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**COMMERCIAL DECEPTION UNVEILED:
ANALYSING MISLEADING ADVERTISING IN THE
LIGHT OF CONSUMER PROTECTION ACT**

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ABSTRACT

Misleading advertising poses a persistent challenge in commercial landscapes, eroding consumer confidence and distorting market dynamics. This research article provides a comprehensive examination of the regulatory framework governing misleading advertising within the Consumer Protection Act (CPA). By analyzing legal provisions, landmark case precedents, and enforcement mechanisms, this study illuminates the multifaceted dimensions of addressing deceptive practices in advertising.

The exploration begins by elucidating the concept of misleading advertising, encompassing false claims, deceptive imagery, and other forms of commercial deception detrimental to consumer interests. The legal obligations and responsibilities imposed upon advertisers and marketers are scrutinized, including requirements for truthfulness, substantiation of claims, and avoidance of ambiguity or omission. Furthermore, the article delves into the evolving jurisprudence surrounding consumer rights and remedies under the CPA, highlighting avenues for redressal such as compensation, corrective measures, and injunctive relief.

In navigating the enforcement landscape, the role of regulatory bodies and consumer protection agencies assumes paramount importance. The study evaluates the effectiveness of regulatory mechanisms in detecting, investigating, and penalizing instances of misleading advertising, thereby deterring future transgressions. Moreover, the interplay between self-regulatory initiatives, industry standards, and legal mandates underscores the intricate balance between market innovation and consumer safeguarding.

By unveiling the intricacies of commercial deception under the Consumer Protection Act, this

article not only provides insights for policymakers and legal practitioners but also empowers consumers to make informed choices. Ultimately, fostering transparency and accountability in advertising practices is essential for cultivating a fair and equitable marketplace conducive to consumer welfare and business integrity.

KEY WORDS

Misleading advertising, Consumer Protection Act, Commercial deception, Regulatory framework, Consumer rights, Enforcement mechanisms, Advertising ethics, Legal obligations, Consumer remedies, Market transparency, etc.

1. INTRODUCTION

The phenomenon of globalization has brought the world closer together, connecting individuals and businesses across borders. One of the significant outcomes of this global integration has been the rapid advancement of the internet, which has revolutionized communication and transformed the way businesses operate. With the internet's advent, advertising has taken on a new dimension, enabling companies to reach audiences on a scale never before imaginable. Moreover, the emergence of social media platforms has further amplified the reach and impact of advertisements. Throughout the years of advertising, we have seen different forms, from billboards to pop-up ads in the internet and now that there are millions of businesses out there, advertisers have now included deceptive advertising as part of their marketing strategy which is presenting new challenges in safeguarding consumer rights.

This research article aims to evaluate the effectiveness of provisions addressing misleading advertisements in the digital era by employing a combined approach of legal analysis and consumer survey. The study seeks to understand the impact of these provisions on emerging deceptive practices and recommends concrete measures to enhance their efficacy. The provisions include the Misleading Advertisements Guidelines, 2020 with Consumer Protection Act, 2019 and ASCI guidelines.

The research methodology encompasses a mixed-methods approach, integrating quantitative and qualitative methods to comprehensively assess the effectiveness of provisions targeting misleading advertisements in the digital realm. To evaluate their efficacy, a quantitative aspect that is consumer survey will be administered, focusing on consumer awareness and comprehension of the provisions, personal experiences with deceptive advertisements, and perceptions of the provisions' effectiveness in combating misleading practices. The research aims to evaluate the provisions from a consumer perspective by analysing various indicators,

including consumer awareness levels, reported encounters with misleading advertisements, and trust in advertising. Furthermore, the study will conduct an extensive legal analysis which is a qualitative method, meticulously examining existing provisions and regulations concerning misleading advertisements. The analysis will explore the provisions' scope and applicability within the context of emerging digital advertising trends, such as social media, influencer marketing, and targeted advertising. The objective is to identify any deficiencies or limitations in the current provisions that may hinder their effectiveness.

Drawing on the findings from the legal analysis and consumer survey, the research will provide targeted recommendations to bolster the provisions' effectiveness. These recommendations may encompass enhancing regulatory frameworks, fortifying enforcement mechanisms, fostering consumer education and awareness, or implementing novel measures to address evolving trends in misleading advertisements.

The anticipated outcomes of this research are twofold. Firstly, it seeks to provide an in-depth understanding of the existing provisions targeting misleading advertisements in the digital era. Secondly, it aims to offer practical recommendations to policymakers, regulatory bodies, and industry stakeholders, with the objective of optimizing these provisions and combating deceptive practices more effectively. By bridging the gap between legal analysis and consumer perceptions, the research aspires to contribute to a robust and efficient framework for addressing misleading advertisements in the digital landscape. The recommendations put forward advocate for transparency, fairness, and accountability in the digital marketplace, striving to prioritize consumer trust and well-being.

MISLEADING ADVERTISEMENTS

Advertisements are of great importance for any business activity as it attracts people to use the particular service¹. Most of the businessmen are using various different means of communication to reach people around the world and turn them into leads that can be further turned into potential customers. There are various ways of putting up an advertisement as per the audience to be addressed. Most people use to look for these advertisements very carefully observing carefully the specifications and efficiency of the featured product.

Ours is an age of advertisements. The T.V., the radio, the cinema and all other means of communications are full of advertisements now. ²They are now popularly called 'ads'. They are

¹ Dr. S. PraveenKumar and Dr. D. Gunaseelan, "Misleading Advertisements and Issues" – IJM 475, Volume 7, Issue 2, (2016)

² Robin Taylor, Importance of Advertisements in Today's World, <https://www.selfgrowth.com/articles/importance-of-advertisements-in-today-s-world>, (last visited on 10.04.2024 at 9:29 am)

also visible on building walls, buses, railway stations and airports. All good positions along roads and highways are used by advertising houses to put up their 'ads' and banners. 'Ads' are a vital necessity today. Trades and industries are going on expanding. Naturally they want an awareness of their products in the public mind. This way, consumers know where to find the things they want. Employers also get suitable persons for their job requirement by these 'ads'. But these 'ads' have their negative side also. They also create a 'false demand' by their flattering languages. Sometimes the rogues advertise for the sole purpose of cheating the people.

To check this menace, the Government has also established various bodies to find the reality of the goods so advertised. But nowadays, the 'ads' are the 'in thing'. They do help in letting us select the goods we need. Advertisement is a public display of the exhibitionist instinct in man. But it should be used judiciously so that it serves the interests of both of the producers as well as the general public. Advertising is the best way to communicate to the customers. Advertising helps to inform the customers about the brands available in the market and the variety of products useful to them. Advertising is for everybody including kids, young and old. It is done using various media types, with different techniques and methods most suited.

1. Origin of Advertisement -

The term 'advertising' is derived from the original Latin word 'advertere' which means 'to turn' the attention.³ Every piece of advertising turns the attention of the readers or the listeners or the viewers or the onlookers towards a product or a service or an idea. Therefore, it can be said that anything that turns the attention to an article or a service or an idea might be well called as advertising. A paid message for a product, information or service can be defined as advertisement. Every human being desires to publicize his activities to the masses. This may be dealing in product or any other informatory service.

Advertisement actually encourages business and transitory exchange while exploring consumer and interested buyers and linking it to the supplier or manufacturer. In the usual course, advertisement symbolizes a particular media, but the modern era leads the channel to various streams such as, boards and hoardings, wall paintings and tree labels, print media, television channels, spot presentation and mouth to mouth publicity. The experts favour more mouth to mouth publicity as they feel that it is the most effective method for publicity. This establishes brand and brand position for a product or service.

2. Meaning of Advertisement –

³ Dr. S. Praveen Kumar and Dr. D. Gunaseelan. Misleading Advertisements and Issues. *International Journal of Management*, 7(2), 2016, pp. 475-483. <http://www.iaeme.com/ijm/index.asp>

An advertisement is a marketing tool which is used for sales promotion and publicity. It is a paid form of non-personal presentation and promotion of ideas, goods or services by an identified sponsor.⁴ Advertising techniques are used to make the products, services or opinions familiar to the people. It is a process of communication between the owner of the products or services and consumers. The consumers become familiar to the effectiveness and utility of the existing products and future products. It helps the consumer in taking right decision and it is an art and communication technique by which the Trademark or brand of the product or service is made known to the people.

3. Definition of Advertisement –

According to Section 2 (1) of Consumer Protection Act (CPA) 2019⁵ "advertisement" means any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or such other documents

According to William J. Stanton,⁶ “Advertising consists of all the activities involves in presenting to a group, a non-personal, oral or visual, openly sponsored message regarding disseminated through one or more media and is paid for by an identified sponsor”.

4. Misleading Advertisement: -

A. Meaning –

An advertisement is called deceptive when it misleads people, alters the reality and affects buying behaviour⁷. Misleading happens when the customer faces kinds of advertising that represents false ideas about the product.⁸

Misleading advertisements are illegal in most countries, but some advertisements still find

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⁵ The Consumer Protection Act, 2019, No.35, Acts of Parliament, 2019(India).

