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EDITORIAL

Competition law for advertising sector

Ram Chandra Subedi

Though Intellectual property (IP) is a term increasingly in use today, to many people it remains a vague legal concept of little relevance. IP is a major factor in the success of business and advertising. To be effective, an advertisement must be first noticed, and then remembered long enough to communicate persuasively the unique selling points of a product or service. Thus, advertisers race to create new and enticing ways of communicating information to customers to influence their buying decisions. Businesses need to be aware of the various IP rights that can come into play when creating content for an advertisement or running an advertising campaign. In an increasingly competitive world, business organisations have learnt that their ability to create and disseminate effective advertising and promotional messages to their target consumers is often critical to their success. Businesses need to devise appropriate strategies to protect their advertising creations by using the legal tools at their disposal in the IP system. A celebrity image can grab consumer attention and create a perception of high value and credibility for a product. But businesses must proceed with caution if they are planning to use a celebrity's identity in an advertisement. In many countries

privacy and publicity rights protect name, image, voice etc.

The advertising sector of Nepal is gaining ground despite many obstacles. But unhealthy competition and lack of competition law and effective policy are badly hitting this sector. So the government should enact a competition law as soon as possible to curb anticompetitive practices, safeguard genuine business practitioners and protect consumer rights. The enactment of the law must not be delayed because the country is already exposed to global competition in the wake of acquisition of the WTO membership. Around a hundred countries across the world have already enacted the competition law and 30 others are in the process of enacting it. Competition law is important in the market function and national economy. As it bans monopoly, bans all illegal groupings—cartel, immoral competition and syndicate, it benefits consumers. The act would also remove hurdles in the way of market development, and thus help in boosting entrepreneurship and advertising sector.

If Nepal is to attract foreign investment, a key law that is needed is a comprehensive competition law. Furthermore, a separate legal body must be created with power to handle and hear the petition filed by the victim party. If effective mechanism is formulated, this will help the competition law to succeed in controlling and regulating unfair trade practices and anti-competition activities. The state should also introduce a national advertising policy. It could play a crucial role in preventing all the weaknesses and unfair competition in the advertising sector and ensure healthy competition. To facilitate advertisement sector and to capitalise on the emerging opportunities, one of the prime long-term plans is to devise a mechanism so as to provide institutional support to advertisement employees. The streamlined support could immensely aid advertising professionals to keep pace with the global trends.

Subedi is a Supreme Court advocate

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