

ITEM NO.3

COURT NO.5

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s) .13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Outdoor Advertisement policy/Hoarding issue along with Report No. 74 filed by EPCA)

Date : 03-08-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s)

Mr. Harish N. Salve, Sr. Adv. [A.C.] (NP)

Ms. Aparajita Singh, Advocate [A.C.]

Mr. A.D.N. Rao, Advocate [A.C.]

Mr. Siddhartha Chowdhury, Advocate [A.C.] (NP)

Petitioner-In-Person

Certified to be true copy

For Respondent(s)

Mr. Ranjit Kumar, SG

Mr. S. Wasim A. Qadri, Adv.

Mr. Zaid Ali, Adv.

Mr. Saeed Qadri, Adv.

Mr. Gurmeet Singh Makker, Adv.

Mr. S.N. Terdal, Adv.

Mr. B.K. Prasad, Adv.

Mr. Vijay Panjwani, Adv.

Mr. Mohan Parasaran, Sr. Adv.

Mr. Praveen Swarup, Adv.

Mr. Anand Mishra, Adv.

Mr. Hemant Kumar, Adv.

Signature valid

Digitally signed by
SANKU KUMAR
Date: 2017.08.03
17:19:35 +05'30'
Reason:

Assistant Registrar (Judl.)

SUPREME COURT OF INDIA

UPON hearing the counsel the Court made the following
O R D E R

EPCA has filed Report No.74 dated 26th July, 2017.

There is no objection to the Report as well as the Outdoor Advertising Policy, 2017 annexed to the Report.

The only objection to the Policy is on behalf of the Indian Railways with regard to revenue sharing. Since there is no objection to the stand taken by the Indian Railways, we accept the stand taken by the Indian Railways with regard to revenue sharing.


Learned *amicus curiae* has pointed out that with regard to the hoardings that may be put on railway bridges, flyovers and foot-over-bridges, the stability of the billboards should be handled with utmost care and all efforts must be made to avoid visual clutter and ensure safety of persons as well as aesthetics.


The Policy specifically mentions that the exemption granted to the Northern Railways and Delhi Metro Railway Corporation in this regard is conditional, being subject to clearance of the site/bill board plan by the Commissioners of the Municipal Corporations of Delhi. We have no reason to believe that the Commissioners will not take a reasoned decision taking into consideration all the relevant facts and circumstances before according permission for putting up the bill boards/hoardings over railway bridges, flyovers and foot-over-bridges.

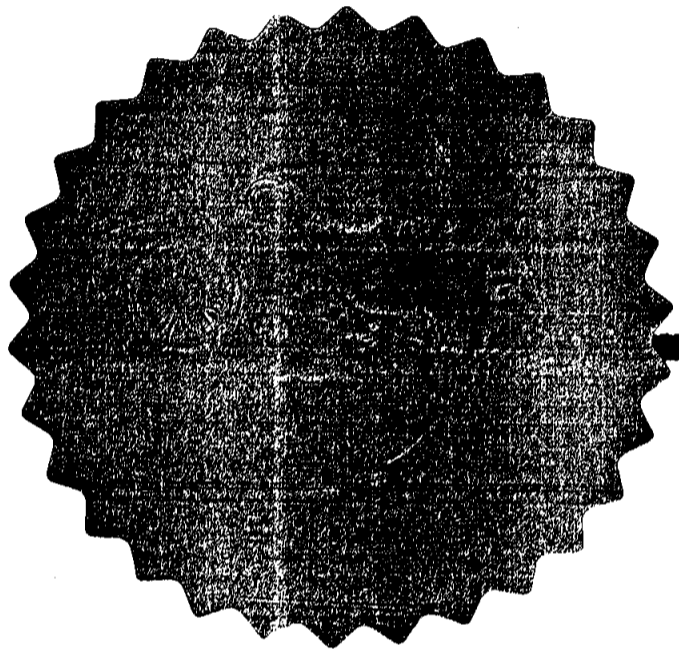
Learned counsel appearing on behalf of the Delhi Outdoor Advertisers Association says that there are some objections that the Association may have to the Policy. A representation may be made to the concerned authorities.

The Policy as framed by EPCA and as contained in Report No.74 is accepted and should be implemented forthwith.

Report No.74 is disposed of.


(SANJAY KUMAR-I)
AR-CUM-PS


(SHARDA KAPOOR)
ASSISTANT REGISTRAR



23310.

As No
Urgent Fee Rs 5/-
Certification Fee Rs 10/-
No. of Folio 25
Total Cost Rs 187
Application filed on - 11/08/12
to the date to receive copy
of the copy is made ready
by the date on which the copy is received by
the applicant or sent to the applicant

Branch Office: 11/8/12
Signature: [Signature]

SEAL ED IN MY PRESENCE

[Signature]

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ANNEXURE - II

ENVIRONMENT POLLUTION (PREVENTION & CONTROL) AUTHORITY
for the National Capital Region

Regn (J-1) 011(L)
S.D.
24/07/2017

Dr Bhure Lal
Chairman

EPCA-R/2017/L-33
July 24 2017

"it is not a certified
copy"

To:
The Registrar General
Hon'ble Supreme Court of India
New Delhi

DR CP/L-10
ll
24/7
DR B/L
24/7/2017

Sub: Submission of Report on Outdoor Advertising Policy for Delhi

Dear Sir,

This is with reference to the Hon'ble Supreme Court Order dated March 23 ,2017 in W. P. (C) No 13029 of 1985 M. C. Mehta v/s UoI & Others.

