

11th October 2007

To: All EC and ISA Members

Dear Member,

I am sending below an urgent mail from our Chairman, Mr Bharat Patel, for your action.

Regards

Ranjeet Salvi
Director General
Indian Society of Advertisers

Mr Bharat Patel's message :

Dear Member

You are aware of the IBF decision advising all broadcasters to levy a 25% surcharge on TV rates for existing as well as new contracts effective Oct 16. This unilateral action is arbitrary and unfair. ISA has rejected outright the levy of any such surcharge and any such action by IBF, a industry body.

We are exploring all legal options and believe that this action of the IBF and the individual broadcasters is patently unfair and improper.

We also suggest that individual advertisers consider and act on the following remedies available to them in the event of a breach of contract by any party.

1. File legal action for liquidated damages.
2. Adjust all outstanding payments against such a damage claim

We encourage all advertisers to advise their agencies to send the enclosed letters either on their own or in response to the letters received directly or via ad agencies from TV channels. Advertisers should also clearly advise the agency that the surcharge levy is rejected outright.

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Please let us know if you would like any other points to be clarified/added in such a model contract.

I look forward to meeting you on the 16th October to discuss and any other issue related to the IBF's arbitrary and unethical imposition of 25% surcharge on TV rates.

Regards

Bharat V Patel
Chairman
Indian Society of Advertisers

From Advertiser
To Agency

This is has reference to the IBF letter and the letters regarding levy of 25% surcharge on TV media rates. Please note that we reject outright any such levy. We believe such arbitrary and unilateral action is unfair and illegal.

Please therefore respond to the channels that we reject such levy of surcharge and will not be paying any such surcharge invoiced to us.

Please also note that we are in the process of taking legal opinion as to the liability that will arise on the channel for reneging a valid agreement based on the advise of IBF. As you are aware the advertisements are planned based on a business plan, and, if this plan is not adhered to, it will impact our business significantly.

Please therefore advise the channels and take appropriate action.

Regards

From : Agencies
To : Channels

Dear Sir,

We have been reading discomfoting news in the newspapers about the alleged decision of IBF imposing a surcharge on TV rates uniformly without basis.

We believe such a decision is not only unfair, but also illegal. However, being concerned, we are writing this letter to seek your confirmation that this decision would not impact our existing arrangements and you would continue to air our client's advertisements on the mutually agreed rates. We trust you would abide by the agreements that we have and that you would continue to air the ads as per the pre-agreed schedule. We might add that that advertising schedules are based on our business plans and any non-airing of advertising will impact the business plan severely.

We would request your confirmation immediately to allay our fears, that the decision of IBF, which we believe is unfair and illegal, will not be implemented by you.

[Unquote](#)

From Agency

To Channels

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Dear Sir/Madam,

This is has reference to your letter/email dated _____ informing us of your decision of charging 25% surcharge in addition to the mutually agreed rates, which is based on the decision taken by the IBF of which your channel is a member.

We are dismayed by the fact that you have chosen to write a letter based on IBF's decision, to which we are not a party. As you are aware, the advertising rates are agreed mutually for a given term between advertiser, agency and individual broadcaster. Any change and revision in the rates happens bilaterally as and when the duration of the pre-agreed term expires. Your current decision of charging 25% higher rate is unilateral and against the spirit of engaging with us on such issues. In any event, we believe that the decision of IBF to charge a surcharge at uniform rate is not in accordance with the law of the land, and enforcement of such a decision therefore would also amount to an illegal act. We therefore do not accept such revision and would request you to continue to air our clients advertisements based on our pre-agreed schedule.

We would like your confirmation on the above. As you know, advertisements are planned based on a business plan, and, if this plan is not adhered to, it will impact our and our clients business significantly.

Thanking you