⁶ Dr. Swati Sinha, Assistant Professor, Jogesh Chandra Chaudhuri Law College, 30 Prince Anwar Shah Road, Kolkata 700033, Former Lecturer, Midnapore Law College, Vidyasagar University (V.U) , Former Lecturer, Department Of Law , University Of North Bengal & Former Lecturer Haldia Law College,(Vu) & Dr. Pradip Kumar Das, Assistant Professor & Head(I/C), School Of Law And Governance, Central University Of Bihar, Gaya Campus, Gaya, Bihar, Assistant Professor-II, KIIT University, Bhubaneswar, Odisha, former Principal, Haldia Law College, W.B. & Former Trade Mark Examiner, Government of India.

⁷ Dr. S. Sinha & Dr. P.K. Das, False and Misleading Advertisements and Protection of the consumers: Indian Scenario,3 International Journal of Law and Legal Jurisprudence Studies, (2014)

⁸ Brief on misleading advertisement <https://www.mygov.in/frontendgeneral/pdf/brief-on-misleading-advertisement.pdf> (last visited on 05.04.2023 at 8:15pm)

ways to deceive consumers in illegal ways. False advertisement has had its spot everywhere in the corporate world to convince its intended target audience and consumers for purchasing their items. Any advertising that drives the customer to make purchase decisions based on false assumptions about the price and quality of competitive products is considered as deceptive practice and is punishable by law.

B. Definition –

The term ‘**misleading advertisement**’ is defined under the **Consumer Protection Act** as “any advertisement where a business enterprise advertises its product or service by disclosing false information or gives a false guarantee, or deliberately conceals any important information.”

According to **Velasques (2006)** deceptive advertising refers to the advertising that makes false claims or misleading statements, as well as advertising that creates a false impression. If retailers systematically advertise merchandise at low prices to get customers into their stores and then fail to have the merchandise, they are guilty of deceptive advertising. Deceptive practices can take many other forms.

According to U.S. Federal Trade Commission Act, 1914, an unfair method of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are unlawful⁹.

An act or practice is unfair where it –

- a. causes or likely to cause substantial injury to consumers,
- b. cannot be reasonably avoided by consumers, and
- c. is not outweighed by countervailing benefits to consumers or to competition.

Again an act or practice is deceptive where –

- a. a representation, omission, or practice misleads or is likely to mislead the consumer;
- b. a consumer’s interpretation of the representation, omission, or practice is considered reasonable under the circumstances; and
- c. the misleading representation, omission, or practice is material.

The World Bank and the Organization for Economic Cooperation and Development(OECD) Model Law mentions the following trade practices as unfair¹⁰ :

⁹ Section 5 of the Federal Trade Commission Act 1914, USA

¹⁰ World Bank & OECD, (1999), “A framework for the Design and Implementation of Competition Law and Policy”, http://www.cuts-ccier.org/UTP/pdf/Unfair_Trade_Practices_and_Institutional_Challenges_in_India-An_Analysis.pdf.(Accessed on 15-04-2024).

- distribution of false or misleading information that is capable of harming the business interests of another firm;
- distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the price, character, method or place of production, properties, and stability for use, or quality of goods;
- false or misleading comparison of goods in the process of advertising;
- fraudulent use of another's trade mark, firm name, or product labelling or packaging; and
- unauthorized receipt, use or dissemination of confidential scientific, technical, production, business or trade information.

Again, **Article 10 of the Paris Convention** prohibits the following as unfair competition:

- All acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor.
- False allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor; and
- Indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.

Deception exists when an advertisement is introduced to the people in such a way that the output of that advertisement differs from the reality of the situation. It may be of different forms and types. However, false and deceptive advertisement may:

- violates consumers right to information;
- consumers right to safety;
- violates consumers right to choice;
- be harmful to the children;
- be harmful to the health of the common people;
- mislead people by puffery;
- mislead people by use of sex appeals;
- destroy the lives of students through false advertisement [Generally in the form of prospectus containing misleading, false and exaggerated information].

C. Misleading Advertisement includes¹¹ -

- a) exaggerate or overstate the effectiveness of the product / services;
- b) express unrealistic attributes of the product / services;
- c) use high sounding and sophisticated concepts / terms which mis-represent the nature or quality of the product / services;
- d) give false warranties;
- e) use cinematic tricks and misleading images; or
- f) give discounts and gifts, etc., to make the product / services attractive for the prospective consumer.

D. Prevalent forms of misleading advertisements: -

- One example is the case of milk advertisements to children. A number of milk companies claim that their products enhance performance during sports.¹²
- 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 and this misleads them into purchasing those items as they are.
- Another interesting feature about advertisements to 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 actually purchase the products so as 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.

¹¹ Brief on misleading advertisement <https://www.mygov.in/frontendgeneral/pdf/brief-on-misleading-advertisement.pdf> (last visited on 23.03.2024 at 8:50pm)

¹² Brief on misleading advertisement <https://www.mygov.in/frontendgeneral/pdf/brief-on-misleading-advertisement.pdf> (last visited on 23.03.2024 at 8:50pm)

- 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 in purchasing their goods or services.

E. Some Examples of false and deceptive advertisements:

- In one massive advertising campaign, GlaxoSmithKline tried to promote Rota virus vaccine by creating a fake fear psychosis among parents and attempting to make it one of the mandatory vaccines for children. In that particular case, it was a doctor who complained.¹³
- Parle's mango drink "Maaza" gave the advertisement of Maaza Mango. The advertisement implied that the soft drink was prepared from original mango while actually preservatives were added to it.
- Hill's Clinic All Clear Dandruff shampoo claimed that it had ZPTO, the special ingredient in Clinic Act clear shampoo that stops dandruff. This claim was found to be untrue since ZPTO is a micro biocide, when in reality, dandruff is known to be caused by several other factors besides microbes.
- Novartis India claimed that in their disposable contact lenses, there is no protein build up. This claim was found to be totally false. The truth is that build up is a natural biological phenomenon with all contact lenses.

5. ISSUES & PRACTICES OF DECEPTIVE ADVERTISING

A. Issues of Misleading Advertisements: -

- There are a number of issues that have been plaguing the marketing scene with regard to misleading advertisement. The first one amongst this is advertisements made to children. These advertisements are created in such a manner that they target individuals who do not have the capability of differentiating fact from fiction hence it can be argued that those advertisements are actually misleading.¹⁴
- Children in India constitute 18.7% of the world's kid's population and one-third of India's population is under 15 years of age. A survey by ac Nielsen showed that an average child watches TV for about 3 hours on week days and 3.7 hours on weekends. About half of this time is spent watching the advertisements which can affect the behaviour of the child.

¹³ <http://www.moneylife.in/article/false-advertising-corporate-governance> (last assessed on 05.04.2024 at 9:15pm)

¹⁴ Brief on misleading advertisement <https://www.mygov.in/frontendgeneral/pdf/brief-on-misleading-advertisement.pdf> (last visited on 23.03.2024 at 8:15am)

- The advertisers use superlatives to boast the merits of their products like.... the best, number one, cheapest, greatest, finest, etc. but the subjective statements of opinion about a product's quality are so untrue that it becomes an outright spoof and which is not true.
- Sex appeal is used explicitly to sell all sorts of things. It is used to gain consumer attention. It is used where it is not even appropriate to the product or service being advertised. Women are shown as decorative objects or as sexually provocative figures for products where women are not required.
- Often consumer is lured into a retail outlet by an advertisement for a low cost item and then is sold a higher priced version. Once the consumer enters the store, he/she is pressured to purchase another more expensive item. In such stores, one finds a handful of out-dated products on the discount announced and other better products as 'fresh stock'.
- Advertisement is not restricted to products that are good and useful to the people. In India, advertisements for cigarettes, liquor, and pan masala (chewed tobacco), products that are harmful to the public continue to find a place in the TV channels, despite the ban imposed by the government of India.
- False and misleading advertisements in fact violate the right choice, the right to be informed and protected against unsafe goods and services as well unfair trade practices.
- Despite several laws meant to protect consumers against such unfair trade practices, false and misleading advertisements continue to exploit the consumer.
- Out-dated laws, poor enforcement of laws are the main reasons for the prevalence of mal-advertising. The need of the hour is better laws, regular updating of the laws, better enforcement of laws, deterrent measures and regular surveillance on the advertisements by the authorities.¹⁵
- Additionally, tackling misleading advertising is of interest to the country as a whole because if allowed to continue, then it would deteriorate the country's business environment. Eventually, the overall marketing climate or the country's economy may even begin to decline.

These misleading advertisements lead to many issues and raise many questions that need to be analysed. Though there are numerous issues and questions to be raised, we may classify the main issues in following category:

- a) Sale of Goods – commodity (Spurious and fake products).

¹⁵ Brief on misleading advertisement <https://www.mygov.in/frontendgeneral/pdf/brief-on-misleading-advertisement.pdf> (last visited on 24.04.2024 at 8:15am)

- b) Services
- c) Financial- Banking, Insurance, Mutual Funds, Bonds, etc.
- d) Advertisements on National Print and electronic media.
- e) Local Advertisements.
- f) Advertisements on websites, email & social media.
- g) Issue of celebrity role modelling.
- h) Creation of false imagination through false and utopian claims- milk supplements, cosmetics, etc.
- i) Advertisement in the name of religion or with the help of symbolic religious activities.
- j) False claims of education and employment and further fraudulent.
- k) Women as a commodity in advertisements (maximum) - deodorants, bikes, mobile, soaps, etc.
- l) Advertisements related to children.
- m) Misleading advertisements are also creating a kind of divide in the society.
- n) Need based approach to accumulating tendency.
- o) Hiding attributes of advertiser's identity or making false claims
- p) Lucrative sale offers.