I am hereby enclosing the report of the Environment Pollution (Prevention & Control) Authority for the National Capital Region (EPCA). The **Outdoor Advertising Policy 2017** is annexed to this report.

Kindly arrange to place the report before the Hon'ble Court

3041

Yours faithfully,

(Bhure Lal)
Chairman, EPCA

EPCA Report No. 74

**Report on Outdoor Advertising Policy for Delhi
In the matter of W.P. (C) No.13029 of 1985; M.C. Mehta v/s UOI & others**

The Outdoor Advertising Policy 2017 is annexed to this report. The policy has been finalised after discussions with all stakeholders. The only objection, which continues is from Railways, which has not agreed to the revenue sharing provision.

**Environment Pollution (Prevention & Control) Authority
For the National Capital Region**

1. Background

The Hon'ble Supreme Court has been monitoring the outdoor hoardings in the city since December 10, 1997 because of its concern regarding safety of road users and on the grounds that hoardings, if not regulated, could constitute a disturbance for traffic and lead to accidents. In addition, there is the question of aesthetics and the fact that cities should avoid visual clutter.

27.4.2007: Hon'ble Supreme Court directed EPCA to examine and file its opinion on the Outdoor Advertisement Policy prepared by municipal corporation of Delhi.

September 2007: EPCA files report finalising the policy, after consultations with stakeholders.

25.4.2008: Hon'ble Supreme Court directed EPCA to hear the representations made by Indian Railway and DMRC on this matter and file another report. It also directs that DMRC would not enter into new contracts or would not renew or erect fresh hoardings.

July 2008: EPCA files report after these consultations, pointing out the problems in revenue sharing between MCDs and Railway/DMRC.

28.8.2009: Hon'ble Supreme Court asked EPCA to once again consider the views of Railways on the policy.

November 2009: EPCA files report pointing out the revenue sharing possibility in outdoor hoarding. It requests the Hon'ble Court to direct that the policy should be modified and reissued so that it does not lead to policy confusion or misinterpretation.

28.8.2009: Hon'ble Supreme Court observes that as DMRC accepts the technical specifications set out in the advertisement policy of EPCA, no further orders need to be passed. The restraint on DMRC is lifted and the policy approved by the court. MCD/NMDC would be at liberty to take any action in case the advertisements put up by DMRC lands were not in conformity with the technical parameters of the policy or it violates any other provision. As far as the revenue sharing arrangement was concerned, leave was granted to DMRC to seek remedies before an appropriate forum if MCD/NDMC raise demand for sharing revenue or if they give notice for

removal of any advertisement put up in DMRC land on the grounds that prior permission was not taken.

8.10.2010: Hon'ble Supreme Court directed: "Having heard learned counsel appearing for the Amicus Curiae as well as for the MCD, we are of the view that the MCD should consider EPCA Reports of July, 2008 and November, 2009, along with the Delhi Outdoor Advertisement Policy of 2008, in accordance with the provisions of Delhi Municipal Corporation Act, 1957 in the meeting to be convened by the Corporation under the provisions of Chapter-V of 1957 Act. The Corporation will consider the said two Reports of EPCA within a period of three months. We express no opinion on the said Reports. The decision of the Municipal Corporation of Delhi will be placed before this Court before the next date of hearing. The same direction was given to NDMC.

21.2.2017 Hon'ble Supreme Court directed the municipal corporations to comply with the order dated 8.10.2010 and to submit their response to the policy.

21.2.2017 Hon'ble Supreme Court ordered "that nothing further survives in these applications (for modification of court's order dated 25.4.2008), which are disposed of in terms of paragraph 9 and 10 of the above report mutatis mutandis." This matter concerned the sharing of revenue by Railways, which learned SG said would follow the same as DMRC.

March 2017: Municipal Corporations file affidavits saying that the House and the standing committee had passed resolutions objecting to certain provisions of the policy, as finalised by EPCA. The South Delhi Municipal Corporation (SDMC) in its affidavit said that in last six years they have made certain amendments in the policy which were approved by the House vide resolution No. 233 dated January 12, 2016 and prayed to the Hon'ble court to accept the amendments.

March 28, 2017: Hon'ble Supreme Court directed EPCA and Railways to file the reply within two weeks.

In April 2017 EPCA requested the Hon'ble Supreme Court to grant further to submit the report. On April 28, the Hon'ble Supreme Court granted time and listed the matter for July 27, 2017.

