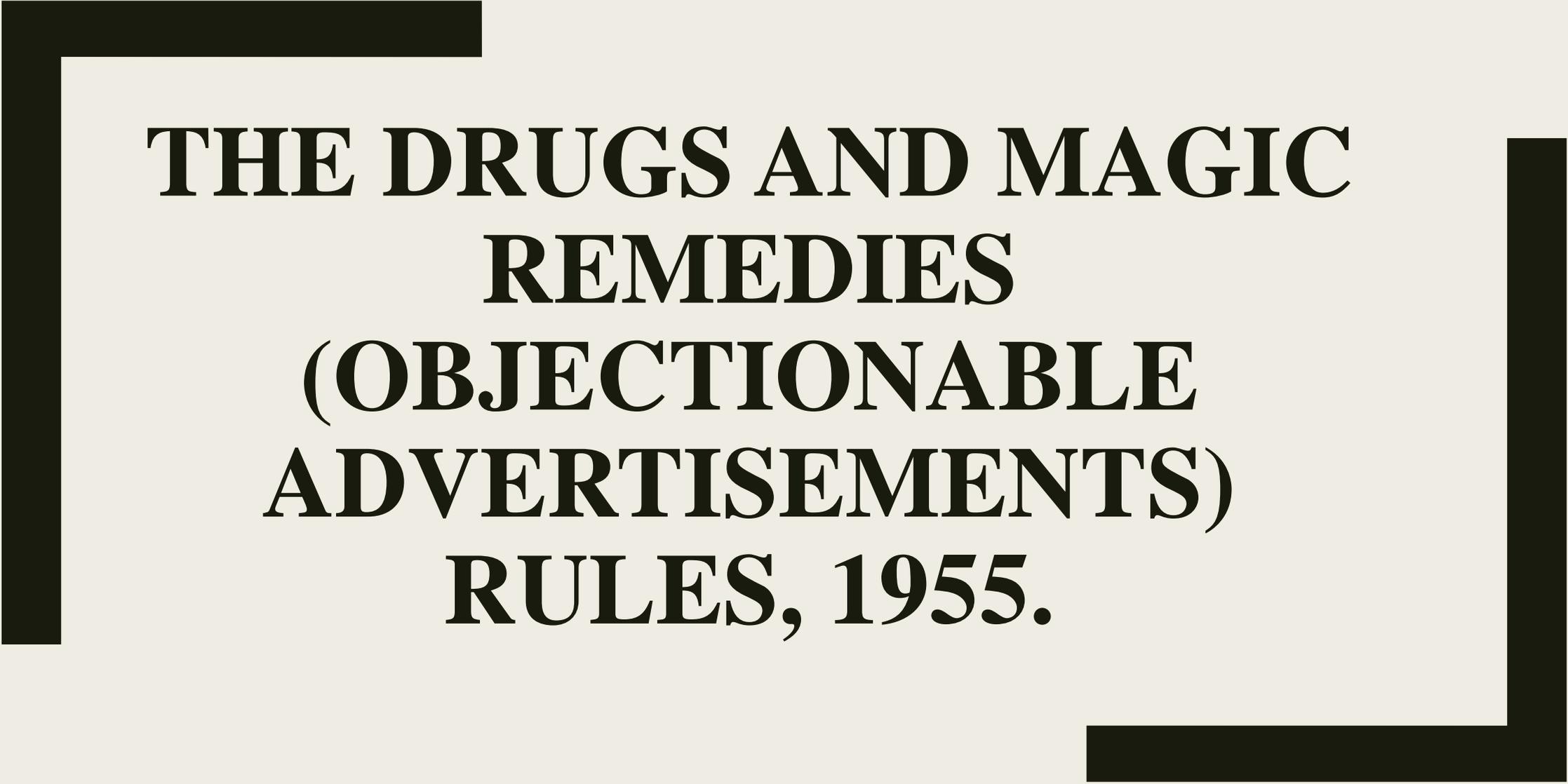
3. Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of session in which it is so laid 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; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

# PENALTY (Section-15)



## ■ PENALTY

- Whoever contravenes any of the provisions of this Act [or the rules made there under] shall, on conviction, be punishable –
  - a) in the case of a 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.