B. Misleading Advertisement Practices -

In the intricate landscape of consumer commerce, the prevalence of misleading advertising tactics demands careful examination. The diverse strategies employed to manipulate consumer perceptions, include the imprecise use of terms, using non-standard measurements, deceptive visuals, and hidden fees. Unravelling these practices is essential for enhancing consumer awareness and safeguarding against the pitfalls of misinformation in the marketplace.

(i) Manipulation of term - Many terms have imprecise meanings. Labels such as all - natural, organic etc. are frequently used but are meaningless in a legal sense. Statements and terms like 'recyclable,' 'biodegradable' and 'environmentally friendly' need to be evaluated by reliable scientific evidence.

(ii) Manipulation of measurement units and standards - Many of the packaged products do not display its measurement in a standard sense. The ambiguity on the part of measurement with false display is also one of the unfair trade practices which are very much usual.

(iii) Photo retouching - Often used in cosmetic and weight lose advertisements. These adverts portray false and unobtainable results to the consumer and give a false impression of the product's true capabilities.

(iv) Omitting information - An ad may omit or skim over important information. Omitting important information from advertisements also comes under the category of misleading advertisement.

(v) Hidden fees and surcharges - Hidden fees can be a way for companies to trick the unwary consumer into paying excess fees (for example tax, shipping fees, insurance etc.) on a product that was advertised at a specific price as a way to increase profit without raising the price on the actual item. Charging VAT extra on MRP under different sale offers is one of the common examples.

C. Common Tactics Used in Digital Advertising to Mislead Consumers: -

There are new trends of misleading advertisements in this digital era such as influencer marketing, clickbait strategies, manipulative search engine optimization techniques, and deceptive mobile app advertisements. These tactics aim to capture consumer attention, generate engagement, and drive conversions, often at the expense of truthfulness and transparency.

Influencer Marketing: - In influencer marketing, individuals with a large online following promote products or services to their audience. However, some influencers may engage in deceptive practices, such as endorsing products without disclosing their financial arrangements or providing unbiased evaluations. This can mislead consumers into making purchasing decisions based on inaccurate or biased information.

Clickbait Marketing: - Clickbait marketing involves using sensational or misleading headlines and content to lure users into clicking on links or advertisements. These tactics often result in users being directed to irrelevant or deceptive websites or being exposed to false or exaggerated claims, leading to disappointment and potential harm.

Search Engines: - Search engines play a crucial role in shaping consumer behaviour and providing information. However, manipulative search engine optimization techniques can lead to misleading search results, where businesses artificially boost their rankings by using deceptive tactics, such as keyword stuffing or hidden text. This can mislead consumers into believing that certain products, services, or information are more credible or relevant than they actually are.

Mobile Application Advertisements: - Mobile application advertisements, particularly in free apps, often employ deceptive practices to generate revenue. Advertisements within apps may appear as genuine content or provide false promises to entice users into engaging with them. These tactics can lead to unwanted downloads, unauthorized charges, or exposure to fraudulent schemes.

D. Negative Effects of False/Misleading Advertising

False advertising is misleading with claims that aren't substantiated by evidence. The Federal Trade Commission sets standards¹⁶ for advertising to reduce exposure to misleading or unfair advertisements. An advertiser who knowingly makes false claims or otherwise falsifies advertising faces financial and legal repercussions, in addition to losing loyalty from previous customers.

Investigation

If a marketing campaign is suspected of being false advertising, the FTC may investigate further to determine if the company violates any laws. The FTC reviews the content of the ad from the standpoint of a consumer to determine if the actual or implied claims constitute falsification. The FTC also evaluates information that is left out, such as failing to report side effects of a new medication.

Cease-and-Desist Orders

In some cases, the company may receive a cease-and-desist order to stop the falsified advertisement from running. The advertisements must be brought up to FTC standards before they are allowed to run again. This may include correcting any false information and adding in the information omitted from the advertisements. In addition, the company may have to include additional disclaimers in future advertisements or let anyone who purchased the item that the company used deceptive practices.

Financial Loss

False advertising ends up costing the company a significant amount of money if caught. If the ads are pulled, the company loses out on the money it spent to develop those ads. The company is sometimes charged a fine for both current false advertising and any future incidents of deceptive advertising. If the company is sued, additional expenses come in the form of legal fees and money that must be paid to consumers who filed the suit.

Broken Trust

A company that engages in false advertising gives the impression that it isn't a trustworthy business. Both existing and new customers may feel betrayed and are more likely to go somewhere else for the same products or services. The lost loyalty from existing customers cuts into business. The company may also get a bad reputation as a deceptive organization, which means decreased business in the future.

¹⁶ Dr. S. PraveenKumar and Dr. D. Gunaseelan. Misleading Advertisements and Issues. *International Journal of Management*, 7(2), 2016, pp. 475-483. <http://www.iaeme.com/ijm/index.asp>

Misrepresentation

Advertising aims to present a product in the best light possible. There is some leeway in the creative process. As the Gecko in the Geiko ads says, "That's just a dramatization, of course," referring to the idea that if you ask Geiko representatives for an English muffin, they'll serve one up toasted with butter and jam. The problem arises when the dramatization crosses the line into falsely representing a product. Hefty fines can result from false advertising when levied by the Federal Trade Commission.

Unrealistic Expectations

Direct-to-consumer advertising for prescription drugs has resulted in unrealistic expectations about the effectiveness of drugs and their side-effects, according to the Food and Drug Administration's study "Patient and Physician Attitudes and Behaviors Associated With DTC Promotion of Prescription Drug." Voice-overs give the downside to the drug, but the visual images show healthy, happy people. It's not unusual to hear that even death may be a side-effect of a prescription drug. Beauty and health products may also not live up to their promises, resulting in wasted consumer dollars. Disclaimers are often hidden in very small print on product packaging and in out-of-the way spots in ads.

False Images

Advertising is ingrained in American culture, from children's programs on Saturday morning to talk shows and prime time TV. Advertising even invades movies through product placement. It's not an accident when a movie hero holds up a can of Coke instead of Pepsi. Advertising influences how people feel about themselves -- often in a negative way. Based on the images they see in advertising, women often feel they should be thin and beautiful and hold down full-time jobs while also being full-time mothers. Advertising communicates that men should be handsome, tall, athletic, caring husbands, thoughtful fathers and virile at all times. These images are often unrealistic and unattainable.

Children

In his study "Review of Research on the Effects of Food Promotion to Children," Professor Gerard Hastings found there is a link between food advertising and children's preferences regarding what they will consume. Ads for many sugary cereals encourage children to ask their parents for those particular products -- regardless of whether the products are good for the children. It's not coincidental that the most heavily advertised toys during the holiday season end up being the top sellers. Children are susceptible to advertising.

6. CHALLENGES FACED DUE TO DECEPTIVE ADVERTISING

In the digital era, advertisements have undergone a profound transformation compared to traditional forms of advertising. With the proliferation of internet connectivity, mobile devices, and social media platforms, businesses now have an array of digital channels to engage with consumers. These platforms offer unique capabilities for targeted advertising, data analytics, and interactive content, enabling businesses to deliver more personalized and engaging advertisement experiences allowing it to reach to wider audience. However, alongside these opportunities, the digital landscape has also given rise to misleading advertisements.

Misleading tactics, such as exaggerated testimonials or unverified claims, became prevalent in digital commercials. Online ads, social media posts, and sponsored content have become common vehicles for deceptive marketing. Techniques like clickbait, fake reviews, and false testimonials have become prevalent, exploiting consumers' trust and vulnerability in the online space. Throughout history, certain industries, such as health, beauty, weight loss, and financial services, have been particularly susceptible to misleading advertisements. Amongst them, there were few websites that promoted slimming and weight loss cures; all-purpose pills that alleviated anything from arthritis, diabetes, hypertension, heart disease to kidney problems, etc. Another area of concern was sports investment sites that promised easy returns and fraudulent online ticketing websites.

This study looked at the effects of false or misleading advertising on consumers' decisions. Marketing strategies are aimed at generating a high number of sales and thus revenues. Advertising is the most common tool used by marketers to create awareness of the features of a product or service and to persuade consumers to buy it. The effort to entice buyers is often made up of many claims whose truth is often hard to establish. Advertising is the most popular means of reaching potential customers with information about a product (Kariyawasam and Wigley, 2017)¹⁷. Advertising is used as a tool to grow businesses. Several fields of study combine to form the concept of marketing, including sociology, economics, aesthetics, and psychology (Doborji and Hamed, 2016). The interpretation of advertising information is different for each person, and the information passed to the consumer is never completely objective. When advertisers engage in misleading or false advertising, consumer choice is affected because consumers are unfairly convinced to believe in the messages of the advertisers or endorsers, which affect their judgment. Misleading advertising either compels consumers to purchase items at a higher price or at a lesser quality than what they wanted, or to purchase the wrong product or service (Kariyawasam and Wigley, 2017). Such advertisements violate the

¹⁷ K. Kariyawasm & S. Wigly Online shopping, misleading advertising and consumer protection, ICT Law, (2017)

interests of consumers by suggesting that the product or service has unique qualities. They also manipulate consumers, thus making them more vulnerable and less likely to make rational choices.