2. Deliberations at EPCA

EPCA convened a meeting of the concerned stakeholders on April 19, 2017 in compliance of the Hon'ble Supreme Court order dated March 28, 2017. SDMC informed EPCA that as per its interpretation, the Hon'ble Supreme Court in its order of October 8, 2010 had approved of its policy of 2007 and had only directed it to consider the views of EPCA and its policy of 2008 before the standing committee and house. SDMC further informed EPCA that based on its ground experience, was in the process of revised the 2007 policy.

Northern Railway and DMRC raised objections to this position. According to their interpretation, the Hon'ble Supreme Court vide its order 28.8.2009 had approved the 2008 OAP policy, which had been made by EPCA after consultations with them. They were giving contracts for outdoor hoardings based on this policy, which was leading to conflicts between the agencies.

DMRC also said that they had signed an MoU with SDMC on May 30, 2016 and with East Delhi Municipal Corporation (EDMC) on November 11, 2016 to share 35% of the outdoor advertisement revenue for a period of three years based on the OAP 2008 policy.

It was observed by EPCA that this lack of clarity about the final policy was leading to huge problems in the city. A large number of illegal hoardings were found to have been put up, which were subsequently removed by SDMC.

It decided therefore, to request all agencies to resolve differences and to work to issue a final agreed policy, which could work for road safety, city aesthetics and also provide much-needed revenue to the municipal bodies and other public service agencies.

It convened further meetings on June 22 and July 20, 2017 to resolve differences and to finalize the OAP policy.

3. Key differences between agencies and accepted resolution

- 1. Advertisements on railway bridge panels, flyover panels and foot-over-bridges:** MCD policy of 2007 and proposed policy of 2015 do not permit such advertisements on the grounds of safety of road users and aesthetics of the city. DMRC and Railways have repeatedly said that outdoor advertisements on these public services provide important sources of revenue.

It was accepted that special exemption would be granted to DMRC and Railway to put up OAP on railway bridge, flyovers and FOB, but subject to clearance of the site/bill board plan by the commissioners of the municipal corporations. It was also agreed that the structural stability of the billboards would be handled with utmost care and that all effort would be made to avoid visual clutter and ensure both safety and aesthetics.

- 2. Requirement of prior permission for putting advertisement from Commissioners of the Municipal Corporations of Delhi:** In OAP 2007 and OAP 2008 it has been accepted that the municipal corporations are the key regulators to manage the devices that are visible to the public. Therefore, prior permission is required to be taken from the municipal corporations and a procedure is laid down for grant of this permission, the terms of which are bound by the policy. DMRC and Railways had objections to this provision.

It was agreed that the role of the municipal corporations as regulators should not be diluted. However, given the fact that DMRC has signed a 3-year MOU with SDMC and EDMC, which clearly stipulates that no prior permission clearance is required, this condition would be waived for DMRC for the period of this or any future MOU.

DMRC would however, require to take prior approval from municipal corporations in the case of category 1 devices, which also include OAP on railway bridge, flyovers/FOBs.

3. **Revenue sharing between municipal corporations and DMRC and Railways.** This matter was infructuous as DMRC had already agreed to the sharing of revenue at the rate of 35 per cent. Railways however, has still not agreed to this.
4. **Minimum reserve price:** SDMC required this provision as it found that there was under-cutting of the rates, which was benefitting the private advertisers. After discussions, it was agreed that this provision would be included, but exemption would be made for DMRC/Railways.

Based on detailed discussions and after building the consensus among the various stakeholders, EPCA has finalized the "Outdoor Advertisement Policy 2017".

The OAP 2017 was circulated to the concerned stakeholders on July 19, 2017 and subsequently a meeting was held on July 20, 2017 to discuss views on the policy and to finalize it.

All stakeholders have given their consent on the policy, except for Railways. In the meeting, the representative of Railways continued to hold the view that while they agreed to all technical specifications laid down in the OAP 2017, they would not agree to the revenue sharing clause.

The outdoor advertisement policy, OAP 2017 is being submitted to the Hon'ble Supreme Court for its consideration and approval.

4. Observations and Recommendations of EPCA

1. It is important that the city has a final and approved policy for outdoor advertisements. This lack of an approved policy or the lack of clarity on the final policy (2007 or 2008) has meant that there are huge irregularities regarding the installation of such devices. This is leading to both loss of revenue for municipal agencies as well as problems of safety and aesthetics in the city. EPCA is also constrained to point out that this apparent policy vacuum seems to be benefitting

private agencies, who are able to take contracts or put up devices, without adherence to its provisions.

2. The finalized OAP 2017, submitted and attached to this report, has been accepted by all stakeholders (except Railways in regards to revenue sharing).
3. Once approved, the municipal corporations will be responsible for ensuring that there is strict compliance with all provisions of the policy. This will require enforcement and all steps to ensure that if the policy is not adhered to or it is misused then strict action will be taken against defaulters, including levy of penalty.

