



# ILLUSORY ADVERTISEMENTS AND THEIR IMPACT ON CONSUMERS

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**ABSTRACT:** The influence of advertising on consumer choice is undeniable, which is why advertising must be fair and honest. Misleading advertising distorts competition and, of course, consumer choice. Even after 30 years of enactment of the Consumer Protection Act of 1986 and even after the paradigm shift from *Caveat Emptor* to *Caveat Venditor*, manufacturers and service providers across all sectors are mining Indian consumers.

The question is, whether advertising is a blessing or a curse? There are always two sides of the coin. Advertising is necessary for economic growth, but should not be misleading or disturbing. Consumers must be aware of their rights, speak out against exploitation, and seek to resolve their grievances. Consumer consciousness determines the effectiveness of consumerism. Consumers have a duty to define their rights and protect them. The Consumer Protection Act of 1986 has no provision specifically addressing misleading advertisements. However, they prohibit "unfair trade practices" and offer remedies in such cases. Advertising may be subject to these regulations; however, they are not sufficient to address all aspects of advertising, which may require regulation. Unlike India, some foreign jurisdictions have specific laws on advertising. This article aims to make a thorough, comprehensive, comparative and critical study of misleading advertisements in India, identify the hurdles to achieving the basic objects of the consumer welfare legislations to control misleading advertisements.

**INDEX TERMS:** False, and Misleading advertisement, consumer protection, violation, fundamental rights, misleading.

## INTRODUCTION

Advertisements, whether printed or digital, are a potent tool for promoting a product, brand, or service. The primary goal of an advertisement is to enlighten target consumers about the items and services being offered, persuade them that their facilities are superior to others, and keep prospective customers informed about their products and services. As a result, the adverts should help consumers to make well-informed purchasing decisions.

Due to intense market competition, the resulting pressure to attract more customers, and traders' constant desire to grow sales, profits, and business, advertising frequently turn to fraudulent and misleading campaigns without giving any scientific or clinical proof to support their claims. Consumers are clearly misled by such deceptive marketing, which also injure and harm competitors. In fact, they infringe on a number of customer rights, including the right to be informed, to choose, and to be protected from potentially dangerous goods and services. As a result, deceptive advertising has a negative impact on customer decisions. Unfortunately, India lacks an all-encompassing legislative organization to regulate ads. The Consumer Protection Act, 2019, established the Central Consumer Protection Authority (CCPA) to regulate matters relating to violations of consumers' rights, unfair trade practices, and false or misleading advertisements that are detrimental to the public's and consumers' interests, as well as to promote, protect, and enforce the rights of consumers as a class. If this Central Authority determines, after an investigation, that the advertisement is untrue or misleading or violates consumer rights, it has the authority to issue a directive to the involved trader/manufacturer/endorser/advertiser/publisher to either change or remove the advertisement.

In one of its recent orders, the CCPA directed Sensodyne toothpaste to stop airing its misleading commercial within seven days, citing the lack of any compelling study or material indicating worldwide prominence of Sensodyne products. The commercial claimed that the toothpaste was recommended by dentists worldwide and that it was the world's number one sensitivity toothpaste. The Authority also ordered a penalty of ten lakh rupees (about USD 13,182) to be paid. Other prohibitions against misleading ads include the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act, 2003, which forbids such advertisements relating to the regulation of trade and commerce, production, supply, and distribution of cigarettes and other tobacco products; and the Cable Television Networks (Regulations) Act, 1995, which prevents any person from engaging in any activity connected to the regulation of trade and commerce, production, supply, and distribution of cigarettes and others.

In this rapidly expanding consumer market, fair protection of consumer interests is a priority. India has a long history of consumer protection dating back to the "Vedic" period. However Especially after India's independence, the Constitution aimed at a fundamental change in the status quo. But, because of the prevalence of social and economic inequality in India, in society, these constitutional obligations have largely been frustrated. Advertising is an old business practice for educating and persuading consumers about their products. In order to facilitate the delivery or transfer of goods or services, real estate, rights and obligations manufacturer or provider advertising related to his product or service is understood as a form expressions related to trade, business, crafts or profession.

