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Growing Anathema of Fraudulent Marketing on E-Commerce Platforms

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Abstract : The technological revolution has significantly increased internet dependency, which has encouraged the development of e-commerce and expanded business opportunities online. Nevertheless, this transition has also resulted in certain commercial entities' proliferation of deceptive and deceitful marketing strategies. The issue of misleading advertisements, particularly in the electronic medium, has emerged as a significant concern in India, eroding consumer trust.

IndexTerms **- Technological Revolution, Fraudulent Practices, Consumer Protection.**

I. INTRODUCTION

The technological revolution has made life without the internet inconceivable. The high rates of internet dependency have attracted online business participation, courtesy of the e-commerce boom.[1] Unfortunately, in finding a niche in the virtual space, several commercial entities have indulged in *fraudulent* or deceptive marketing techniques to market their services or products to customers.[2] In India, **GAMA (Grievances against Misleading Advertisement),** which the Department of Consumer Affairs operates, received over *6000 complaints* of misleading advertisements from *2019 to 2021*.[3] Misleading advertisements, especially on the electronic medium, continue to be a persistent hindrance to consumer trust.[4] The new **Consumer Protection Act of 2019** defines fraudulent advertisements.[5] The Act also establishes the **Central Consumer Protection Authority (CCPA),**[6] which has the power to impose a penalty on the endorser or the manufacturer under the Act.[7] The Central government has recently shown concern regarding misleading reviews and ratings on e-commerce platforms.[8]

II. REVIEW OF LITERATURE

1. Richa Jhanwari and Dishita Khanddia (2020),[9] through their paper, raise concerns about misleading advertisements in India. They explain how Indian legislation has adopted various laws to protect consumers from misleading and fraudulent advertisements, yet their effectiveness remains questionable. They have highlighted through their paper that rapid technological advancement has resulted in an ***influx of misleading ads.***

2. Priya Singh (2021),[10] in her paper, discourses the increasing threat to consumers due to the rapid spreading of e-commerce. The paper deals with the modern issues faced by consumers in the electronic space, including ***misleading e-commerce assurances, consumer privacy breaches and data protection lapses.***

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[1] Aadya Tiwary, *Education during Covid-19*, 3 INT'l J.L. MGMT. & HUMAN. 1121 (2020).

[2] Viswanathan, P & Pongiannan, K. *Misleading online advertising in the new business era in India*, 1 Asian Journal of Interdisciplinary Research 12, 12-19 (2018).

[3] Sonam Joshi, *70% Indian consumers have come across 3 or more misleading ads in last 2 years: Survey*, The Times of India (Jun 4, 2022, 2:14 PM).

[4] Pavlou, P. A, *Consumer Acceptance of Electronic Commerce: Integrating Trust and Risk with the Technology Acceptance Model*, 7(3) International Journal of Electronic Commerce 101, 101–134 (2013).

[5] Consumer Protection Act, 2019, § 2 (28), No. 35, Acts of Parliament, 2019 (India).

[6] *Id.*

[7] *Id.*

[8] Ministry of Consumer Affairs, Food & Public Distribution, *Fake reviews on E-Commerce platforms under Center's radar*, Press Information Bureau (May 26, 2022, 3:28 PM), https://pib.gov.in/PressReleasePage.aspx?PRID=1828485.

[9] Richa Jhanwar and Dishita Khanddia Advertisement & its Misleading, 3 Int'l J.L. Mgmt. & Human 5. 1126 (2020).

[10] Priya Singh, *Consumer Privacy in E-Commerce*, 25 Supremo Amicus 372 (2021).

3. **Dhanya K A (2019),**[11] in her paper, discusses the challenges that consumers face in the e-commerce era. The author argues that, although legislations like the Information Technology Act, 2000, and the Consumer Protection Act, 2019 are in place, the need for a separate e-commerce law arises owing to ***frivolous advertisements and jurisdictional and data privacy issues.***

4. **K. Kariyawasam (2017),**[12] in her paper, analyses the nature and extent of ***deceptive marketing.*** The digitization of buying and selling processes has indeed brought about convenience, however, have also facilitated a cesspool of fraud and false advertisements. Consumers, who opt for this mode of purchase, are being rendered with poor quality of bought at unreasonable prices.

5. **Tim Zimmermann (2017),**[13] through his paper, studies the causes behind rising fraudulent practices in advertisements. He locates unhealthy competitive practices adopted by companies to force resort to misleading advertisements. ***Fake pricing schemes, collaborations, warranties, and customer-service assurances*** are put up purely stemming from the pressure of attaining the sales target.

