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**DISPUTES AND VIOLATION IN THE AGE OF ADVERTISING AND
MARKETING****INTRODUCTION**

"I am one who believes that one of the greatest dangers of advertising is not that of misleading people, but that of boring them to death." -Leo Burnett

A business's sole purpose is to sell the products and services to earn profit, and it is important that the product reach the right people by increasing the awareness about the product, its benefits and drawbacks and this is done by promotional campaign. Before that a question arises, Can we live without Marketing? Why advertisements do really exist? Currently we are living in the age of advertisement and marketing, let's imagine a world without Advertisements! There won't be any interruptions, the products and services are not going to be advertised, so now you are never going to know about the product or the best possible options. Commercials can be annoying, but you will agree they are very effective as they are able to make you remember their products or services and help us to make decision regarding which one to buy only if you don't skip them!

But who like ads? Agreed they are important; People still hate advertising, why? Because ads are often irrelevant, and sometimes, just fake, silly, ridiculous or noisy. Consumers are paying more for subscription services that allow them to skip watching or listening to advertisements and this all advertiser's fault that we refuse to watch them!

How do you become aware that Apple Inc. has launched new I-phone in the market, or your favourite music artist putting a concert in your town, or the candidates standing for the

upcoming elections, or a new Marvel- movie? You wouldn't know much about it without marketing. It drives the awareness in you of what is out there, giving you an understanding of what differentiates a product from others, so you purchase, consume & engage with it. A tremendous growth in Marketing & Advertising industry has led to the increasing competition due to increase in number of advertising agencies which has further led to development of new advertising techniques.

WHERE DO MARKETERS USUALLY GO WRONG?

The sad reality is, in the age of advertisement, most marketers and companies are focusing on the wrong things. Even if you are an unblemished marketer, you are prone to mistakes, but then there are certain cases that go too far, you end up violating the norms and breaking trusts, the most successful companies fail in their marketing effort. Even if you have the best intentions in the world, if your ad is deceptive, you will face the legal consequences. Your ad and marketing strategy must fairly inform the standard consumer.

‘Dishonesty is not the best marketing strategy’

By false advertising one might attract new consumers, they will buy your product or subscribe your services, your company will make profits, but this strategy is bad for the future of the company. The consumer will perceive you as untrustworthy when they get to know the truth.

THE NEGATIVE EFFECTS OF FALSE ADVERTISEMENTS

- Your consumer will end up making poor decisions due to your misleading statements
- Consumer might use the product without knowing the adverse effects that come up with it
- Gradually, consumer will become aware that you lied to them and your lie will end up as harm to you
- Consumer might sue the company for damages
- The employees of the company will be at loss; they will have to deal with consumer's anger and will eventually leave the company.

TYPES OF ADVERTISING VIOLATIONS

- **Infringement of Copyright:** when a company duplicates the work of a copyright holder company in an advertisement without permission, the copyright holder can take legal action against the company.
- **Misleading Advertising:** claims that are false in connection with the product or service and that could possibly harm the consumer or business, these ads may offer false warranties and consumer will end up wasting their valuable money
- **Deceptive/false Advertisement:** these are the inaccurate statement made in order to delude people. An ad can be false in many aspects including the price of the product, quantity of the product, false facts about the product etc.
- **Trademark Counterfeiting:** if a company uses a trademark or reproduces a logo which is fully/partially identical to a trademark owned by another company without the owner's permission will lead to civil law suit.

ADVERTISEMENTS THAT WERE FOUND TO BE DECEPTIVE

1. 'Airtel told to withdraw 'misleading' 4G ads'

Bharti Airtel Ltd., India's largest Telecom service provider claimed in the advertisement that 'Airtel 4G' is the fastest network ever and 'if your network is faster, we will pay your mobile bills for life', this was found to be misleading and therefore the advertisement contravened Chapter 1.4 of the code. The Advertising Standards Council of India (ASCI) later sent a notice to the firm asking them to withdraw its 4G speed challenge.

2. 'Maggi ban case'

A case against Nestle was filed after the litigator claimed that he fell ill after he ate Maggi. Whereas the advertise claimed the noodle to be healthy and fast food option. Samples of the Maggie were then collected from different states that found MSG (Monosodium Glutamate) and Lead in excess of the prescribed limit. Later, FIR against several celebrities including Amitabh Bachchan was filed for acting in these 'misleading' Maggi advertisements.

ATTENTION CONSUMERS! YOU WILL BE ABLE TO SUE THE BRAND FOR ILLUSORY ADS

- As a consumer, you have the right to accurate information. Misleading ads can be dangerous to your lives. You will waste your valuable money in that product and might end up with the negative side effects!

So what are the options available to you if you had been misled by the Ad?

REGULATORY AGENCIES AT YOUR SERVICE!