Delhi Outdoor Advertising Policy 2017

**An initiative by the Municipal Bodies of Delhi
(SDMC/NDMC/EDMC)/NDMC**

**Finalised as per the directions of the
Hon'ble Supreme Court by the
Environment Pollution (Prevention and Control) Authority
in July, 2017**

Contents

1. The basis of the policy
2. Guiding principles: Outdoor Advertising Policy 2017
3. Role of Municipal Bodies of Delhi (SDMC/North DMC/EDMC/NDMC)
4. Revenue Sharing and Commercial Advertisement Fee
 - 4.1 Revenue Sharing
 - 4.2 Commercial advertising fee for Category-1,2&3 devices
 - 4.3 Commercial advertising fee category-4 devices
5. General permission criteria for advertising devices
 - 5.1 Outdoor advertising and road safety criteria
 - 5.2 Outdoor hoarding and their content criteria
 - 5.3 Outdoor advertising and structure criteria
 - 5.4 Outdoor advertising devices and electrical connection
 - 5.5 Outdoor advertising and conservation areas
6. Summary of permissibility of different category of advertising devices
7. Specific conditions for different category of advertising devices
 - 7.1 Specific conditions and provisions: Category 1
 - 7.2 Specific conditions and provisions: Category 2
 - 7.3 Specific conditions and provisions: Category 3
 - 7.4 Specific conditions and provisions: Category 4
 - 7.5 Variable Message Advertising Devices like LED, LCD Screens/Module etc
8. Implementation of the policy
9. Procedure for grant of permission

The Delhi Outdoor Advertising Policy 2017

1. Basis of the policy

1.1 Ensuring road safety

The policy is based upon a careful review of global studies on the safety of hoardings. The premise of the policy is that all hoardings are not hazardous, but clearly hoardings on roads, visible to traffic, are potential dangers to drivers. It is for this reason that the outdoor advertising policy has given careful and high consideration to issues of road safety. This requires the policy to consider the location, design, size or type of sign along the arterial routes, where the potential for conflicts with traffic safety is highest. It also requires enforcement measures to ensure that structures adhere to these stipulations.

To finalize the policy, the studies cited by advertisement concessionaires, in support of their contention that there is no correlation between outdoor advertisement structures and accidents have also been reviewed. The two studies most cited are by the Delhi based School of Planning and Architecture and the Kolkata based Centre for Advance Research on Transportation (CART). It is clear from studies done across the world that there is substantial concern regarding the correlation between the distraction caused by the outdoor advertisements and driving. The studies state that it is not possible to correlate the danger to the specific accidents caused in the city, partly because drivers fear losing their insurance claim and partly because data does not exist in accident records, which tracks the correlation.

In this matter, the Delhi Police has also stated its position. Its concern is driven by safety of road users and based on this the agency has stressed that:

- a. No advertising device has to be placed anywhere under any category which will obstruct free movement of road users;
- b. The distance between two advertisement devices should not be less than 100 m on highways and main city roads.

The policy is premised on the fact that while outdoor advertisements do bring revenue to the city, any city-based policy must be driven by considerations of safety and aesthetics.

Review: Safety and hoardings

The Australian government's Report of the Road Safety Committee on the Inquiry into Driver Distraction makes it clear that visual clutter impacts driver safety. It also quotes that a motor insurance company observed from their investigations that the clutter of road signs and advertising accounted for a number of crashes.

A global review and analysis of different studies done by B Wallace, a UK based researcher found that following:

- a. The effect is real. However, it is situation-specific. Many billboards and signs may have no measurable impact on road safety, but there is overwhelming evidence that, at least in some situations, signs and billboards can be a threat to road safety.

- b. Almost all studies agree that too much 'visual clutter' at or near intersections and junctions can interfere with drivers' visual search strategies and lead to accidents.

Two recent Indian studies do not find any correlation between road safety and outdoor hoardings. However, a careful review of the two studies finds serious flaws in their research methodology and resultant conclusions. The study done by the School of Planning and Architecture, New Delhi has only reviewed global studies that found no connection or studies whose results were inconclusive. It ignores in its review the numerous studies (available easily) that have found such correlations. It also ignores the basic issue raised by international studies that even if the driver does not cite a correlation between the hoarding and his or her distraction, it cannot be negated. The School of Planning study uses police data to prove that there is no correlation between the two. However, it does not clarify if the police are required to question (as part of their questionnaire) the drivers, to find out if they were influenced by roadside signs, when the accident occurred. And even if they were, would the driver admit to the police because of legal and insurance claim issues.

The Calcutta study was commissioned Selvel advertising limited, which has major stakes in the business. This study is also found wanting in its methodology. For instance, its conclusions have been drawn on the basis that accidents were mostly caused by negligence and carelessness of drivers, passengers and pedestrians. However, the possibility that hoardings may have led to the negligence in the first place (distraction, moving signs) is not questioned. This is in spite of many previous studies that found such links, notably ones, which found an increase in accidents at/near 'visually cluttered' junctions. The study also draws on accident related data collected by the police. But it gives little cognizance to the fact that police questionnaire does not have a provision specific to the hoarding-accident linkage.

However, it is now more widely held that any policy for outdoor hoarding must not negate the safety of road users and in fact, it must be driven by the concern for road safety.

