

# Impressive Advertising and its effects on society

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**Abstract:** Indian advertising Promotions in the country are too big for any reactive system to be effective. Specifically, each case is treated as independent and thus is open to the difference in interpretation. And considering the volume of Service and product ads, the regulatory mechanism has to be proactive. Impressive advertisements filed before the consumer courts today are mostly filed by those who are directly affected by such advertisements and have suffered financial loss.

**Keywords:** False advertising, Impressive advertising, Indecent advertising, Illegal advertising, Advertising leading to unsafe practices, Advertisements unfair to competition

## Introduction

Advertising is a business practice for informing and persuading consumers about their products. To supply or transfer goods or services, immovable property, rights and obligations of the manufacturer or supplier in connection with its product or services, advertising is understood as a form of representation made in connection with a trade, business, craft or profession. Advertising can be in any form of material including any advertisement included or planned for instant retransmission by the licensed service. It is part and parcel of the strategy of commercial marketing. Commercial advertisement most commonly desires to drive consumer behaviour to its commercial offering and increased consumption of its product. However, if an advertiser uses a false statement about the product; or, intended to impress through its presentation; or, intended to deceive or likely to deceive the consumers to whom it is addressed; or, conveys the potential promises which are exaggerated about the efficacy of their product to such an extent that the products cannot deliver; or, they intend to actively conceal the ill effects of their products. Where such falsity or deception impairs the economic behaviour of consumers or causes injury regarding 'false or impressive advertising. This form of advertising, in all likelihood, persuades consumers in commercial transactions which they may avoid; affect their right to informed choice, the right to know the quality, quantity, purity and safety of the product or service that they are doing. There is no effective correction of this information asymmetry through existing legal and regulatory institutions and the 'market failure' perpetuates an irreparable injury to consumer welfare and consumer rights. False and impressive advertising is a means of causing asymmetry in information. They are unethical and have to be addressed as social and commercial ill. These advertisements infringe fundamental consumer rights such as the right to informed choice, security and protection from unfair and anti-competitive trade practices. They also have unintended and unwanted market effects and impair competitiveness. By affecting the consumer's economic behaviour through deceptive representation, the economic waste of consumer rights is permanently impaired. In connection with drugs and food items, this form of advertising causes a significant and detrimental impact on consumer health. The implicit messages contained in such advertisements also contribute to the psyche and good sense of the consumer being assaulted. But the fact remains that this issue in India continues to a serious extent.

Advertising has been accused of an array of sins ranging from an economic waste to purveying of harmful products, from sexism to deceit and manipulation, and from triviality to intellectual and moral pollution. An ethical problem in the contemporary business environment is deceptive advertising, which can mislead consumers and injure competitors. The problem with Impressive ads is getting worse day by day. Advertising today is giving rise to negative attributes like creating class consciousness, materialism, conspicuous consumption and other values which are not universally accepted. Though illegal in its most blatant forms, deceptive advertising can occur in subtle ways that are difficult to establish as outright deception.

## Impressive Advertising includes:-

- Exaggerating and overstating
- expressing unrealistic attributes of the product
- Use of professional concepts for more effect
- Fake license
- False warranties
- Use of cinematic tricks and Impressive images
- Discounts and gifts

## Prevalent forms of Impression advertisements:-

One example is the case of milk advertisements to children. Several milk companies claim that their products enhance performance during sports.

Additionally, certain advertisements use celebrities to endorse their products. By doing this, the products will be creating the impression that it is those food products that can cause one to live their dreams or live a celebrity-like life. Children usually take things at face value, which impresses them into purchasing those items as they are.

- When an edible oil advertisement gives you the impression that you are free of heart problems so long as you are using that particular oil, then it is misrepresenting facts.
- When an advertisement for a water purifier that filters only bacteria and not viruses claims that it gives 100 per cent safe water, then it is a false statement.
- Another interesting feature about advertisements for children is that most of them are usually done for products that are low in nutrients; these include breakfast cereals and other junk foods. Such foods are high in sugar and low in other essential nutrients. However, many companies do not include that information in their advertisements; instead, most of them assert that children should purchase the products to become healthy. This is very misleading and can cause children to become overweight or even obese.
- In close relation to this example is the labelling of food as containing zero fat. This is also another gimmick that could cause dire consequences to the consumer because it does not necessarily mean that the item has no fat at all; it simply means that its fat content is lower than in other similar products. This means that when consumers continually purchase and use such food items, then they may still be subjected to the same health problems that their counterparts eating the non-low fat foods are.
- The advertisements regarding fairness creams, getting slimmer or taller by popping pills or the claims by unscrupulous financial institutions regarding giving unrealistic higher returns on investments trick gullible consumers into purchasing their goods or services.
- Medical crisis fact that impressive advertising on fat reduction leads to death on Liposuction, a fat reduction procedure, the 21-year-old budding actress died at a private hospital in Bangalore. Medical negligence and impressive advertisement by the cosmetic centre.
- If a retailer claims that he is offering a special discount on his goods as part of a festival celebration, while he is actually using the festival as an excuse to get rid of old and outdated goods, then he is deceiving consumers
- Even reducing crucial information about the product to minute letters at the bottom of the advertisement could be termed as an unfair trade practice, particularly if such information is not intelligible to the consumer.
- falsely represents that the foods are of a particular standard, quality, quantity or grade composition; makes a false or misleading representation concerning the need for, or the usefulness; gives to the public any guarantee of the efficacy that is not based.

