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DECEPTIVE ADVERTISING PRACTICES AND THEIR IMPACT ON CONSUMERS AND COMPETITORS: AN OVERVIEW

Submitted by:

NAME: SHAREEKA H S

PURSUING: LLM (Corporate and Commercial Law)

COLLEGE: Christ Deemed To Be University, Bengaluru

ABSTRACT

Deceptive advertising practises have become a ubiquitous issue in today's corporate world, having a significant impact on both consumers and competitors. This abstract investigates the varied nature of deceptive advertising and its far-reaching ramifications, shedding insight on its impact on these two important market parties. Deceptive advertising strategies range from making false promises and utilising misleading visuals to omitting important information. The fundamental goal of such practises is to persuade or influence customers into making purchases based on incorrect or exaggerated information. This, in turn, can have a variety of negative effects for consumers, such as financial losses, unhappiness, and, probably most importantly, a breakdown of trust. Deceptive advertising not only misleads consumers, but it also undermines their trust in the marketplace, eroding the overall integrity of firms. Deceptive advertising provides a distinct set of obstacles for competitors in the same business. When competing with corporations that engage in deceptive practises, honest and ethical businesses frequently find themselves at a significant disadvantage. These unscrupulous competitors can obtain an unfair advantage by luring clients with promises they cannot keep. In such cases, consumers who fall victim to deceptive advertising may be initially enticed to the fraudulent company, only to be disappointed when their expectations are not satisfied. This not only leads to a loss of trust, but it can also harm the reputation of all enterprises functioning in the field. Furthermore, deceitful advertising adds to the erosion of customer confidence, resulting in widespread scepticism. In a climate of widespread deception, customers begin to question the veracity of all advertising claims, making it increasingly difficult for honest enterprises to win and maintain public trust. Competitors that follow ethical advertising practises face the difficult task of overcoming this widespread scepticism, which can stymie corporate growth and success. Deceptive advertising also promotes unethical competition,

since competitors may feel driven to use similar deceptive strategies to keep up with dishonest enterprises. The temptation to compete with businesses that use misleading advertising methods might result in a "race to the bottom," in which organisations increasingly engage in unethical practises in order to preserve a competitive advantage. This article will follow a descriptive method of research to study the legal frameworks of deceptive advertisements in India and its impact on consumers and competitors.

Keywords: Deceptive advertising, Competitors, Consumers, breakdown of trust, unethical.

INTRODUCTION

Deceptive advertising, a common practise in the business sector, involves the dissemination of incorrect or misleading information to promote products or services. Such practises can have serious effects for both consumers and competitors. Deceptive marketing can induce naïve consumers to make purchases based on misleading promises, resulting in unhappiness, financial losses, and a loss of faith in the marketplace. This not only affects customers but also undermines fair competition within industries by allowing unethical enterprises to obtain an unfair advantage over honest competitors. Understanding the impact of deceptive advertising is critical in this context for protecting consumer interests and ensuring a fair playing field in the corporate landscape. Deceptive marketing can reach a huge audience in the blink of an eye in the digital age, when information travels at the speed of light across a global network. As a result, buyers may base their purchasing decisions on false claims, inflated promises, or inadequate information. As a result, customers may receive items or services that fall short of their expectations, resulting in unhappiness, financial loss, and, in some situations, physical harm. Consumers face costs that go beyond monetary losses; false advertising can undermine customer confidence and faith in the integrity of businesses. Deceptive advertising also has a substantial impact on industry competitors. When competing with individuals who engage in deceitful practises, honest businesses who are committed to offering quality products or services can find themselves at a disadvantage. These dishonest competitors might obtain an unfair edge by enticing clients with misleading claims or reduced pricing that cannot be sustained without cutting shortcuts, sacrificing quality, or engaging in unethical practises. Legitimate businesses may struggle to compete in such an atmosphere, which can eventually restrict innovation and healthy competition within the industry. Furthermore, deceptive advertising can weaken the entire integrity of the business environment, leading to a race to the bottom in which competitors are forced to engage in dishonest practises in order to survive or thrive in the marketplace. This unfair competition can have a cascading effect, affecting not just the competitors but also the larger industry and, by extension, consumers who are denied the benefits of a fair and transparent market. While deceptive advertising is not a new phenomenon, the digital era has brought with it new challenges and opportunities. With its broad diversity of platforms and channels, the online landscape has provided businesses with unparalleled access to potential clients, making it easier to disseminate false marketing to a global audience. The growth of social media, e-commerce platforms, and digital marketing has magnified the impact of deceptive practises, resulting in an increase in consumer complaints and regulatory proceedings against unscrupulous advertising. Regulators, consumer protection organisations, and

industry associations are all working hard to counteract misleading advertising. To combat this detrimental practise and hold corporations accountable for false or misleading promises, laws and regulations have been enacted. Businesses found guilty of deceptive advertising may incur penalties, fines, or legal action in some situations. Furthermore, the digital world has given rise to new tools and technology that allow customers to report misleading advertising, discuss their experiences, and hold firms responsible on public forums. In an era of abundant information and digital connection, it is becoming increasingly vital for customers to exercise caution while making purchasing decisions. The capacity to distinguish between true and fraudulent marketing is a necessary skill for modern consumers. Consumers can benefit from education and awareness initiatives that teach them how to identify deceptive advertising practises, see red flags, and make informed decisions as the digital world evolves. Similarly, organisations that are committed to ethical marketing and fair competition might obtain a competitive advantage by establishing a reputation for being trustworthy and transparent.