For instance, the 2004 report on the effects of roadside advertisements on road safety by the Finnish Road Administration concluded that advertisements were a partial cause of the fatal accidents studied. While in some cases, the advertisements distracted road users because they were wrongly placed and so affected visibility, in other cases, even while the advertisement was correctly placed it was considered a partial cause. The paper concludes that the advertisements along main roads distract the detection of traffic signs and possibly also other objects relevant to the driver's task.

Even more important is the 2008 study from the University of Hull in the UK as in this case the investigators have actually conducted experiments to check the impact of distraction on drivers. In this experiment, volunteers had to drive as per instructions and were distracted by objects such as advertising hoardings. The 54 volunteers were asked to take turns through four levels of distraction: "no load" involved no distraction, 'low load' had three distractions, 'high load' six and 'overload, nine. The results showed an increase in the reaction time of 100 milli-second between areas categorized as 'no load' and 'overload'. This is equivalent to around an extra meter and a half in stopping distance. This, researchers said, was equivalent of a busy city center, and concluded that "too much visual information in the form of advertising and signage has an effect on reaction times – the more distractions there are the slower the reaction time of the driver. It goes on to say, "we should be aware that the plethora of advertising at roadsides and signage may be contributing to road accidents."

1.2 Working for city aesthetics

The global review has noted that there are a significant number of cities, which discourage the use of large hoarding within the city. Hoardings are preferred in highways or if these large billboards are allowed within the city limit, then these are restricted to business or already commercial districts and areas. In Delhi, the Urban Arts Commission, the agency mandated with overseeing issues connected to city aesthetics has also made it clear that it wants to ensure against visual clutter. The Commission's guideline for outdoor advertisements is based on this premise.

The Delhi city policy for outdoor advertisements has been based on the emerging global practices as well as the need to maintain the character of the city.

The policy is premised on the basis that advertisements are promoted primarily in parts of the city, which are commercial in nature: business, industrial and shopping districts and discouraged in residential areas and urban freeways.

Changing global practices

It is also clear that cities across the world are learning the need to balance city aesthetics with revenues that they earn through advertisements, often the hard way. It is reported that Beijing, in its readiness for the Olympics has decided to remove all hoarding within the city. Its officials say this is being done to "to sanitize the city's image cranes have dismantled many of the 90-odd billboards lining the city roads." An advertising ban has been extended across most of the city. *City officials want to prevent Beijing from becoming one very big Times Square.* Now billboards are to be allowed only along the fifth ring road encircling the city – many miles away from the city centre.

Similarly, Arnold Schwarzenegger, as governor of California is insisting on strict regulation of outdoor advertisements. The state's outdoor advertising act 2005 is, he says, intended to protect public investment in highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

In many cities of UK, local councils have removed hoardings, which they say leads to improving the visual environment and image. These cities say that the objective of the outdoor advertising policy is "to seek the enhancement of the physical character and visual appearance of the city." These cities argue that 'promotion signs' – hoarding which advertise products – can significantly add to the visual clutter in a locality and so are not encouraged. In other cities, the outdoor advertisement policy is designed to discourage the proliferation of signs along major transport routes, including roadways and railways. Given this objective, these cities say that major promotion signs are "generally inconsistent with their image" and are generally discouraged.

The city of Sydney in its policy for outdoor advertising says the objective is to "reduce the number of large and freestanding billboard signs in the city." Sydney and many other cities argue that commercial signs (hoardings) are only necessary when they are important to the amenity of the city. Therefore, under policy, advertising hoardings are 'discouraged' and only permitted based on the following criterion:

- a. If they support the commercial viability of a significant building tenant
- b. If they advertise a civic/community event involving the city
- c. If they can be considered as public art
- d. If the cumulative impact of the signs does not give rise to visual clutter.

2. Outdoor Advertising Policy, 2017

The principles and objectives of the Outdoor Advertising Policy are as follows:

1. The policy for outdoor advertising is driven not only by revenue imperatives, but by city development imperatives. Therefore, in its implementation, it will be clear that outdoor hoardings/Billboards are permitted only if they are not a road safety hazard or if they support the city's public service development and enhance its aesthetics.
2. The policy will explicitly work to discourage visual clutter. This will be done by increasing the space between the billboards and in restricting large billboards to select areas of the city.
3. The policy is designed to ensure that outdoor advertising is not hazardous to traffic. It will assume that there is a significant correlation between road safety and distraction because of roadside billboards, visible to the drivers. This will be done by allowing large size billboards only after significant distance from the traffic junctions and intersections, by providing significant space between the two billboards on roads, by not permitting billboards on pedestrian walkways and in placing billboards at significant distance from existing carriageway.
4. The policy will actively promote the large size billboards in commercial areas (defined as metropolitan city centre, district centre/sub central business district, community centre/local shopping centre/convenience shopping centre in the master plan) of the city. In this case, the agency will work to maximize the revenue gains, which can be used for city development.
5. The policy will promote the use of advertising in what is commonly known as street furniture. These are devices placed on public service amenities of the city like railway carriages, buses, metro trains, commercial passenger vehicles, bus shelters, metro shelters, public toilets and public garbage facilities, to name a few. This is done to improve the revenue viability of these public provisions. But it will be noted that the use of advertising space is not the primary function of the utility, it is its supporting function. Therefore, the city agency will ensure that the placement of the public utility is done keeping in mind its public purpose, not its advertising viability. In addition, the agency will ensure that the primary function of the "street furniture" is being maintained and if not then suitable punitive action must be taken against the advertising concessionaire.
6. The policy is judicious in ensuring that there is a differentiation between the use of commercial advertising and private advertising, where signage is used to identify the location of the owner of the building or the space within the building. The policy will do this by laying down clear lists of what is allowed and what is completely disallowed to guide members of the public.
7. The policy will be strictly adhered to and to achieve these objectives, municipal corporations will impose enhanced penalties and check misuse through regular inspections.
8. The policy will be applicable to the entire city. All land-holding agencies will be required to follow the provisions of the policy and to take the requisite permissions.