Impressive advertising is a means of causing asymmetry in information. They are unethical and have to be addressed as social and commercial ill. These advertisements infringe fundamental consumer rights such as the right to informed choice, security and protection from unfair and anti-competitive trade practices. They also have unintended and unwanted market effects and impair competitiveness. By affecting the consumer's economic behaviour through deceptive representation, the economic waste of consumer rights is permanently impaired. In connection with drugs and food items, this form of advertising causes a significant and detrimental impact on consumer health. The implicit messages contained in such advertisements also contribute to the psyche and good sense of the consumer being assaulted. But the fact remains that this issue in India continues to a serious extent.

#### **The existing regulatory authorities:-**

1. Food Safety and Standards Authority (FSSAI)
2. Central Drugs Standard Central Organization (CDSCO)
3. Insurance Regulatory Development Authority
4. Telecom Regulatory Authority of India
5. Securities and Exchange Board of India
6. Reserve Bank of India
7. Medical Council of India

#### **The Regulation of Advertisements in India**

India is still said to be an emerging and developing market because of the evolution stage of legal architecture that is present in terms of regulations of advertising.

There is no direct law to regulate advertising in India. The regulation is done through multiple laws which also apply to advertising. The regulation of advertising in India is a self-regulation system. In this, the advertiser is expected to follow certain codes of ethics in terms of the content and manner of presentation of the advertisement. The regulation of advertising in India is done by a non-statutory body called the Advertising standards council of India (ASCI). Apart from ASCI, many agencies are working on the regulatory role in their sphere of influence. Some of these are,

- Indian Broadcasting Foundation, New Delhi
- The Advertising Standards Council of India, Mumbai
- Electronic Media Monitoring Centre (EMMC), Ministry of Information and Broadcasting, Government of India, New Delhi
- Telecom Regulatory Authority of India (TRAI), New Delhi
- Press Council of India, New Delhi
- News Broadcasting Standards Authority, C/o News Broadcasters Association, New Delhi
- Director General, All India Radio, Parliament Street, New Delhi, India
- Director General, Prasar Bharti, Doordarshan Bhawan, New Delhi

- National Consumer Dispute Redressal Commission, New Delhi
- Food Safety and Standards Authority of India, New Delhi

### **Self-regulations and Consumers Regulations**

To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against impressive advertisements. To ensure that advertisements are not offensive to generally accepted standards of public decency. To safeguard against the indiscriminate use of advertising for the promotion of products which are regarded as hazardous to society or to individuals to a degree or of a type which is unacceptable to society at large. To ensure that advertisements observe fairness in competition the consumers need to be informed on choices in the marketplace and the cannons of generally accepted competitive behaviour in business.

- An advertisement shall be set forth in a clear, concise and understandable language.
- Extensive use of technical, legal terminology or complex language and the inclusion of excessive details which may distract the investor shall be avoided
- An issue advertisement shall not contain statements which promise or guarantee a rapid increase in profits. An issue advertisement shall not contain any information that is not contained in the offer document.
- No models, celebrities, fictional characters, landmarks or caricatures or the likes shall be displayed on or form part of the offer documents or issue advertisements
- Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, New Delhi
- Laws: Statutory Regulation of Advertising
- Complementing the **ASCI Code** are Indian laws governing specific media, populations, and specific goods and services.

#### **Laws Governing Media**

- The Press Council Act 1978
- Cable Television Network Rules, 1994
- Code for Commercial Advertising on Doordarshan and All India Radio
- Electronic Media Monitoring Centre (EMMC)
- Norms for Journalist Conduct issued by the Press Council of India
- Code of Conduct of the News Broadcasters Association

#### **Laws Protecting Society and the Consumer**

- Emblems and Names (Prevention of Improper Use) Act, 1950
- Young Persons (Harmful Publications) Act, 1956
- Companies Act, 1956
- Standards of Weight & Measures Act, 1976
- Indecent Representation of Women (Prohibition) Act, 1986
- Consumer Protection Act, 1986
- Laws related to intellectual property rights

#### **Industry-Specific Laws**

- The Drugs and Cosmetic Act, 1940
- The Transplantation of Human Organs Act, 1994
- The Drugs and Magical Remedies (Objectionable Advertisements) Act, 1954
- The Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994
- Advocates Act, 1961
- Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992
- Securities and Exchange Board of India Act, 1992
- The Prize Chits and Money Circulation Schemes (Banning) Act, 1978
- Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003
- Public Gambling Act, 1867, the Lotteries (Regulation) Act, 1998 and the Prize Competitions Act, 1955
- Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002
- The Food Safety & Standards Act, 2006

The important and key player in the regulation space is the Advertising Standards Council of India. Also known as ASCI.