Society is undergoing many changes at a very fast pace in this era of globalization having the weapon of fast media of information technology. In the field of commerce and trade, the role of advertisement to promote any commodity, goods and services is growing very fast. Advertisement plays a vital role in converting any product into a brand product, enhancing and escalating the perception value of the said product in general. In order to convert any product into a brand, the cost of advertisement enhances its price manifold from its actual price and also with so many false and exaggerated claims about the product.

Advertisements are helpful for the general consumer and society in the way that they make people aware about the products and services available in the market in a very short span of time, even in order to inform people and to promote their services, government also take the help of advertisements and also the celebrities to promote their cause. Advertisement of Incredible India by Amir Khan, Branding of Gujarat tourism by Amitabh Bachhan, Swachh Bharat Abhiyan by Amitabh Bachhan and Awareness drive for toilets by Vidya Balan are few examples to name.

In this sense advertisements are not only informative but also create awareness at large scale with the messages easily conveyed from celebrities. But the problem and issue arises when these advertisements make false claims, having no test to check it. They not only then give wrong information to the public but in many cases become the reason for the purchase of harmful products and commodities that are hazardous to the health of human beings. Misleading advertisements which are meant to increase the sale of any product manifold is also responsible for the change in societal structure at a very fast pace. The mindset of society is changing very fast resulting into the change in its socio- cultural milieu reflected in changing food habits (which in many cases are harmful for health), clothing pattern, living style (aspire to have access of many goods despite of their no need) and also affecting the fabric of family structure and the values of society. In the negative sense, it is sometimes called consumer culture. Though the consumer is the same person from the same society, because of the impact of these misleading advertisements and unfair practices in trade, deceptive and luring techniques, the consumer behaviour has changed altogether and is changing at a very fast pace. Despite being a literate and aware society, the misleading advertisements are used to force the consumer in a silent manner to access the product, which gets worsened day by day. The nature

and role of advertisements is changing at a quick pace in response to change in the media structure.¹⁸

Misleading advertisements also have a detrimental impact on parents' choices regarding complementary foods and their perception of what is healthy for their children. Complementary feeding plays a crucial role in a child's development as they transition from exclusive breastfeeding to a varied and balanced diet. Parents rely on accurate information and trustworthy sources to make informed decisions about the types of foods to introduce during this stage. When advertisements falsely claim that certain complementary foods are healthy, parents may be swayed into purchasing these products based on the misleading claims. They may believe that they are providing their child with nutritious options, unaware of the potential negative effects. This can lead to the consumption of processed and packaged foods that are low in essential nutrients and high in sugar, salt, and unhealthy fats. Misleading advertisements can create confusion and misrepresentation of the nutritional value of complementary foods, making it difficult for parents to navigate the market and make well-informed choices. As a result, children may be deprived of the necessary nutrients they need for optimal growth and development.¹⁹

In the digital age, consumers have unprecedented access to a wide range of products and services, thanks to the proliferation of online platforms and the exponential growth of digital advertising. However, this increased convenience and choice come with significant challenges, as misleading advertisements have become a prevalent issue in the digital marketplace.

Misleading advertisements refer to promotional content that intentionally or unintentionally misrepresents products, services, or their associated benefits, leading consumers to make uninformed or misguided purchasing decisions. These deceptive practices not only harm consumers but also undermine the integrity of the marketplace, eroding trust and confidence in online transactions.

The rise of digital advertising has created new avenues for disseminating misleading information to consumers. With the advent of social media, search engines, and targeted advertising, businesses can reach vast audiences with precision. This accessibility and reach, combined with limited oversight, have enabled unscrupulous advertisers to exploit consumers by using misleading tactics to boost sales and profits.

The impact of misleading advertisements on consumers is significant. Consumers may fall prey

¹⁸ K. Kariyawasm & S. Wigly Online shopping, misleading advertising and consumer protection, ICT Law, (2017)

¹⁹ K. Kariyawasm & S. Wigly Online shopping, misleading advertising and consumer protection, ICT Law, (2017)

to false claims, exaggerated benefits, hidden fees, or deceptive pricing strategies, resulting in financial loss, product dissatisfaction, and a sense of betrayal. Furthermore, the rapid proliferation of fake reviews, sponsored content, and disguised advertisements further complicates the consumer decision-making process, making it challenging to differentiate between genuine and misleading information.

Existing legal frameworks and regulations have attempted to address misleading advertisements in the digital space. However, they often struggle to keep pace with evolving technologies and sophisticated advertising strategies. There is a pressing need to assess the adequacy and effectiveness of current legal standards and explore opportunities for enhancing consumer protection measures.

Additionally, consumer education and awareness play a crucial role in mitigating the impact of misleading advertisements. Empowering consumers with knowledge about advertising practices, critical thinking skills, and the ability to recognize deceptive tactics can significantly contribute to their ability to make informed choices and protect themselves from potential harm.

Given the significance of the issue and the dynamic nature of the digital landscape, conducting research on protecting consumers in the digital age and analyzing misleading advertisements became essential. Through an in-depth exploration of the prevalence, consequences, and legal dimensions of misleading advertisements, this study aimed at providing insights, recommendations, and potential solutions to enhance consumer protection and foster trust in the digital marketplace.

In most jurisdictions, advertising regulations have made the use of false or misleading advertising illegal. It is illegal to misrepresent the quality of a product or the specifications related to its composition, manufacture, price, or place of origin. "False" refers to the misrepresentation of the facts; false information can lead to an unacceptable number of people using the information to make incorrect decisions (Doborji and Hamed,2016).

False advertising refers to the promotional techniques designed to influence buyers with false or misleading claims. It distorts the current item which may contrarily influence numerous stakeholders, particularly shoppers. False advertising has been spreading in the business industry through the cunning marketers of the present marketing era. False advertisements are illegal in most countries, but some advertisements still find ways to deceive consumers in illegal ways. Thus, the aim of this research was to understand the effect of false advertisements on consumers.

False advertisement has had its spot everywhere in the corporate world to convince its intended target audience and consumers for purchasing their items though, any advertising that drives the customer to purchase decisions based on false assumptions about the price and quality of competitive products is considered deceptive practice and is punishable by law.

To address the issue of misleading advertisements, CCPA published Misleading Advertisements, 2022 that should be read with Consumer Protection Act, 2019. Also, ASCI has also published Guidelines for Influencer Advertising in Digital Media which combats the challenges associated with misleading advertisements in the digital space.

7. NEED FOR ENHANCED LEGAL STANDARDS -

Despite the presence of existing provisions, **it is crucial to investigate the effectiveness of these measures** in countering the prevalence of misleading advertisements. Evaluating the effectiveness of existing provisions is vital in safeguarding consumer rights and ensuring their protection from deceptive practices. Furthermore, investigating the effectiveness of provisions is timely and relevant to address the evolving landscape of digital advertising. As technology continues to advance and consumer behaviour shifts, it is crucial to assess the responsiveness of legal measures to these changes.

This problem also needs to be addressed because of the prevalence of significant impacts on both the target population and the surrounding population. Misleading advertisements can have a detrimental impact on individuals across all age groups within the range of 18-25 since it consists of young adults. For young adults, misleading advertisements can be particularly influential as they navigate important life choices and explore their identities. Misleading advertisements can exploit their desires and aspirations, leading to misinformed decisions and financial losses. Also, the Middle-aged individuals can be influenced by false claims about investment opportunities, career advancements or health and wellness solutions. Even individuals approaching their senior years, may be targeted with advertisements related to retirement planning, healthcare, and aging gracefully. Additionally, it can have similar impact on surrounding population. When false or exaggerated claims are made about healthcare products, medications, or treatments, individuals may be misled into using ineffective or potentially harmful substances. This can lead to adverse health effects, delayed appropriate medical intervention, or reliance on unproven remedies. Similarly, misleading advertisements in sectors such as food, beverages, or dietary supplements can misrepresent the nutritional content or health benefits, leading to poor dietary choices and potential health risks. In these cases, the impact extends beyond the individual consumer, as misleading advertisements can

contribute to public health concerns and undermine the overall well-being of the surrounding population. As such, it is crucial to examine the effectiveness of existing provisions in addressing misleading advertisements in various sectors, ensuring consumer protection, and safeguarding public health and well-being.

With the increased internet penetration, advertising through social media is becoming a highly potent tool to influence and persuade consumers within a very short period of time. Accordingly, to prevent success of misleading advertisements, 'speed' will be the essence of any action to limit losses, financial or otherwise, that may be suffered by a gullible consumer. Keeping this in view and to ensure that genuine players are engaged in social media advertisements, the regulatory authority dealing with social media based misleading advertisements may consider providing for the following:²⁰

- (i) mechanism to block and remove misleading advertisements within a short period of time;
- (ii) business enterprises using such social media platform being able to act on consumer complaints within a short period of time;
- (iii) creating a business enterprise identification process whereby legitimate business enterprises are only able to use social media as an advertising platform;
- (iv) influencers appointed by business enterprises are identified in social media platforms as being duly authorized to advertise the product / services of the said business enterprise; and
- (v) efficient process to impose penalties, especially financial penalties, on business enterprises, social media platforms or influencers or any other stakeholder if found to be in breach of regulatory norms. It's time to protect the interest of business enterprises which genuinely advertises its product on social media platform and impose legal sanctions on business enterprises who are involved in the act of misleading advertisements.