MEANING OF DECEPTIVE OR MISLEADING ADVERTISEMENT

The practise of developing and disseminating advertisements that contain inaccurate, misleading, or exaggerated information in order to influence or deceive people is referred to as deceptive advertising. A deceptive advertisement is one that misleads people, alters reality, and impacts consumer purchasing behaviour. False or misleading advertising is unlawful in most jurisdictions due to advertising rules. It is prohibited from misleading the quality of any product or its relevant specifications such as composition, manufacture, price, or country of origin. The term "false" refers to the misrepresentation of facts; misleading information can lead to an unacceptable number of individuals making incorrect decisions, but consumers are at risk from advertising when given with a unique setting. Such advertisements are intended to fool or mislead people into believing false or misleading promises about a product or service. False assertions, misrepresentations, overstated benefits, hidden fees, or the removal of critical information are all examples of deceptive advertising. It is often regarded as immoral and, in many jurisdictions, illegal, as it can hurt consumers by encouraging them to make purchases based on misleading information. To prevent and remedy deceptive advertising practises, consumer protection laws and regulations are frequently in place.

Section 2(28) of the Consumer Protection Act, 2019 (hereafter the Act) defines misleading advertisement concerning any product or service as one that "falsely describes such product or service; or conveys an express or implied representation which, if made by the manufacturer, seller, or service provider thereof, would constitute an unfair trade practise; or deliberately conceals important information; gives a false guarantee to, or is likely to give a false guarantee to, such product or service"¹

Unfair trade practises are defined in Section 2(48)(f) of the Act as "making a false or misleading representation concerning the need for, or the usefulness of, any goods or services;"²

Other such acts are the Monopolies and Restrictive Trade Practises Act 1969, whose main goal is to ensure that the operation of the economic structure fails to result in the concentration of economic powers in the hands of a few hands. However, the MRTP Act typically failed to protect any provinces against misleading and false advertisement, but the 1984 amendments to the MRTP Act incorporated, among other things, new provisions for the regulation of unfair trade practises, such as False claims, misleading ads, bargain sales, bait and switch selling, hoarding and destruction of items, and so on are all examples.

MISLEADING ADVERTISEMENTS AND CONSUMER PROTECTION ACT

The government established the Central Consumer Protection Authority (CCPA), sometimes known as the Central Authority, under Chapter III of the Act and gave it certain authorities and functions to defend and safeguard consumer interests. One of the Central Authority's missions is to ensure that "no false or deceptive advertisements for any goods or services are published that contravene the terms of this Act or the rules or regulations made thereunder". It also seeks to prohibit anyone from participating in the dissemination of these advertising. Section 10 of the COPRA 2019 establishes the CCPA and empowers it to rule on "consumer rights violations, unfair trade practises, and misleading and false advertisements that are detrimental to the welfare of the public and consumers, as well as to promote, protect, and adhere to the rights of consumers as a group."

¹ Section 2(28) of the Consumer Protection Act, 2019

² Section 2(48)(f) of the Consumer Protection Act 2019.

A complaint alleging unfair trade practises or deceptive advertising may be directed to the Central Authority, the District Collector, or the Regional Commissioner. Section 18 of the Act allows the Director-General or District Collector to start an investigation or look into the allegation on their own "suo-moto" or in reaction to a complaint or directives from the Central Government.

CHARACTERISTICS OF DECEPTIVE ADVERTISEMENTS

The CCPA issued the Guidelines on Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, with immediate enforcement in June 2022, to defend consumer rights against broader advertising issues. The Guidelines strengthen consumer rights by establishing clear and mandatory requirements for legitimate and non-misleading marketing, as well as free claims advertisements. Furthermore, the Guidelines recognise and enable bait advertisement under certain conditions, as well as mandate disclaimers in advertisements, advertisement endorsements, and disclosure of relationship between endorser and trader. Furthermore, the Guidelines forbid surrogate advertising and place restrictions on free claims advertisements and commercials directed at youngsters. The Guidelines describe the responsibilities of manufacturers, service providers, advertisers, and advertising agencies.

The following are the Guidelines' key features:

SCOPE: The Guidelines apply to all advertisements (regardless of form, format, or medium), as well as all manufacturers, service providers, traders, advertising agencies, and endorsers who are affiliated with the commercials. The Guidelines now apply to both private and public advertisements, as well as linked companies. **NON-MISLEADING AND LEGAL ADVERTISEMENTS (Clause 4, Guidelines):**

The following advertising are legitimate and non-misleading:

- Include genuine and honest representation;
- Non-misleading consumers by exaggerating a product's or service's accuracy, scientific validity, practical usefulness, capability, or performance;
- Do not make consumers' legal rights the offer's distinguishing feature.

