



Advertising legislations to ensure compliance of the online advertisement with the associated law

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Abstract

Online advertising is increasing prominence in society at the same time that technology is becoming more and more significant. Online advertising is becoming into a significant economic force in the internet economy as a result of the advertisements' sponsorship of multiple websites and services. False marketing could seriously harm Goodwill due to the market's rivalry and customers' sensitivity.

Investments in advertising have increased significantly, requiring a robust regulatory framework to ensure that all stakeholders are fairly and effectively represented. In India, there is no definite structure or plan in place to regulate advertisements. This is an issue because of the risks associated with advertising. Ads are thus governed by industry-specific legislation, subjecting stakeholders to a range of risks. Although there isn't a single legislation on the subject of advertisements, there are a number of guidelines to make sure that interested parties are informed.

A rapid change in advertising strategies has been brought on by the growth of the Internet and digital media. The rules governing advertising must ensure that these advances are taken into account and that customers are not misled. Government consolidation of several industry-specific rules and regulations into a single, all-encompassing body of law is necessary for the advertising industry.

In this essay, we'll examine the current laws controlling commercials. We'll research the government agencies in charge of enforcing ad laws. We'll also talk about the limitations on online advertising.

Key words: Online media advertising, legal Regulations, ASCI.

WHAT IS MEDIA ADVERTISING ONLINE?

In no Indian legislation is the term "internet advertising" defined. Online advertising is defined by the dictionary as a commercial marketing activity carried out over the Internet to increase consumer awareness of

the benefits, existence, and/or accessibility of a specific service or commodity. The moral and ethical promotion of legal and illegal advertising tactics that aim to ethically represent facts and functions linked to the product or service in question and existing in the jurisdiction is just one of the many standards that regulate online advertising in a number of ways. These laws and standards are put in place to safeguard consumer rights and interests as well as the legal economic rights granted to certain or all business activities and operations.

LEGAL REGULATIONS FOR ONLINE ADVERTISEMENT

There are currently no laws or regulatory bodies in India that deal particularly with online advertising. However, the laws and organisations in charge of overseeing physical advertisements also have the power to control internet advertisements. Let's talk about a few of these laws.

The Consumer Protection Act of 1986 ([1]).

The right to information on quality, potency, quantity, purity, and other attributes is addressed in Section 6 of the Consumer Protection Act of 1986.

To protect trade and unfair practises, Section 2(r) of the Consumer Protection Act lists unfair business practises, such as deceptive advertising and fraud.

Indian Penal Code, 1860 [2].

Terrorism and crime-related advertising are prohibited by the IPC, 1860. Any advertisement that promotes the use of contract assassins, violence, or other unlawful activities is prohibited.

The Cable Regulation Television Act of 1995 (Act No. 3).

According to Section 6 of this Act, an announcement cannot be broadcast on cable or the internet until it complies with the advertisement law's requirements.

Regulations governing advertising are prohibited from endangering people's morality, religious beliefs, or sense of dignity, according to Section 7 of the Cable Television Regulation Act.

the 2003 Cigarette and Tobacco Act ([4]).

This document's Section 5 forbids the promotion of tobacco products and cigarettes of any kind through any media. Even audio advertisements are not permitted. This is forbidden for health reasons, and it also stipulates that a predetermined portion of the container for these substances must bear a warning.

The Food Safety Standard Act of 2006 [number 5]

It states that the use of food that is false, deceptive, or illegal is forbidden and restricts advertising related to grading standards, quantity, quality, or composition.

The Young People (Harmful Publications) Act of 1956 (paragraph six)

This law forbids violent and criminal behaviour toward children under the age of 18. This rule forbids any marketing from mentioning violence towards children or young people in any way.

The essentials of false advertising

In addition to industry-specific regulations, the cost per action expressly restricts the employment of the following marketing strategies to improve brand recognition, product use, or supply:

Untrue claims are made about a good or service's standard, quality, quantity, style, or model.

items that are used, recycled, refurbished, retrofitted, or that are decades old.

It implies that a good or service has support, endorsement, effectiveness, features, utility, or advantages that it does not.

Make erroneous or deceptive claims on the necessity of the use of a good or service.

generically guarantees the performance or effectiveness of a product without doing adequate testing.

makes it possible for adverts to be published.

Advertisement Standards Council of India (ASCI)

For the purpose of policing media content in both printed publications and electronic media, there exist numerous self-regulatory organisations. These groups, which mostly deal with written and visual media, include the Indian Publishing Guild, the Indian Broadcasting Foundation (IBF), and the News Broadcasting Association (NBA). Contrarily, the primary self-regulatory body that manages media advertising is the Advertising Standards Council of India (ASCI).

In responsibility of advertising that increases public trust is the Advertising Standards Council of India, which was founded in 1985. The council promises that the claims and representations made in the advertisement are accurate and sincere. The advertisement must adhere to the standards of public decency and should not insult any particular demographic. An advertising self-regulation code created by ASCI may be applied to problems surrounding the creation of advertisements. Although ASCI does not have a legal status, it has been recognised by numerous Indian laws. The regional and federal laws of India are not replaced or superseded by the ASCI code.