**THE DRUGS AND MAGIC  
REMEDIES  
(OBJECTIONABLE  
ADVERTISEMENTS)  
RULES, 1955.**

# Structure of the rule

Section	Contents
1	Short title & Commencement
2	Definitions
3	Scrutiny of misleading misleading advertisements relating to drugs
4	Procedure to be followed in prohibiting import into & export from, India of certain advertisements
5	Manner in which advertisements may be sent Confidentially
6	Prohibition of advertisement of drugs for treatment of disease, etc

## Scrutiny of misleading advertisements relating to drugs

- Any person authorised by the state Government in this behalf may, if satisfied, that an advertisement relating to a drug contravenes the provisions of section 1 by order, require the manufacturer, packer, distributor or seller of the drug to furnish within such time as may be allowed in this behalf by the person so authorised information regarding the composition of the drug or the ingredients thereof or any other information in regard to that drug as he deems necessary for holding the scrutiny of the advertisement, and where any such the drug to which the advertisement relates to comply with the order.

## **Scrutiny of misleading advertisements relating to drugs**

- Provided that no publisher or advertising agency of any medium for the dissemination of an advertisement relating to a drug shall be deemed to have made any such contravention merely by reason of the dissemination by him or it of any such advertisement, unless such publisher or advertising agency has failed to comply with any direction made by the authorised person in this behalf calling upon him or it to furnish the name and address of the manufacturer, packer, distributor, seller or advertising agency, as the case may be, who or which caused such advertisement to be disseminated.

## **Procedure to be followed in prohibiting import into & export from, india of certain advertisements**

1. If the customs collector has reasons to believe that any consignment contains documents of the nature referred to in section 6, he may , and if requested by an officer appointed for the purposes by the Central Government, shall detain the consignment and dispose it of in accordance with the provisions of the Sea Customs Act 1878 and shall also inform the importer or exporter of the order so passed.

## **Manner in which advertisements may be sent confidentially**

- All documents containing advertisements relating to drugs referred to in clause (c) of sub -section (1) of section 14, shall be sent by post to a registered medical practitioner by name, or to a wholesale or retail chemist, the address of such registered medical practitioner or wholesaler or retail chemist being given. Such document shall be at the top, printed in indelible ink in a conspicuous manner, the words “For the use only of registered medical practitioners or a hospital or a laboratory.

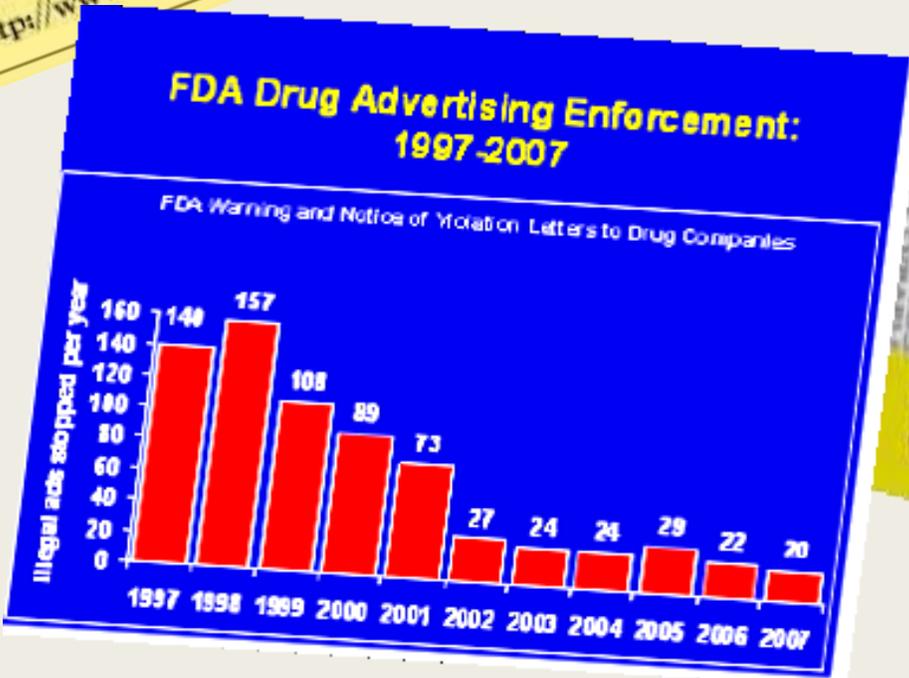
# Prohibition of advertisement of drugs for treatment of disease, etc

- No person shall also take part in the publication of any advertisement referring to any drug in terms which suggest or are calculated to lead to the use of that drug for the diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the Schedule annexed to these rule.

**If you think an advertisement is misleading, dishonest or indecent, contact ASCI.**

022-23513982 | [asci@vsnl.com](mailto:asci@vsnl.com) | PO Box No. 7939, Mumbai

**The Advertising Standards Council of India**  
 78 Tardeo Road, Mumbai 400034  
<http://www.ascionline.org>



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**Advertisements that Mislead are Acts of Misdemeanor.**

For any of complaints, consumers can also log on to [www.care.gov.in](http://www.care.gov.in)

# REFERENCES

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