Such action is required to not only protect the interest of the consumer but to protect the interest of legitimate business enterprises and other players engaged in the growth and development of social media and advertisements. Stricter regulations shall be provided for different forms of misleading advertisement to address additional issues such as imitation of advertisements, bait advertising, surrogate advertising, puffery, etc. Similarly, it is also very important to strengthen the current regulatory framework.

²⁰ Souvik Ganguly and Aman Bagaria, Misleading advertisements in the age of social media, Lexology (03.04.2024, 6:30 PM) <https://www.lexology.com/library/detail.aspx?g=4a3c6efd-c1f6-485c-9e2e-5153c103383b>

A key concern associated with the current regulatory framework is that ASCI can only make recommendations to the business enterprises to remove the advertisement but lacks legal sanction to compel any such removal or grant any interim relief or compensation to the consumers.

8. JURISPRUDENTIAL ASPECT

Existing Mechanisms and Laws Dealing with Misleading Advertisements in India -

With regard to Acts and Laws that are there to both protect and punish offenders are not only enshrined in the Constitution of India, we have various other provisions of law or bodies that prevent and punish offenders. These laws can be divided into two categories.²¹

Laws having horizontal application on advertising

- The Consumer Protection Act, 1986
- The Emblems and Names (Prevention of Improper Use) Act, 1950
- Trade and Merchandise Marks Act, 1958
- Cable Television Networks (Regulation) Act, 1995
- Indecent Representation of Women (Prohibition) Act, 1986
- Monopolies and Restrictive Trade Practices Act, 1969

Laws having vertical application on advertising

- Drugs and Cosmetics Act, 1940
- Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
- Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994
- Prevention of Food Adulteration Act, 1954/ Food Safety and Standards Act, 2005
- Prize Chits and Money Circulation Schemes (Banning) Act, 1978
- Prize Competition Act, 1955
- The Infant Milk Substitute, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 and Amendment Act, 2002
- Transplantation of Human Organs Act, 1994
- The Young Persons (Harmful Publications) Act, 1956

The following Regulatory authorities have power to regulate advertising in their respective domain

- Insurance Regulatory Development Authority

²¹ Dr. S. PraveenKumar and Dr. D. Gunaseelan. Misleading Advertisements and Issues. *International Journal of Management*, 7(2), 2016, pp. 475-483 <http://www.iaeme.com/ijm/index.asp>

- Telecom Regulatory Authority of India
- Securities and Exchange Board of India
- Reserve Bank of India
- Medical Council of India

9. CONSTITUTIONAL ASPECT

Even after 32 years of enactment of COPRA and even after a paradigm shift from caveat emptor to caveat venditor, the manufacturers and service providers of all the sectors exploit the Indian consumers. With the cut-throat competition, truth and ethics often take a back seat and advertisements more often than not make tall claims to increase their consumer base. The purpose of the advertisement is not just of providing information but also influencing the consumers to purchase that particular product. There is no doubt about the fact that advertisements impact consumer choice and thus it is essential that the advertisements should be truthful.

The question has arisen before the Supreme Court of India whether the right to advertise was a fundamental right to freedom of speech guaranteed under **Article 19(1)(a)**. The Supreme Court held in **Hamdard Dawakhana v. Union of India**,²² that though advertisement was a form of speech, it was not constitutive of the concept of free speech. A different stand was taken by the Supreme Court later in **Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.**,²³ wherein it was observed that advertising is beneficial to consumers because it facilitates the dissemination of information and resultantly public awareness in a free market economy. It was held that advertising is a form of commercial speech, and therefore should be protected under Art. 19(1)(a).

The consumer grievance forums under the Consumer Protection Act, 1986 enquire into complaints of unfair trade practices. Though this Act provides for an effective mechanism for grievance redressal of the consumer, it does not address the interests of manufacturers, sellers and service providers.²⁴

10. NATIONAL PERSPECTIVE: UNRAVELLING ADVERTISEMENT LAW IN INDIA

²² AIR [1960] SC 554.

²³ [1995] 5 SCC 139.

²⁴ Peter Miskolczi-Bodnar, 'Definition of Advertising, (2004) 3 European Integration Studies 25. Available from www.uni-miskolc.hu/uni/res/kozlemenyek/2004/DEFINITION.doc, (accessed 17 April 2017).

Advertisement Laws in India –

With regard to problems resulting from this industry, the need for the adoption of advertising rules became apparent. The advertising sector has experienced rapid growth in recent years, and as a result, its focus has diversified. Evidently, there were more problems that needed to be resolved in order to assure justice in the marketplace, the public's protection from dangerous products, and the suppression of the advantages enjoyed by unethical advertisers.

When legal action is brought against a company, they took protection of Article 19 (1) (a) of the Indian Constitution. Article 19(1)(a) of the Constitution guarantees the right to freedom of speech and expression to all citizens of India, and the essential corollary to the same is the right to be informed and access to information.

However, it was in **Indian Express Newspaper v. Union of India**²⁵ that the Supreme Court held that commercial speech is protected under the ambit of free speech and expression under Article 19. The Supreme Court noted that "We are of the view that all commercial advertisements cannot be denied the protection of Article 19(1)(a) of the Constitution mere because they are commercial advertisements." The Supreme Court noted the right of the consumer as a recipient of commercial speech in **Tata Press Ltd v. Mahanagar Telephone Nigam Ltd.**²⁶ by stating, "An advertisement giving information regarding a life-saving drug may be of much more importance to the general public than to the advertiser who may be having purely a trade consideration." The rights of people to hear, read, and receive the aforementioned speech are likewise protected by Article 19(1)(a), which ensures freedom of speech and expression. Furthermore, the Supreme Court ruled that deceptive and misleading advertising would not be covered by Article 19's protections.

There is currently no centralised agency or standard body of law in India that governs the advertising sector. The Advertising Standards Council of India (ASCI) is a non-statutory organisation that oversees and regulates the entire Indian advertising industry. ASCI was founded in 1985 and is recognised by section 25 of the Company Act as a non-profit organisation. In order to protect consumer interests, ASCI is dedicated to the cause of self-regulation in advertising. Advertising Standards Council International (ASCI) works to guarantee that commercials adhere to its Code for Self-Regulation, which mandates that commercials be ethical, respectable, accurate, and neither dangerous or destructive while upholding fair competition. ASCI investigate complaints from all media, including print, radio,

²⁵ Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, 1985) 1 SCC 641

²⁶ Tata Press Ltd v. Mahanagar Telephone Nigam Ltd, (1995) 5 SCC 139

television, billboards, SMS, emails, websites, product packaging, brochures, and point of-sale materials, among others. The Department of Consumer Affairs²⁷ (DoCA), the Food Safety and Standards Authority of India (FSSAI)²⁸, the Ministry of AYUSH²⁹, and the Ministry of Information and Broadcasting³⁰ have all commended ASCI for its role in regulating and reducing deceptive and objectionable advertisements in their respective sectors. The self-regulatory mechanism was also validated and acknowledged by the Supreme Court of India in its ruling in January 2017 as an effective preventative measure to statutory laws in the area of advertising content regulation for TV and Radio in India. ASCI is a member of the International Council on Ad Self-Regulation's Executive Committee. (ICAS). Nearly 94% of the complaints against advertisements that were received across multiple media platforms required modifications, according to the ASCI (Advertising Standards Council of India) Complaint Analysis Report of 2021–22³¹. Although there isn't a single piece of legislation that governs every area of the advertising industry, there are a number of laws that address certain aspects separately.