Both advertisements created by Indian businesses and those created outside of India are subject to the Code. The ASCI standards must be followed by all advertisements directed at Indian consumers. It is not needed by law for internet advertising to adhere to the ASCI code. However, the requirements of the code must be met in order to advertise on television. Some restrictions also forbid the marketing of a particular type of content. According to the ASCI code, anyone who believes that the advertisements are deceptive, untrue, offensive, etc. may lodge a complaint with the ad supplier.

The ASCI is a voluntary self-regulatory group that was founded in 1985 to advance ethical advertising and raise consumer trust in advertisements. The goals of the council are:

To assure the veracity and honesty of the claims and representations made in advertisements

To guarantee that advertisements do not violate universally recognised norms of decency

to prevent the indiscriminate use of advertising to promote goods that are thought to be harmful to the general public or to individuals.

To ensure that advertising follow the rules of generally accepted competitive behaviour in business in order to inform consumers about their options in the market.

A Board of Governors and a Consumer Complaints Council make up ASCI. Four representatives from each of the four areas related to the advertising industry make up the Board of Governors:

Advertisers

agencies for advertising

Media (owners of press, television, radio etc) (owners of press, television, radio etc.)

related industries (e.g. outdoor agencies, PR, market researchers, ad producers, business schools)

Self-Regulation of Advertising Using the ASCI Code

The ASCI Code for Self-Regulation in Advertising (also known as the "ASCI Code"), which is applicable to all parties engaged in the commissioning, creation, placement, or publication of advertisements, was adopted by ASCI to govern advertising in India. This ASCI Code is applicable to all advertising that are read, heard, or viewed in India, regardless of where they were originally published or from, as long as they are intended for Indian consumers or are exposed to a sizable number of Indian customers.

The ASCI Code is non-statutory, although it is acknowledged by a number of Indian legislation in addition to being embraced by organisations in the advertising sector. Notably, the ASCI Code states that it is not in conflict with any laws, their regulations, or the means by which they are implemented; as a result, the ASCI Code is intended to control under such laws.

Regulations Concerning the Promotion of Goods and Services

3.1 Alcohol (Beer, Wine, and Spirits)

Any advertisement that promotes the production, sale, or consumption of cigarettes, tobacco products, wine, liquor, or other intoxicants is prohibited by the Cable Television Network Rules, 1994, the Advertising Codes of Doordarshan, the All India Radio, and the Norms for Journalist Conduct published by the Press Council of India. Billboards, signboards, and other forms of outdoor advertising are permitted in some states, but only under tight conditions. Additionally, the ASCI Code forbids the use of children in alcohol product advertisements.

3.2 Professionals such as Chartered Accountants, Company Secretaries & Cost Accountants

These practitioners are barred from soliciting clients or professional work by advertisement. However, they may issue advertisements about their firm or services of their firm, through any mode of transmission, having inter alia details of names of partners, address and website, telephone, mobile, e-mail, fax number of the

member, year of establishment, additional recognised qualifications, languages spoken by the partner(s), honours or awards in the field of teaching, research, authorship etc.

3.3 Arms, Ammunition, and Firearms

Such items need a licence from the relevant authorities in order to be sold and purchased. Therefore, under the Arms Act of 1959, advertisements for these products are prohibited in India.

3.4 Food

The Food Safety & Standards Act of 2006 states that no advertisement regarding the standard, quality, quantity, or grade-composition, as well as no representation regarding the necessity of, or utility of, any food, may be made in a way that is misleading or deceiving, or that would be in violation of the provisions of this law or rules and regulations made thereunder.

3.5 Infant Milk Food

3.6 Gaming (gambling, games of chance; differentiate between private-sector and "state" lotteries)³

3.7 Medical Devices

3.8 Medical Services

3.9 Nutritional Supplements: It is regulated under the Food Safety and Standards Act, 2006.

3.10 Occult ("Psychic") Services

3.11 Pharmaceuticals (over-the-counter and prescription medications)

(The above list is not exhaustive)

RESTRICTIONS

In accordance with numerous laws, it is prohibited to promote on the internet for tobacco and its derivatives, alcohol, milk substitutes, narcotics, firearms, lottery, and other products. However, there aren't any particular limitations on online advertising. These restrictions and prohibitions can be considered complete on their own.

LIABILITY

The intermediate act is described in Section 79 of the IT Act. According to this definition, an intermediate is a person who does not actively participate in changing the substance of the advertisement. Since intermediaries merely perform passive labour, they are granted protection from such laws. Only the person who actively promotes the prohibited products or disregards the rules will be held accountable for such actions.

SUGGESTIONS: At the moment, India has no laws governing exclusively online advertising. Online advertising is a practise that is expanding along with technology. Therefore, laws specifically addressing online advertising is required in the modern world.

It is rather troubling that there are so many people present for a single reason of advertisement. These bodies must either be amalgamated or only one dominant body, ASCI, should remain, with the others being

eliminated. Multiple organisations supporting the same cause might be conflict-prone and confusing for producers. Thus, only one body should be present.

CONCLUSION

Numerous legal issues will undoubtedly arise as internet advertising becomes more popular. A consistent principle is useful because it removes the ambiguity brought on by inconsistent laws. Additionally, due to the fact that internet advertising is international, it should not be constrained by national laws in order to protect stakeholders' rights. The regulations created for all jurisdictions would protect the dependability and potential of the market Communications.

The global framework, which may be a company or organisation that focuses on advertising, will make sure that there is supranational authority to carry out decisions. Both consumers and marketers would profit from the increased consistency and legitimacy of internet advertising.

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