Advertisement is most commonly, the desire to direct consumer behaviour to its commercial offering and increased consumption. His product, however, if the advertiser makes false statements about the product, or the purpose is to deceive through the presentation; or intended to mislead or mislead the targeted consumer, or make a potentially exaggerated claim to such a person about the effectiveness of their product. The range where the product cannot be delivered, or actively hide the negative effects of the product. When such falsehood or deception affects a consumer's financial behaviour or causes damages in connection with `False or misleading ads, this form of advertising can convince consumers.

### **Some important transactions to avoid are those which affect their:**

“Right to Informed Choice: Their Right to Know The quality, quantity, purity, and safety of a product or service”.

False and misleading advertising is a means of creating information asymmetry. They are unethical and it needs to be dealt with as a social and commercial illness. These ads hurt basic consumers Right to informed choice, security, and protection from unfair and anti-competitive transactions, etc. They also have unintended and undesired market effects and hinder competitiveness. By influencing Consumer's economic behaviour, consumer's economic waste due to misunderstanding expressions rights remain impaired forever. This form of advertising is related to medicines and food. It has a serious and negative impact on consumer health. Implicit message included in an advertisement also contributes to attacking the spirit and common sense of consumers. But, the fact is that, this problem continues on a serious scale in India.

## **ETHICS IN ADVERTISING**

In advertising, honest and fair things fall broadly into two categories, namely the” problem of morality” and “morality”. The first is a two-headed problem that arises from the pros and cons of a particular problem when it is related to the rules and beliefs of doing the right thing to talk about, for example, using built-in ads / opinion statements to help products or maximize / market the company's services. A composite statement / vision statement grabs the reader's attention, and ad copy has a greater impact on the reader's mind than a regular one. The look or layout of an ad is like that of a magazine or newspaper that has written ideas and readers are confused / misled into thinking they are reading an article. A just and equitable ending occurs when there is a violation or deviation from the standards in a way that indicates or indicates that something is known, such as delivering a wrong message knowing it is wrong. For example, Energy Ultra washing powder claimed to contain whole / whole / proprietary ingredients mixed with lemon juice, but lab tests showed the claim to be false. There are three guidelines / guidelines that help determine if an ad is trustworthy and accurate: Aim for something: It means what the ad is trying to say and whether it is based solely on facts and not on opinion or neutrality. Quality of truth or correct number: means that the company's statement is true and (can be proven true). The desire to buy more: means that the ad (helps to expand / visualize in a positive way) (mainly wants to buy and have a lot of good things). ASCI is a voluntary and independent legal entity, registered as a non-profit corporation under Section 25 of the Indian Companies Act. ASCI's sponsors, who are its core members, are (large/relatively large) Indian industry companies and container/cosmetic advertisers, media, advertisers (business services/government

entities) and d other professional/assisted services related to the practice of marketing. Therefore, although ASCI is not a public body, it is represented by all the people (policy makers or advertisers) who engage in the promotion of content across the Indian government service.

## **SOME EXAMPLES AND INSTANCES OF MISLEADING ADVERTISEMENTS**

### **I. MISLEADING PERFUME AND COLOGNE ADVERTISEMENT**

In one of the perfume commercials, where a beautiful woman walking up a flight of stairs in an elegant dress with diamonds hanging from her ears and neck. Her face is shown very beautiful, with a slight hint of a smile. Entering from the left is a man in a black tuxedo and he wraps his arms around her. She is enticed by the cologne he is wearing and throws herself on in; they both look at the screen and smile. On the bottom of the screen is a small bottle marked with a label of a recognizable perfume company. Now coming back into reality from the mesmerizing commercial, this is a clear indication of false and misleading advertisement where a woman is portrayed as a thing attracted to a man because of his perfume scent.