1. Advertising Standard Council of India(ASCI)

ASCI is a self-regulatory body governing advertising. If a consumer feels that a particular advertisement is an offensive one, or the ad is found to be misleading its audience by inaccurate claims about the product, ASCI will take an appropriate action against the company.

Role of ASCI

- Safeguards society against the disorderly use of advertisement for the selling of product
- Assures the integrity of claims made by the advertisement
- Ensures that the advertisement isn't abusive or disrespectful in nature
- The aim is to promote fair competition in the industry

2. Broadcasting Content Complaint Council (BCCC)

BCCC investigates content related complaints to non-news entertainment channels. Consumer can file their grievances to the BCCC if they notice the content of the respective channel to be offensive or inappropriate with the general public interest or national security. Client will file grievance to the BCCC if they notice the content of the several channel to be offensive or inappropriate with the general public interest or national security.

3. The Consumer Protection Act, 2019

Consumers can take on manufacturers for making fictitious claims. Central Consumer Protection Authority (CCPA) regulates the matters relating to misleading advertisements and violation of rights of the consumer. Under the new Consumer Protection Act, 2019, if any advertisement conveys false description of a product or service, the consumer can file a complaint with CCPA.

4. The Monopolistic and Restrictive Trade Practice under MRTP act,1969

Under the MRTP Act, if any advertisement affects any consumer, trade association or central or the state government and later come to a wrong conclusion regarding the feature, fact or quality of the product can approach the commission concerning dishonourable act after which proper investigation shall be meted out. Compensation for loss or damage is provided by the commission in cases where an application is made by the central or the state government or party the suffering.

5. The Drugs and Magic Remedies Act, 1954

The Act prohibits objectionable advertisement that alleged cure for venereal diseases, sexual statements, cures for diseases and condition peculiar to women. The advertisement that gives false impression regarding the actual character of the Drug, or makes a false claim about the drug which can be misleading is prohibited.

6. The Trade Marks Act, 1999

Any trade description that gives a false impression regarding the quantity, quality, feature of the product or service that can misguide the consumer shall be punished with fine as well as imprisonment if the person or company is not able to prove that he did not had an intention to defraud.

7. The Food Safety and Standard Act, 2006

The act states that the labelling of food products should not contain any misleading statement regarding the food product. The consumer can file complaint before the designated officer if they have any objection regarding the product's nutritive value, quality, quantity, or the place of origin etc. An appeal to the appellate tribunal shall be made by the food safety officer if the complaint is proved based on evidence.

8. The Cable Television Network (Regulation) Act, 1995

A written complaint can be filed to the authorized officer if any television program violates the advertising code. The officer has the power to prohibit transmission of

any program that contravenes the provisions of the code. The advertisements must be legal, decent and honest to its viewers; every advertisement must respect the principles of fair competition.

9. The Indian Penal Code, 1860

Any advertisement that relates to an offence like terrorism, kidnapping, inciting violence, hiring killers or publishes obscene pamphlets, defamatory publications, books or any statement that creates conflict in the society, shall be punished under the IPC Code, the code prohibits/criminalises such acts, and the punishment of committing such an offence could be fine or imprisonment.

The most powerful element in advertising is truth; one should use the successful and truthful advertising practises to promote healthy choices

Here's how one can adopt healthy practices:

- The advertisers should make sure that ads are factually correct
- Be truthful about what consumers can expect from the product
- Avoid presenting false claims about a particular product, if the xyz pills give temporary pain relief, don't present it as a remedy to cure headaches
- 'treating competitors fairly' help you build relations will help build healthy relations
- Relevant details must be provided regarding advertise of specific credit terms including interest rate, down payment etc.

CONCLUSION

Living in the age of advertisement we are perpetually disillusioned, the gap between what's expected and what is being delivered has widened. There are multiple laws and regulatory bodies pertaining to advertisements in general but they have been largely ineffective to handle the issues, these have rather cause an utter confusion in the minds of consumer and manufacturer. Consumers are aware that they can easily be misled by the ads so laws should be stricter than what it is presently so that consumer doesn't feel betrayed. Presently, consumers can file case directly with the consumer court but due to this they suffer a huge financial loss because Department of Consumer Affairs hardly have the required infrastructure, also sometimes cases become weaker if they are not able to prove that they bought a particular good due to deceptive advertisement and it caused damage to them. In the

US, the Federal Trade Commission, act on behalf of the consumer and ensures that those who are affected by the misleading ads get compensation. The major problem in our country is despite of the advertising laws, there is no provision to remedial advertisements in-order to change the insight of consumer regarding the product. The IPC and the Drug & Magical Remedies Act have provisions for fines and imprisonment, but it's still not successful in terminating the offence.

From the analysis, it can be easily concluded that presently regulations are quite ineffective, consumers, in the meanwhile, would demand for superior laws to deal with the false advertisement, '*Jago Grahak Jago*'!



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