Section 10 of Consumer Protection Act 2019 the Central Government shall, by notification, establish with effect from such date as it may specify in that notification, a Central Consumer Protection Authority (CCPA) to be known as the Central Authority to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote,

²⁷ The Department of Consumer Affairs has launched a portal-Grievance Against Misleading Advertisements (GAMA), to enable consumers to register their grievances against misleading advertisements. 3302 complaints have been received in 2017, 4025 complaints in 2018 and 4416 complaints in 2019. The Department of Consumer Affairs (DoCA) has appointed the Advertising Standards Council of India (ASCI) as its 'Executive Arm'. The objective is to curb misleading advertisements and unfair trade practices in ASCI ties up with Dept of Consumer Affairs to stop misleading ads by Special Correspondent, The Hindu, November 13, 2014, Mumbai

²⁸ Ad regulator the Advertising Standards Council of India (ASCI) on Monday announced that it has signed an agreement with the Food Safety and Standards Authority of India (FSSAI) to safeguard consumers against misleading claims in food and beverage (F&B) advertisements by Ratna Bhushan in ASCI, FSSAI collaborate to curb misleading claims in foods & beverages ads, Economic Times, Jul 05, 2021

²⁹ Ministry of AYUSH and Advertising Standards Council of India sign MoU to co-regulate misleading advertisements in the AYUSH sector- addressing the cases of misleading advertisements with respect to Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy drugs, treatments and related services, ASCI will comprehensively monitor these advertisements across print and electronic media. Press Information Bureau, 20-January-2017

³⁰ The Ministry of Information and Broadcasting has issued an advisory, advising the print and electronic media to refrain from publishing advertisements of online betting platforms, and online and social media, including online advertisement intermediaries and publishers, not to display such advertisements in India or target such advertisements towards Indian audience. The Ministry has also issued an advisory to all private satellite television channels on 'Advertisements on Online Games, Fantasy Sports, etc.', advising all broadcasters that the guidelines issued by the Advertising Standards Council of India (ASCI) be complied with and that the advertisements broadcast on television adhere to the same in Guidelines for Online Gaming by PIB Delhi on 03 Feb. 2023

³¹ Harshit Bansal, Advertisement Regulation in India: A Right Step in the Right Direction?, Jus Corpus Law Journal, available at <https://www.juscorpus.com/wp-content/uploads/2023/02/225>, accessed on Feb. 27, 2023.

protect and enforce the rights of consumers as a class. Section 16 states that the District Collector (by whatever name called) may, on a complaint or on a reference made to him by the Central Authority or the Commissioner of a regional office, inquire into or investigate complaints³² regarding violation of rights of consumers as a class, on matters relating to violations of consumer rights, unfair trade practices and false or misleading advertisements, within his jurisdiction and submit his report to the Central Authority or to the Commissioner of a regional office, as the case may be. According to Section 18 (1) the Central Authority shall—

- (a) protect, promote and enforce the rights of consumers as a class, and prevent violation of consumers rights under this Act;
- (b) prevent unfair trade practices and ensure that no person engages himself in unfair trade practices;
- (c) ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act or the rules or regulations made thereunder;
- (d) ensure that no person takes part in the publication of any advertisement which is false or misleading.

As per Section 19 (1) the Central Authority may, after receiving any information or complaint or directions from the Central Government or of its own motion, conduct or cause to be conducted a preliminary inquiry as to whether there exists a prima facie case of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and if it is satisfied that there exists a prima facie case, it shall cause investigation to be made by the Director General or by the District Collector. In regard to remedies section 39 (1) of the Act states that where the District Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services or any unfair trade practices, or claims for compensation under product liability are proved, it shall issue an order to the opposite party directing him to do one or more of the following, namely:—... (l) to issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement; (m) to provide for adequate costs to parties; and (n) to cease and

³² Section 17 states that a complaint relating to violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, may be forwarded either in writing or in electronic mode, to any one of the authorities, namely, the District Collector or the Commissioner of regional office or the Central Authority

desist from issuing any misleading advertisement. Against offences and penalties section 89 states that any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees.

The Central Consumer Protection Authority on June 9th of 2022 issued guidelines aiming to further protect consumers from claims and promises from advertisements that are misleading, baseless, unjustified, unrealistic, false, etc. This was formed by the powers vested with the CCPA under Section 18 of the Consumer Protection Act, 2019 to protect consumer rights, such as the Right to be informed, the Right to choose, and the Right to safeguard against potentially misleading products and services, granted under Section 2(9) of the CPA 2019. The guidelines are applicable to all types of advertisements published on television, radio, print, and social media. They lay down the conditions for non-misleading and valid advertisements³³. These guidelines, additionally define a few terms like 'surrogate advertisement', 'bait advertisement', and 'free claim advertisement'³⁴. They are in addition to and not in derogation of such regulations in other laws like the Press Council Act, 1978 (37 of 1978) and the Cable Television Networks (Regulation) Act, 1995 (7 of 1995).

Section 6 of the Cable Television Networks (Regulations) Act, 1995 provides that no person shall send or transmit through a cable service any advertisement unless such advertisement is in conformity with the advertisement code prescribed under the Cable Television Networks (Amendment) Rules, 2021. However, the provision above does not apply to programs of foreign satellite channels which can be received without the use of any specialized gadgets or decoder. Rule 7 of the Cable Television Networks (Amendment) Rules, 2006 lays down the "Advertising Code" for cable services which have been formulated to conform to the laws of the country and to ensure that advertisements do not offend morality, decency and religious susceptibilities of the subscribers. In Rule 7³⁵ sub-rule (12) was inserted stating where the Central Government is satisfied that the advertisement of any channel is not in conformity with the Advertising Code, it may, after giving an opportunity of hearing to the cable operator, and

³³ G.S. Bajpai, The new rules to keep advertisements in check, The Hindu, July 06, 2022

³⁴ Centre issues 'Guidelines on Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022', 10 Jun 2022 by PIB Delhi

³⁵ Cable Television Networks (Amendment) Rules, 2021

by an order in writing, prohibit the transmission or re-transmission of any such channel or programme in accordance with the provisions of section 20 of the Act. CCPA notified the Guidelines on Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 to keep advertisers in check against misleading or false advertising practices. For violation of provisions related to misleading advertisements under the Guidelines, the CCPA can impose a penalty of INR 10 lakhs on manufacturers, advertisers and endorsers. For subsequent violations, the CCPA may impose a penalty extending up to INR 50 lakhs³⁶. As per the CPA, the CCPA may also prohibit the endorser of a misleading advertisement from making any endorsements for up to one year, which can extend to 3 years on subsequent non-compliance. The Guidelines' primary goal is to encourage advertising that upholds consumer rights, particularly the right to information, the right to make informed decisions, and the right to protection from possibly dangerous goods and services.

11. INTERNATIONAL LEGAL FRAMEWORK ON MISLEADING ADVERTISING

A. United Kingdom

Advertising regulations in the US & UK has gained recognition across all tiers of the consumer market and indicates growing interest in the way goods and services are advertised. Unlike in India in developed countries such as United Kingdom (UK), and United States of America (US) the consumers are at an advantage and enjoy more rights. The fine and punishment is imposed on the companies that mislead the public through advertisements is also much severe than the fine and punishments imposed in India.

In 2006 Directive 2006/114/EC also known as the Advertising Directive, was adopted which consolidated the 1984 and 1997 Directives. Among the few amendments was that the condition that the comparison should not be misleading. The most important amendment herein is that, Article 1, the 2006 Directive only aims to protect traders against misleading advertising. Whereas consumers are inter alia protected against, misleading advertising in the Unfair Commercial Practices Directive.³⁷

B. United States of America

In US, the advertisement regulatory body is Federal Trade Commission (FTC hereinafter). This body is empowered to -

(a) prevent unfair methods of competition and unfair and deceptive acts affecting commerce,

³⁶ IB Delhi 08 Feb 2023

³⁷ Paul Reeskamp, 'Is comparative advertising a trade mark issue?', (2008) EIPR 130

- (b) seek monetary redress for conduct injurious to consumers,
- (c) conduct investigations relating to organisation, business, practices and management of entities engaged in commerce and
- (d) make reports and legislative recommendations to Congress.³⁸ The United States has two major self-regulating bodies which look into the issue of deceptive and misleading advertisements; The Better Business Bureau and The Advertising Self-Regulatory Council.

Better Business Bureau (BBB) and Advertising Self-Regulatory Council, earlier known as National Advertising Review Council are among the self-regulatory organizations that look into the case of misleading advertisements. BBB deals with the disputes between advertising practices and companies marketing.

C. India

The Advertising Standards Council of India (ASCI) is a non-statutory self-regulatory body set up in 1985 and incorporated under Section 25 of the Companies Act, 1956. It entertains and disposes of complaints based on its Code of Advertising Practice (CAP). The Code is based on certain fundamental principles, one of which is “To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against misleading advertisements”. The ASCI code deals with various provisions that pertain to advertisements. The problem with respect to self-regulatory body Advertising Standards Council of India has been that it has not been able to effectuate proper compliance because of lack of an enforcement mechanism and there also lies a problem of non-compliance if the complaint is filed against a non-member. Therefore, the plausible future discrepancies can be obviated only by a proper piece of legislation exhaustively enumerating the law therein leaving no scope of confusion and vagueness.

D. Canada

The Competition Bureau, Canada, enforces the false or misleading representations and deceptive marketing practices provisions of the Competition Act and ensures truth in advertising.