9. Once in effect, all approvals will be taken in compliance with the provisions of the policy. However, advertisement contracts already approved by the concerned authorities will continue as such till the expiry of the contract period.

3. Role of Municipal Corporations of Delhi (MCD)

In the areas controlled by Municipal Corporations of Delhi/NDMC outdoor advertisement devices visible to the public, are governed by provisions of section 143 to 146, 430 of the Delhi Municipal Act. As per the provisions of the DMC Act, prior permission of the Commissioner is needed to display any advertisement to public view.

“Prohibition of erection, exhibition, fixation, retention or display of advertisement in without written permission of the Commissioner — No person shall erect, exhibit, fix or retain or over any land, building, wall, hoarding, frame, post, kiosk/Bill Board (to be displayed on electric pole) or structure or upon or in any vehicle, any advertisement or display any advertisement to public view in any manner whatsoever in any place within the jurisdiction of the Corporation without the prior written permission of the Corporation without the prior written permission of the Commissioner.”

Under Section 143 of DMC Act the Municipal Corporations of Delhi/NDMC have the powers to check on unauthorized and illegal outdoor advertising and the powers to remove or prohibit the display of any such advertising. “Whenever any advertisement is displayed in contravention of section 143 of the DMC Act, the same is actionable as per provisions of Section 146 and 461 of the DMC Act. The Municipal Corporations of Delhi/NDMC have the authority to either give direction to the owner of property to dismantle, remove, spoil, deface or screen any unauthorized and illegal advertisement or Municipal Corporations of Delhi/NDMC itself can take similar action.”

The DMC Act also provides that “no person except licensed or registered advertisers or agencies is allowed to undertake the display of advertisement on behalf of others. Persons or agencies who undertake the display of advertisement, enroll themselves as licensed or registered advertisers with the Municipal Corporations of Delhi/NDMC and furnish in this regard the required information, documents, surety and fee as may be determined by the Commissioner/Chairman.

The approval on placement or location of any advertisement visible from public place, their sizes etc are all provided by Municipal Corporations of Delhi/NDMC. Municipal Corporations of Delhi/NDMC can alter, re-position or remove any hoarding as per the powers vested in them. The Commissioners directions are final and binding on all outdoor-advertisers.

In OAP 2017, it is provided that to effectively enforce provisions of the policy, the municipal corporations/NDMC must ensure that they provide deterrence for compliance. (PENALTY)

4. Revenue Sharing and Commercial Advertisement Fee

4.1 Revenue Sharing

The Outdoor Advertisement Policy 2017 will apply to all advertisements irrespective of the jurisdiction of land. However, the revenue sharing model will differ in different cases.

All the Public View advertisements under the jurisdiction of respective corporations/Council, irrespective of jurisdiction of land, will be governed by the rules and regulations laid down for outdoor advertisements in Municipal Corporations of Delhi areas. The only difference in case the land belongs to other organization will be in terms of sharing of revenue.

In case land belongs to other organisations: Government Organizations/ PSUs/ Autonomous Bodies/Statutory Bodies/Registered Societies/Corporative Societies/ Private Limited Companies etc and the structure has been built/installed by them or the advertiser in their territory for display of advertisement and it faces the vehicular traffic plying on it or comes in public view in any manner whatsoever visible from a public street or public place (including any advertisement exhibited by means of cinematographs), the concerned organization or the advertiser with their permission will have to share revenue in the following proportion:

1. Northern Railways will through the advertisers provide 25 per cent of the revenue earned through advertisement with respective Municipal Corporation of Delhi within their jurisdiction.
2. DMRC will share 35 per cent of the revenue earned through Advertisement with respective Municipal Corporations of Delhi within their jurisdiction.
3. Other concerned organizations will share 50 per cent of the revenue earned through Advertisement with respective Municipal Corporation of Delhi within their jurisdiction.

For determining any case of remission or formulation/change of policy governing outdoor advertisement including award of contract, Commissioner Municipal Corporations of Delhi or his nominee will be a member of the committee/panel taking such decision, as it involve sharing of revenue between the two organisations.