### **II. MISLEADING FAIRNESS CREAMS**

The target audience's societally imposed insecurities are used in the advertising campaigns' marketing strategies, leading people to believe that unchangeable things like skin can be made to appear more "beautiful" by using lightening creams, serums, and other treatments that, don't work actually. Even more, the advertisements attempt to link fairness to attractiveness and healthy skin. You may see companies like Pond's and Vaseline advertising their lotions and creams online by just typing "healthy white" and "white beauty."

Fairness advertisements promise that using their product would make the customer's life better. They will become more prosperous and have higher chances to get married. As a result, they profit from our culture's concern with fairness and propagate the idea that "fair is attractive." The health ministry of the Indian government has tabled a Bill in parliament that targets deceptive fairness cream advertisements among other things. Violations are punishable by up to five years in prison and a heavy fine of Rs. 50 lakh.

This might have a big impact on society since, despite all the "woke" talk about it, the hunt for pale skin is still going strong in India, according to a fast Google search. Therefore, a legal penalty for advocating the fairness ideal may result in change. This is due to India's unhealthy obsession with fairness cosmetics, despite the country's large population of individuals with dark complexion, because there are so many advertisements for goods and services that lighten.

### **III. MISLEADING TOOTHPASTE ADVERTISEMENTS**

Most of us have seen videos of "dentists" from various nations endorsing Sensodyne. In this instance, the CCPA stated that it was unlawful for doctors who were currently in practise in India to openly advocate any product or medicine. GSK was able to get around this restriction by including product endorsements from "practising dentists" in other nations. It's against the law, according to CCPA.

Thus, there are many other products and brands which portray a false and misleading promise to the consumers through the mode of advertisements.

## **EFFECTS AND IMPACT OF MISLEADING ADVERTISEMENTS**

### **I. ON CONSUMERS**

The worst part about false and misleading advertising is the impact it has on consumers. Decisions are ultimately made by the consumers in ignorance. Consumers will make bad judgments regarding the products and services if they are not aware of the actual truth about the product, or if advertisement is used to construct a picture for them that obscures or contradicts the facts about the products or services. The consumers will waste money on a product that eventually won't satisfy their demands or provide a solution to their issues; moreover, they could use the product without being aware of its unfavourable side effects.

### **II. ON BUSSINESS**

Another impact of misleading advertising is the impact on the business itself. When a business makes a misrepresentation, that business usually doesn't see that the publicity will end up harming it. After all, the only

person likely to be misled by such advertising is the consumer! The truth is that misleading advertising can be deadly for businesses that use misleading advertising. Generally, consumers don't like being lied to. Once they find out that the business has lied to them, they will take revenge. They may also get angry after realizing that they were cheated; spread negative stories about the business, through word of mouth or on social media. When the worst happens, the consumer is likely to sue the business for damages, which can later result in significant litigation costs for the business.

### III. ON PERCEPTION OF COMPETITION:

This is one of the worst effects associated with false advertising. When there is healthy competition between businesses, they tend to improve their products and services and reduce the costs that they pass on to the consumer. This can improve the entire industry in the long run, as innovation is encouraged. Businesses are forced by competition to be creative and spend money on research and development to improve their products and services. However, if a competitor is spending their money on misleading advertising and making attractive but false claims about their products, then the other company also will be forced to invest in the same instead of investing in innovation. The result is industry-wide damage.

## CONCLUSION

There are many ways to advertise these days. However, the laws governing these ads are still at a very early stage, and so it's safe to assume there were enough rules. Even marketing researchers and advertisers believe that the future of advertising is nothing but how it is governed. Making ads and not donating is very important for everyone involved in making and publishing. There are rules that deal with advertising-related issues, but these laws are insufficient to deal with the growing legal complexities advertisers typically face today. Advertisers seem to prioritize selling their products and the law seems to take a back seat. Legal considerations are moral considerations that should be a major influence for many marketing managers when developing marketing strategies. However, this would not happen as long as we lagged behind in putting in place an adequate legal framework to deal with this issue. File bombarding ads leaves you on the verge of specifying what regulations should be in place, followed by what else is needed. We also need to analyse how self-regulation is applicable in India and whether ASCI is able to play the role of regulator effectively. So this study attempts to make a legal prediction of an obscure trading forum every now and then.

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