The false or misleading representations and deceptive marketing practices provisions of the Competition Act in Canada contain a general prohibition against materially false or misleading representations. They also prohibit performance representations which are not based on

³⁸ G.J. Thain, ‘Advertising Regulation: The Contemporary FTC Approach’, Fordham Urban Law Journal, vol. 1, no. 3, 1973, p. 349.

adequate and proper tests, misleading warranties and guarantees, false or misleading selling price representations, untrue, misleading or unauthorized use of tests and testimonials, bait and switch selling, double ticketing and the sale of a product above its advertised price. In addition, the promotional contest provisions prohibit contests that do not disclose required information.³⁹

12. JUDICIAL PRONOUNCEMENTS

Judicial Attitude relating to Misleading Advertisement –

Due to the intense competition in the market, the resulting pressure to draw in more customers, and the persistent drive of traders to increase their sales, profits, and business, advertisers frequently use false and misleading campaigns without supplying any empirical or empirically supported evidence to support their claims. These deceptive advertisements undoubtedly mislead customers, harm competitors, and harm the economy. The courts have attempted to strike a balance when deciding various cases between protecting the right to commercial speech⁴⁰ and the interests of consumers and competitors in order to ensure healthy and ethical competition between businesses and to safeguard the gullible customers from becoming victims of any false advertising⁴¹. Sometimes competitive advertisements, are confused to misleading advertisements⁴² but they cannot be said to be misleading and, are permissible as held in **Tata Press Limited Vs. Mahanagar Telephone Nigam Limited and Others**⁴³, as advertising is essential for economic activity⁴⁴. It informs the consumers of the existence of

³⁹ Source: Competition Bureau, Canada

⁴⁰ The Supreme Court referred to *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council Inc.*, (1975) 421 US 748 and observed in paragraph 15 that it is almost settled law in the United States that though "commercial speech" is entitled to the First Amendment protection, the Government was completely free to recall "commercial speech" which is false, misleading, unfair, deceptive and which proposes illegal transactions

⁴¹ False and Misleading Advertisements in India, available at <https://www.lexology.com/library/detail.aspx?g=55951606-036e-4f42-b0dd156a32cd53b4> accessed on October 27, 2023.

⁴² In *Havells India Ltd. v. Amritanshu Khaitan* (2015) 62 PTC 64, the Delhi High Court clarified the difference between comparative advertising and misleading advertising and disparagement. It observed that comparative advertising is healthy and encouraged in the spirit of competition, however, disparagement is not; and a cause of action shall arise in case of a misleading advertisement.

⁴³ (1995) 5 SCC 139

⁴⁴ In *Reckitt & Colman of India Ltd. v. M.P. Ramchandran and Anr.*, 1999 (19) PTC 741 referred to for the following propositions relating to comparative advertising: (a) A tradesman is entitled to declare his goods to be best in the world, even though the declaration is untrue. (b) He can also say that his goods are better than his competitors', even though such statement is untrue. (c) For the purpose of saying that his goods are the best in the world or his goods are better than his competitors' he can even compare the advantages of his goods over the goods of others. (d) He however, cannot, while saying that his goods are better than his competitors', say that his competitors' goods are bad. If he says so, he really slanders the goods of his competitors. In other words, he defames his competitors and their goods, which is not permissible. (e) If there is no defamation to the goods or to the manufacturer of such goods no action lies, but if there is such defamation an action lies and if an action lies for recovery of damages for defamation, then the Court is also competent to grant an order of injunction restraining repetition of such defamation.

various goods and services, the quality of these products and services, the product origin etc⁴⁵. It also builds up reputation. It is in this context that the Supreme Court held that —commercial speech is a part of the freedom of speech and expression guaranteed under Article 19(1) (a) of the constitution⁴⁶.

In the case of **T. V. Today Network Limited vs News Laundry Media Private**⁴⁷ Delhi High Court held that, “Commercial Disparagement would occur when one player in the field derides a rival and belittles or discredits or detracts from the reputation of such a rival in respect of its products, services or business. While claiming to be the best, any statement about a competitor’s goods, which could be untrue or misleading and is made to influence or tend to influence the public, would amount to disparagement.” Indian automobile maker **Maruti Udyog Ltd (MUL)** was asked by the Delhi District Consumer Forum to pay Rs one lakh as compensation to the complainant as compensation for “inducing” him to buy a car through misleading advertisements on its mileage. The advertisement showed the car of MUL to provide mileage of 16.7 km/litre but in reality, provided 10.2 km/litre⁴⁸. The Customer Complaints Council of ASCI found that the claims of Hindustan Unilever Ltd (HUL) for its lever ayush soap saying 'based on 5,000-year-old ayurved scriptures with 15 ayurvedic herbs' besides other claims were inadequately substantiated and are misleading⁴⁹. HUL has made a habit of introducing such false and misleading advertisements to dupe members of the public and increase its market share dishonestly⁵⁰.

The law on deceptive advertising is constantly changing, and the Supreme Court's ruling in **Horlicks Limited v. Zydus Wellness Products Limited**⁵¹ adds to the lengthy list of rulings on deceptive advertising. It is noteworthy that the High Court permitted the publication of the same commercial in print media but prohibited its broadcast on television. We are aware that the audience effect of print and electronic media is what distinguishes them from one another. Electronic media needs stricter regulations because it combines audio-visual techniques and is more likely to influence its audiences. As a result, the same advertisement was permitted to

⁴⁵ Reckitt Benckiser India Private Limited Vs. Hindustan Unilever Limited 2021 SCC OnLine Del 4896

⁴⁶ Dabur India Ltd. vs M/S Colortek Meghalaya Pvt. Ltd. ILR (2010) 4 Del 489 Delhi High Court stated that on the basis of the law laid down by the Supreme Court, the guiding principles for us should be the following: - (i) An advertisement is commercial speech and is protected by Article 19(1)(a) of the Constitution. (ii) An advertisement must not be false, misleading, unfair or deceptive. (iii) Of course, there would be some grey areas but these need not necessarily be taken as serious representations of fact but only as glorifying one's product.

⁴⁷ 4827/2022 Pronounced on 29th July, 2022

⁴⁸ Maruti Suzuki India Limited v. Rajiv Sharma

⁴⁹ PTI, ASCI pulls up HUL, Ola, Vodafone, others for misleading ads, Economic Times, May 10, 2018

⁵⁰ Reckitt Benckiser (India) Ltd. v. Hindustan Unilever Ltd. 200 (2013) DLT 563

⁵¹ CS (Comm) 464 of 2019, pronounced on May 20, 2020

appear in paper media but prohibited from airing on television. **Bright Lifecare Private Ltd v Vini Cosmetics Private Limited and Anr**⁵² It has been specifically indicated that the advertisement shall not contain statements or visual presentations which directly, by implication, by omission, by ambiguity, or by exaggeration are likely to mislead consumers about the product advertised, the advertiser, or any other product or advertiser.

In Bhanwar Kanwar Vs. R.K.Gupta and Anr.⁵³ Hon'ble Supreme Court held that the appellant suffered physical and medical injury due to the misleading advertisement, unfair trade practice and negligence of the respondents. Hon'ble court enhanced the amount of compensation at Rs. 15 lakhs for payment in favour of the Appellant with a direction to the Respondents to pay the amount to the Appellant within three months.

In Buddhist Mission Dental College and Hospital vs. Bhupesh Khurana and Ors.⁵⁴ The appellant published An advertisement in the Hindustan Times inviting applications for admission in the Degree Course of Bachelor of Dental Surgery(BDS).In the said advertisement it was specifically highlighted that the appellant college is a premier dental college of Bihar established and managed by the Vishwa Buddha Parishad. It was also mentioned in the advertisement that the said institution is the Buddhist Mission Dental College and Hospital under Magadh University, Bodh Gaya and Dental Council of India, New Delhi.But, latter on it was found that the institute was neither recognized nor affiliated and the complainant student lost two valuable years. Hon'ble court supported the view of the National Consumer Redressal Commission that this was a case of total misrepresentation on behalf of the institute which tantamount to unfair trade practice. Hon'ble Court also directed the institute to pay an additional compensation of Rs One lakh to each of the respondents along with cost of litigation and the amount of compensation imposed by National Commission within two months of the direction.

In Reckitt & Colman of India Ltd. Vs. Kiwi T.T. K. Ltd.⁵⁵ Hon'ble Delhi High Court (S.K.Mahajan, J.) held that - "a manufacturer is entitled to make a statement that his goods are the best and also make some statements for puffing of his goods and the same will not give a cause of action to other traders or manufacturers of similar goods to institute proceedings as there is no disparagement or defamation to the goods of the manufacturer so doing. However,

⁵² CS(Comm) 144/2022 & I.A. 3585/2022pronounced on 7th July, 2022in the High Court of Delhi

⁵³ . MANU/SC/0305/2013

⁵⁴ . MANU/SC/0204/2009; (2009)4SCC484

⁵⁵ 1996 PTC(16) 393

a manufacturer is not entitled to say that his competitors goods are bad so as to puff and promote his goods.”

In Reckitt & Colman of India Ltd. vs. M.P. Ramachandran & Anr⁵⁶ Hon’ble Calcutta High Court (Barin Ghosh, J.) laid down five principles for granting an injunction in case of comparative advertising:

1. A tradesman is entitled to declare his goods to be best in the world even though the declaration is untrue;
2. He can also say that his goods are better than his competitors, even though such statement is untrue;
3. For the purpose of saying that his goods are the best in the world or his goods are better than his competitors he can even compare the advantages of his goods over the goods of others;
4. He however, cannot, while saying that his goods are better than his competitors, say that his competitor’s goods are bad. If he says so, he really slanders the goods of his competitors and their goods, which is not permissible.
5. If there is no defamation to the goods or to the manufacturer of such goods no action lies, but if there is such defamation an action lies and if an action lies for recovery of damages for defamation, then the court is also competent to grant an order of injunction restraining repetition of such defamation.