It must be ensured that all the organization which are allowing/permitting advertisement displays (after taking written permission from the Commissioners of the respective Municipal Corporations space on their land/properties must do it through tendering system or other transparent procedure only.

The Minimum Reserve Price for Permission of Advertisement Display by the Organizations on their land/properties other than DMRC/Northern Railway shall be fixed with the consultation of respective Municipal Corporations.

It should also be ensured that the awarded contracts are not allowed to continue beyond the contractual period. Any contract which is in contravention to this policy should be allowed till the end date of the present contract.

4.2 Commercial advertisement fee for Category – 1, 2&3 devices

Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post or structure or upon or any vehicle any advertisement or, who displays any advertisement to public view in any manner whatsoever, visible from a public street or public place (including any advertisement exhibited by means of cinematographs), shall pay for every advertisement which is so erected, exhibited, fixed or retained or so displayed to public view, an advertisement fee at such rates as decided/fixed by the Municipal Corporations of Delhi/New Delhi Municipal Council, from time to time.

No advertisement shall be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall be displayed in any manner whatsoever in any place within the jurisdiction of Municipal Corporations of Delhi/New Delhi Municipal Council without written permission of Commissioner/Chairman of respective Municipal Corporation/New Delhi Municipal Council.

4.3 Commercial advertising fee for category-4 devices

1. **Self Signage having sum total of area less than/equal to 2.5 sqm** :- No signage will be allowed beyond the length of the shop. Signages with a total surface area less than or equal to 2.5 sqm for advertising (sum total of self signage device), per property/Business Establishments, shall not be subjected to any charges. The Self Signage shall be strictly installed/displayed in accordance with the general conditions laid down for Category – 4 devices in this Policy.
2. **Self Signage having sum total of area more than 2.5 sqm**:- No signage will be allowed beyond the length of the shop. Advertisement device/s for self signage/s exceeding 2.5 sq. m (sum total of self signage device), the Owner of shop/Business establishment/Institution, who erects, exhibits, fixes or retains upon or over part of building/property, where the business establishment is running its business, any such self signage advertisement or, who displays any such self signage advertisement to public view or visible from a public street or public place, shall pay for every such self signage display which is so erected, exhibited, fixed or retained or so displayed to public view, an advertisement fee at such rates as fixed by the Municipal Corporations of Delhi, from time to time. The Self Signage shall be strictly installed/displayed in accordance with the general conditions laid down for Category – 4 devices in this Policy.

5. General permission criteria for advertising devices

5.1 Outdoor advertising and road safety criteria

Roadside Advertising Devices are one of the many stimuli confronting road users. Cognitive assessment of roadside objects or devices becomes more difficult as the level of driver's attention, distraction and decision making is increased.

The permission criteria for the display of advertising devices within the jurisdiction of Municipal Corporations of Delhi/New Delhi Municipal Council are intended to ensure that a high level of safety for road users is maintained and traffic efficiency is assured.

An advertising device may be considered a traffic hazard

- If it interferes with road safety or traffic efficiency
- If it interferes with the effectiveness of a traffic control device (eg. traffic light, stop or give way sign).
- Distracts a driver at a critical time (eg. making a decision at an intersection).
- Obscures a driver's view of a road hazard (eg. at crossing or traffic red lights in the road).
- Gives instructions to traffic to "stop", "halt" or other (i.e Traffic Red Light).

- Imitates a traffic control device
- Is a dangerous obstruction to road or other infrastructure, traffic, pedestrians, cyclists or other road-users.
- Is in an area where there are several devices and the cumulative effect of those devices may be potentially hazardous.
- If situated at locations where the demands on drivers' concentration due to road conditions are high such as major intersections.

The traffic hazard potential of an advertising device varies depending on its size, location, luminance and background. The hazard generally diminishes the further the device is away from the road.

As per the policy, 2017 the advertisement devices have been categorized as follows:

Category 1: Large-format advertisements, mainly fixed on billboards/Unipoles/Bipoles/Variable Message advertising device such as LED, LCD Screens etc./and bridge / flyover panels etc;

Category 2: Advertisements mounted on public amenities, like public toilets, garbage collection points/Flag Signs etc;

Category 3: Fleets and transport related infrastructure;

Category 4: Advertisement devices for self-advertising in commercial areas

The application of control on physical characteristics is intended to minimize the level of driver distraction.

Control of the physical characteristics of advertising devices shall be as follows:

- Advertising Devices shall not use shapes that could potentially result in an Advertising Device being mistaken for an official traffic sign.
- The Code of Practice for Road Signs IRC: 67-2001 or its further amendments, by Indian Roads Congress prescribes the basic design parameters of official traffic signs and includes standard legend/background colour combinations.
- Advertising Devices shall not use colour combinations that could potentially result in an Advertising Device being mistaken for an official traffic sign.
- The Code of Practice for Road Signs IRC:67-2001 or its further amendments, by Indian Roads Congress prescribes the basic design parameters of official traffic signs and includes standard legend/background colour combinations.
- Advertising shall not contain flashing red, blue or amber point light sources which, when viewed from the road, could give the appearance of an emergency service or other special purpose vehicle warning light/s,
- All lighting associated with the Advertising Device shall be directed solely on the Advertising Device and its immediate surrounds.
- External illumination sources shall be shielded to ensure that external 'spot' light sources are not directed at approaching motorists.