- Twelve non-advertising professionals representing civil society, recognised opinion leaders in disciplines such as medical, legal, industrial design, engineering, chemical technology, human resources and consumer interest groups; and
- Nine advertising practitioners from member firms of ASCI.

#### **The complaints received by the ASCI**

- False advertising
- Misleading advertising

- Indecent advertising
- Illegal advertising
- Advertising leading to unsafe practices
- Advertisements unfair to competition

#### The majority of the complaints on four sectors,

- Education
- Health, and personal care
- Consumer durable
- Food and beverages

The top two sectors were, education consisting of about 49% of the complaints and health and personal care products consisting of about 38%.

Impressive Advertisements promising Weight Reduction: NC In response to a case filed by a consumer against a Body Care programme alleging that even after paying ` 10,500 and undergoing the treatment, she did not lose weight, the District Forum in Bangalore had directed that the money be refunded to the consumer and also a compensation of ` 25,000 be paid State-level Monitoring Committee The constitution of both State and District-level Committees to enforce the Cable TV Networks Rules was envisaged but the constitution of the State-level Committee was not specified.

#### The constitution of the State-level Committee on Advertising Regulations

- Secretary, Information & Public Relations - Chairman of the State
- Representative of the DG of State Police - Member
- Secretary, Social Welfare Department - Member of the State
- Secretary, Women & Child Development - Member of the State
- Representative of a leading NGO of the - Member State working for women (to be nominated by Chief Secretary)
- Academicians /Psychologists /Sociologists - Member (one each to be nominated by Chief Secretary)
- Director (Information) of the State - Member Secretary Functions

#### The functions of the State Level Monitoring Committee will be:

- To see whether District/Local Committees have been formed and are meeting regularly.
- To see whether the authorized officers are effectively performing their duties.
- To give suggestions/guidance to District/Local Level Committee.
- To take a decision on the matters referred to it by District/Local level Committee.
- To recommend action and forward complaints against satellite channels (National Channels) to the Ministry of Information & Broadcasting through the Chief Secretary of the State in cases of violation of the Government of India's orders on the Programme and Advertising Codes.

#### Conclusion;

Indian advertising Promotions in the country are too big for any reactive system to be effective. Specifically, each case is treated as independent and thus is open to the difference in interpretation. And considering the volume of Service and product ads, the regulatory mechanism has to be proactive.

In the Consumer Protection Act, The state governments, as well as the central government, can file complaints on behalf of consumers, but here again, the Departments of Consumer Affairs hardly have the required infrastructure for such work. So complaints of false and Impressive advertisements filed before the consumer courts today are mostly filed by those who are directly affected by such advertisements and have suffered financial loss.

There is an urgent need for defining and establishing explicit guidelines in terms of to-dos and don'ts to be followed by all advertisers and anyone defaulting to be tried and decided based on them. The system has to be designed on the lines of the Indian control and regulation law which very clearly defines the boundaries of ethical and lawful action and the person/s found guilty has to prove their innocence rather than the law running after the guilty to prove them guilty.

#### Bibliography;

1. Misleading Advertisements and Consumer- New Delhi Publication, Puspa Girimaji
2. Advertising Art and Ideas – Dr G M Rege
3. Kazmi, S.H.H and Batra, Satish. K./'Introduction to Advertising and a Brief History'',
4. Advertising & SALES PROMOTION, 2nd Ed. Reprint 2007, Excel Books,
5. Claude C Hopkins, My Life in Advertising, Chicago Advertising Publications, 1966,
6. 2001 Greatest Headlines Ever Written Advertising Magic by Brian Keith
7. Dr G M Rege, Advertising Art and Ideas- Himalayan publication
8. India: A Concise History, by Francis Watson (Thames and Hudson, 1979)
9. The Art of Indian Asia, by Heinrich Zimmer, ed. Joseph Campbell (Pantheon Books, 1955).
10. Chunawala, S. A. and Sethia, K.C., Foundations of Advertising-Theory & Practice, 5th Ed. 2002, Himalaya Publishing
11. Banerjee, S. (1981): "Advertising in India: Involution and Technique". In: Mass Media in India. New

12. Delhi: Ministry of Information and Broadcasting, Government of India.