The Hon’ble court also observed in this case that “...One can boast about technological superiority of his product and while doing so can also compare the advantages of his product with those which are available in the market. He can also say that the technology of the products available in the market has become old or obsolete. He can further add that the new technology available to him is far more superior to the known technology, but he cannot say that the known technology is bad and harmful or that the product made with the known technology is bad and harmful. What he can claim is only that his product and his technology is superior. While comparing the technology and the products manufactured on the basis thereof, he can say that by reason of the new superior technology available to him, his product is much superior to others. He cannot, however while so comparing say that the available technology and the products made in accordance therewith are bad and harmful....”

⁵⁶ 1999 PTC xix 741

In Pepsico Inc. and ors. Vs. Hindusthan Coca Cola Ltd. and Anr⁵⁷. it was held by the Hon'ble Delhi High Court that- comparative advertising is permissible subject to the rider that it does not denigrate the product of the appellant.....If a trader compares his goods with the goods of rival without in any way advertising that the trade mark is used in relation to his goods, there is prima facie no infringement.

In Dabur India Ltd. vs. Colgate Palmolive India Ltd.⁵⁸ Hon'ble Delhi High Court held that “generic disparagement of a rival product without specifically identifying or pinpointing the rival product is equally objectionable. Cleaver advertising can indeed hit a rival product without specifically referring to it .No one can disparage a class or genre of a product within which a complaining plaintiff falls and raise a defense that the plaintiff has not been specifically identified.....”

In Dabur India Limited vs.Emami Limited⁵⁹ Honorable Delhi High Court held that a manufacturer is entitled to make a statement that his goods are the best and also make some statements for puffing of his goods but the same would not give a cause of action to other traders a cause of action to other traders or manufacturers of similar goods to institute proceedings as there is no disparagement or defamation to the goods of the manufacturer so doing. However, a manufacturer is not entitled to say that his competitor's goods are bad so as to puff and promote his goods.

In Karamchand Appliances Pvt. Ltd. Vs. Adhikary Brothers & Ors.⁶⁰ , Hon'ble Delhi High Court held that a manufacturer or a tradesman is entitled to boast that his goods are the best in the world, even if such a claim is factually incorrect, and while a claim that the goods of a manufacturer or the tradesman are the best may not provide a cause of action to any other trader or manufacturer of similar goods , the moment the rival manufacturer or trader disparages or defames the goods of another manufacturer or trader, the aggrieved trader would be entitled to seek relieves including redress by way of a prohibitory injunction. The defendant is indeed entitled to boast that its product is the latest in the market and even the best but it cannot describe either the technology or the concept used by any other manufacturer or trader in the manufacture or sale of his products as obsolete or worthless. Comparative advertisement is permissible, so long as such comparison does not disparage or denigrate the trademark or the products of a competitor. Comparison of different features of two products showing the

⁵⁷ 2003 (27) PTC 305(Delhi).

⁵⁸ 2004(29) PTC 401 (Delhi)

⁵⁹ 2004(29) PTC 1 (Del).

⁶⁰ 2005 (31) PTC 1 (Delhi)

advantages, which one product enjoy over the other is also permissible provided such comparison stops short of discrediting or denigrating the other product.”

In Eureka Forbes Ltd., Kolkata and its local office at Bangalore Vs Pentair Water India Pvt. Ltd.,Goa⁶¹ Hon’ble Karnataka High Court at Bangalore, held that ...”an advertiser can say that his goods are better than his competitors but he cannot say that his competitors goods are bad because that would amount to slandering or defaming competitor and its goods , which is not permissible.”..... For such kind of advertisements, the badly suffered class is consumer class in general and society in particular.

13. TOWARD A COMPREHENSIVE FRAMEWORK: RECOMMENDATIONS AND FUTURE STRATEGIES

The recommendations and suggestions aim to address the issue of misleading advertisements in the digital era from a legal perspective and provide actionable steps for improvement.

1. Establishment of a Special Authority for Regulating Misleading Advertisements:

In the future, it is crucial to establish a dedicated regulatory authority specifically focused on monitoring and regulating misleading advertisements in the digital era. This authority should have the power to investigate complaints, enforce penalties, and collaborate with relevant stakeholders to ensure effective regulation. The regulatory authorities with expanded powers and resources can effectively monitor and regulate misleading advertisements in the digital era. This includes increasing their ability to investigate complaints, conduct audits, and impose sanctions on offenders.

2. Conduction of Consumer Awareness Campaigns:

Consumer awareness campaigns should be conducted on a large scale to educate the public about the risks and consequences of misleading advertisements in the digital era. These campaigns should emphasize the importance of critical thinking, fact-checking, and reporting deceptive advertisements to the regulatory authority. These campaigns should utilize various channels, including social media, to reach a wide audience.

3. Implementation Stricter Penalties for Misleading Advertisements:

To deter misleading advertising practices, there should be an increase in penalties for offenders. In the future, legislative amendments should be introduced to impose substantial fines, financial liabilities, and even criminal sanctions on individuals and organizations found guilty

⁶¹ MIPR 2007(1) 0241

of deceptive advertising.

4. Enhancing Enforcement of Existing Legal Provisions:

Efforts should be made to strengthen the enforcement of already existing legal provisions and regulations related to misleading advertisements. This includes allocating adequate resources, training enforcement agencies, and promoting collaboration between regulatory bodies and law enforcement authorities to ensure timely investigations and effective enforcement which can be done by introducing specific provisions that address the unique challenges posed by misleading advertisements in the digital era. This should include clear definitions, guidelines, and criteria for determining misleading content in various digital platforms.

5. Fostering Industry Self-Regulation and Code of Conduct:

Encourage the industry to develop and enforce a code of conduct specifically addressing misleading advertisements in the digital era. This code should establish guidelines and ethical standards for advertisers, platforms, and content creators, ensuring responsible advertising practices and setting the foundation for self-regulation within the industry. This can include implementing codes of conduct, establishing monitoring mechanisms, and imposing penalties on non-compliant advertisers.

6. Promoting Technological Solutions for Identifying and Flagging Misleading Advertisements:

Encourage the development and deployment of advanced technological tools and algorithms that can automatically identify and flag misleading advertisements in real-time. Collaboration between regulatory authorities, technology companies, and advertising platforms is essential to achieve this goal and ensure proactive monitoring and removal of deceptive content.

7. Fostering International Cooperation and Information Sharing:

Promote international cooperation and information sharing among regulatory authorities, industry stakeholders, and consumer advocacy groups to address the cross-border nature of misleading advertisements in the digital era. This includes sharing best practices, harmonizing regulations, and collaborating on investigations to create a unified global effort against deceptive advertising.

8. Undertaking Research and Development Initiatives:

Support research and development initiatives focused on developing advanced technologies, such as machine learning algorithms and automated monitoring systems, to detect and prevent misleading advertisements in real-time. This can assist regulatory authorities in proactively

addressing deceptive content.

9. Review and Update of Penalties:

Regularly review and update penalties for misleading advertisements to ensure they are proportionate and act as an effective deterrent. Consider imposing fines, financial penalties, and other sanctions on offenders, taking into account the severity and impact of the misleading content.

10. Collaborating with Advertising Industry:

Engage with the advertising industry, including advertisers, agencies, and digital platforms, to encourage responsible advertising practices. Foster dialogue and cooperation to develop guidelines and ethical standards that promote transparency and accuracy in digital advertising.

11. Conducting Regular Audits and Monitoring:

Establish a system for conducting regular audits and monitoring of digital platforms to ensure compliance with regulations on misleading advertisements. This can involve periodic assessments of advertising content, algorithms, and enforcement measures implemented by platforms.

By implementing these recommendations in the future, we can effectively combat misleading advertisements in the digital era, protect consumers' rights, and foster a transparent and trustworthy advertising ecosystem.

14. CONCLUSION

Misleading advertisements in the digital era present significant challenges that require a thorough legal analysis and effective measures to protect consumers. The research conducted has shed light on several key findings and implications related to this issue.

1. Misleading advertisements in the digital era are pervasive and can have detrimental effects on consumers, including financial losses, health risks, and erosion of trust in advertising.
2. The existing legal framework needs to be strengthened to address the unique complexities of digital advertising and provide clear guidelines for identifying and penalizing misleading content.
3. Regulatory authorities play a crucial role in monitoring and enforcing regulations pertaining to misleading advertisements. However, their effectiveness is hindered by limited resources and inadequate enforcement mechanisms.

4. Consumer awareness is paramount in combating misleading advertisements. Educating the public about deceptive practices, equipping them with tools to identify such content, and encouraging reporting are essential components of any comprehensive solution.
5. Industry self-regulation should be encouraged to supplement legal measures. Advertisers, agencies, and digital platforms must take responsibility for upholding ethical advertising practices and implementing internal monitoring systems to detect and remove misleading content.
6. Collaboration between regulatory authorities, industry stakeholders, and international counterparts is crucial to effectively address the cross-border nature of misleading advertisements in the digital era. Sharing best practices, harmonizing standards, and coordinating efforts can lead to more cohesive and impactful regulation.

In conclusion, the research underscores the urgent need for comprehensive action to address misleading advertisements in the digital era. This requires a multi-faceted approach, including legal reforms, enhanced enforcement capabilities, consumer education, industry responsibility, and international cooperation. By implementing these measures, we can protect consumers, promote transparency and trust in advertising, and create a healthier digital advertising ecosystem.

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