III. ISSUES

I. Need to Address Cut-Throat Competition in the Online Market

The primary reason behind false/fake advertisements is the market competition.[14] As per the Ministry of Consumer Affairs, there has been registration of ***7,000 false advertisement*** complaints against e-commerce platforms.[15]

II. Dynamic Trends of Fraudulent Marketing Practices

Such practices are dynamic and ever-evolving in nature. E-Commerce platforms devise different strategies to adopt such ***illicit practices***.[16] For instance, from fake reviews to surrogate advertising, platforms are resorting to multiple ways to unlawfully gather customer traffic.[17]

III. Paucity of Existing Legal Frameworks to Address Prevalent Misleading Advertisements

The ***Advertising Standards Council of India (ASCI), 1985*** formed the ***Code for Voluntary Self-Regulation in Advertising,*** which fails to ensure mandatory compliance with the provisions of the code.[18] Further, the pre-emptive risk mitigation strategy, unreasonably obstructs marketing campaigns to affect the company revenue.[19]

IV. OBJECTIVES

1. To study the changing and evolving scope of *misleading advertisements* on e-commerce platforms.
2. To examine various strategies adopted to implement *false and fraudulent marketing* plans.
3. To analyse the current legal framework dealing with misleading advertisements and the efficiency of the legal systems in India to curtail *fraudulent* advertisements.
4. To suggest *improvements* to the current legal framework to reduce the number of misleading advertisements on e-commerce websites.

V. RESEARCH METHODOLOGY

Owing to the nature of the topic, the researchers have used ***qualified research techniques*** due to a plethora of constraints of existing research work and literature. Further, the researchers would be using the ***doctrinal method of research*** to explain, examine and analyse the current position of fraudulent advertisements on e-commerce websites in India. The researchers would be conducting a detailed study on case laws, statutes, conventional theories, journal articles, and commentaries to establish the ineffectiveness of the current legal framework in the management of misleading advertisements.

[11] Dhanya K A, *Consumer Protection in the E-Commerce Era*, 3 IJLR 4, 1-14 (2015).
[12] K. Kariyawasam, *Misleading Advertising in and Consumer Protection*, 26 Info. & Tech LJ 2, 25 (2017).
[13] Timm Zimmermann, *Detecting Fraudulent Advertisements on a Large E-Commerce Platform*, 19 Int'. Conf. on Optimization and Analytics of Big Data 5, 176 (2017).
[14] Nikita Modi, *Misleading Advertisements*, 6 IJRAR 1, 25-45 (2019).
[15] S Kumar, *Status of Deceptive Advertising Practices in India 2015-17*, 10 IIM J. Mng. SCI. 2, 22-25 (2019).
[16] S Toros, *Deceptive Marketing in Online Shopping*, 2 Trans. Mark. J. 21, 409-426 (2021).
[17] Iqbal Hawaldar, *Fake Discounts and Offers Driving Consumer Behaviour in India*, 11 Sust. J. 17, (2019).
[18] AA Patil, *Misleading Advertisements in India: A Comparative & Critical Analysis*, 7 IUP Law Review 1, 7-24 (2017).
[19] F Ahmad, *False and Misleading Advertisements – Legal Perspectives*, 38 J. of Ind. Law Inst. 2, 168-183 (1996).

VI. Expected Outcomes/Conclusion

With budding digitization in the online market space, coupled with convenience there is also the ugly head of fraudulent/false marketing practices.[20] Such practices illicitly lure the consumer traffic to purchase poor-quality products at non-competitive prices. It is gathered that cut-throat competition is the primary reason behind the resort to such malpractices.[21] As a recent legal development, the ***Central Consumer Protection Authority (CCPA)*** notified the ***Guidelines for Prevention of Misleading Advertisements***,[22] 2022 to prohibit all kinds of misleading advertisements, lay down due diligence and other duties of the endorsers. However, to comprehensively eradicate such advertisements, the subjectivity of content and ideal balance to give creative liberty must be attained.[23]

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4) Richa Jhanwar and Dishita Khanddia Advertisement & its Misleading, 3 Int'l J.L. Mgmt. & Human 5. 1126 (2020).
5) Priya Singh**,** *Consumer Privacy in E-Commerce*, 25 Supremo Amicus 372 (2021).
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