- Illumination of advertising device is to be concealed or be integral part of it
- Upward pointing light of the device shall not be allowed, any external lighting is to be downward pointing and focused directly on the sign to prevent or minimize the escape of light beyond sign.
- Any light source shall be shielded so that glare does not extend beyond the Advertising Device.
- The average maintained luminance shall be reduced to 0.5 candela or all together shut, after 2300 hours (11pm) and sunrise by automatic timing devices.
- Non-static illuminated Advertising Devices (flashing lights) are not permitted within the boundaries of Municipal Corporations of Delhi/NDMC Jurisdiction roads.
- Variable message Advertising Devices are not permitted in the area other than as specified in Summary of Category 1 Advertising device within the jurisdiction of Municipal Corporations of Delhi/NDMC as these cause a statistically significant distractive influence on motorist's response times to external stimuli. So, Variable Message Advertising Devices LED/LCD Screens shall be permitted on case to case basis by Commissioner of Municipal Corporations.
- This permission criterion is not intended to apply to variable message displays used by road authorities for traffic management or for displaying other corporate information. Variable message displays located at bus stops or similar places where messages are directed at, and intended for, pedestrians (not motorists) are excluded.

5.2 Outdoor hoarding and their content criteria

The policy will rely upon self-regulatory controls within the advertising industry to enforce minimum advertising standards. Notwithstanding this approach, the city agencies may take action to modify or remove any Advertising Device that contravene the Advertising Industry's Code of Ethics, (refer List of Negative Advertisements) or that otherwise causes a traffic hazard.

List of negative advertisements
• Nudity
• Racial advertisements or advertisements propagating caste, community or ethnic differences
• Advertisement promoting drugs, alcohol, cigarette or tobacco items
• Advertisements propagating exploitation of women or child
• Advertisement having sexual overtone
• Advertisement depicting cruelty to animals
• Advertisement depicting any nation or institution in poor light
• Advertisement casting aspersion of any brand or person
• Advertisement banned by the Advertisement Council of India or by law
• Advertisement glorifying violence
• Destructive devices and explosives depicting items
• Lottery tickets, sweepstakes entries and slot machines related advertisements
• Any psychedelic, laser or moving displays

<ul style="list-style-type: none">• Advertisement of Weapons and related items (such as firearms, firearm parts and magazines, ammunition etc.)
<ul style="list-style-type: none">• Advertisements which may be defamatory, trade libelous, unlawfully threatening or unlawfully harassing
<ul style="list-style-type: none">• Advertisements which may be obscene or contain pornography or contain an "indecent representation of women" within the meaning of the Indecent Representation of Women (Prohibition) Act, 1986
<ul style="list-style-type: none">• Advertisement linked directly or indirectly to or include description of items, goods or services that are prohibited under any applicable law for the time being in force, including but not limited to the Drugs and Cosmetics Act, 1940, the Drugs And Magic Remedies (Objectionable Advertisements) Act, 1954, the Indian Penal Code, 1860; or
<ul style="list-style-type: none">• Any other items considered inappropriate by the Committee.

For all categories of devices (except Category 3 and some Category 4 devices which are directed at pedestrians), text elements on an Advertising Device face should be easily discernible to traveling motorists. This will minimize driver distraction. Additionally, a sign shall be quickly and easily interpreted so as to convey the required advertising message to the viewer and reduce the period of distraction.

The content or graphic layout exhibited on advertising device panel shall avoid hard-to-read and overlay intricate typefaces and have letters styles that are appropriate. Under no circumstances should device contain information in text sizes, which would necessitate the driver or passenger in a moving vehicle to stop, read and/or note down, which is detrimental to the smooth flow of traffic and distracting for the driver.

All signs shall be so designed as to maintain a proportion where, as a general rule, letters should not appear to occupy more than 20% of the sign area, unless otherwise permitted by the Municipal Corporations of Delhi/NDMC.

5.3 Outdoor advertising and structure criteria

Advertising Device structures including the foundations, for categories 1 and 2 devices, shall be designed and checked for extreme wind conditions, earthquakes, soil bearing capacity etc and shall comply with relevant Indian structural design standards, codes of practice and the policy guidelines. The designs shall be certified by an experienced and practicing structural engineer and shall be submitted to the municipal body before start of work at the site.

1. The supporting structure shall have a non-reflective finish to prevent glare.
2. The device structure shall be well maintained at all times. It shall be painted in colours that are consistent with, and enhance the surrounding area and will be compliant with the criteria for colours laid out earlier in this policy.
3. Official road furniture such as official signs and delineator guide-posts shall not be used as the supporting structure of an advertising device.
4. The name of the Advertising Device license holder should be placed in a conspicuous position on the device.