- If there are specific educated or scientific opinions in the commercial claims, it should not be assumed that the advertisement contains widely recognised assertions.
- In the event that the offered goods or services are not purchased, it must not mislead the customers or their families about the type or amount of the risk to their personal security.
- Non-misleading consumers with baseless claims based solely on publications; BAIT ADVERTISING(Clause 5, Guidelines):

The Guidelines define bait advertising as advertising items, products, or services for sale at a low price in order to entice customers. Clause 5 of the Guidelines specifies the following essential requirements for bait advertisements:

- Advertisements must not tempt people to buy products or services when there is no realistic likelihood of a sale.
- The advertiser must assure an adequate supply of goods or services to match the anticipated demand.
- If the advertiser fails to satisfy the supply of advertised products or services, the advertiser must explain why, including the restricted stock and the advertisement's objective to assess possible demand, if applicable. Furthermore, any omission of any applicable geographic or age-limit restrictions for the offered goods or services must not mislead consumers.
- In the event of unfavourable market conditions, ads must not mislead consumers about such conditions or the unavailability of the promoted goods or services, and they must not urge consumers to purchase those goods or services at a lower price.

PENALTIES: The Guidelines aim to hold advertisers accountable for misleading or fraudulent advertising practises. The CCPA can fine producers, advertisers, and endorsers INR 10 lakhs for violating the Guidelines' restrictions on misleading advertisements. The CCPA can levy a penalty of up to INR 50 lakhs for repeated offences. According to the CPA, the CCPA may further prevent the endorser of a false advertising from offering any recommendations for a maximum of one year, which can be extended to three years if non-compliance is repeated.³

³ Tanya Saraswat, Misleading Advertisements in India, February 2023, <https://www.mondaq.com/india/advertising-marketing--branding/1279200/misleading-advertisements-in>

PENALTY UNDER THE CONSUMER PROTECTION ACT

If the Commission on Consumer Product Advertising has been satisfied with the investigation or inquiry, the Central Authority may give misleading advertisement orders under Section 21 of the Act. The Central Authority may make the following instructions if it determines that the Advertisement is deceitful in such a way that it harms the general public's interests:

- Impose a fine of as much as ten lakh rupees on the producer or endorser, with a maximum fine of 50 lakh rupees for each subsequent breach.
- Prohibit the endorser from recommending any product or service for a year, with a maximum penalty of three years for each subsequent infraction.

- Anyone who publishes or is engaged in the publication of a fraudulent or misleading advertisement faces a fine of up to ten lakh rupees.

Only if the endorser failed to use reasonable diligence to confirm the validity of the claims made in the advertisement for the product they are supporting can they be held liable under Sections 21(2) and 21(3) of the act. For example, if a celebrity claims in an advertising that Boost, Horlicks, or Complan can help a child to grow taller in just a week, they must investigate the accuracy of their statements. If the endorser's justification is unsatisfactory, the Central Authority may assess a fine.

Similarly, a person or publisher can only be held accountable if they can demonstrate that they published or arranged for the publication of the advertisement in the course of their business. They do not have a defence if they were informed of the Central Authority's request to withdraw or change the advertisement ahead of time.⁴

In *Rajiv Sharma v. Maruti Udyog Limited*, the Delhi District Consumer Forum ordered Indian vehicle manufacturer Maruti Udyog Ltd (MUL) to pay the complainant Rs one lakh in compensation for "inducing" him to buy a car through false ads about its mileage. The MUL automobile advertised as having a mileage of 16.7 km/litre but really had a mileage of 10.2 km/litre.⁵

india#:~:text=Penalties%3A%20The%20Guidelines%20seek%20to,on%20manufacturers%2C%20adv
ertisers%20and%20endorsers.

⁴ Aditi Prabhu, *Misleading Advertisements under Consumer Protection Act in India*, July 2022, <https://www.thelegalvidya.in/misleading-advertisements-under-consumer-protection-act-in-india>

⁵ *Rajiv Sharma v. Maruti Udyog Limited*, Appeal No. A-358/97 .

IMPACT OF DECEPTIVE ADVERTISEMENT ON COMPETITORS

Misleading advertisements have a wide-ranging and significant impact on competitors in the commercial landscape. These deceptive practises can have a considerable impact on an industry's competitive dynamics, impacting how organisations operate and compete. First and foremost, rivals are significantly disadvantaged when other businesses use false ads. When businesses make false or exaggerated claims about their products or services, they frequently entice clients with promises that cannot be kept. As a result, these companies may obtain an unfair advantage over their honest competitors that practise ethical marketing and transparency. Customers who have been misled by deceptive advertising may be enticed to the dishonest company at first, but eventually grow disillusioned when their expectations are not satisfied. This might cause a loss of trust in the market and harm the reputation of all businesses in the industry. Competitors are also impacted by the erosion of consumer trust caused by false ads. In a climate where deceit is common, customers become careful and sceptical of any promotional claims. Even the most honest and respectable businesses in the industry are sceptical. As a result, rivals that participate in ethical advertising confront the difficult task of countering this collective mistrust, which can stymie corporate growth.

Deceptive advertising can also foster an environment of unethical competition, as competitors may feel driven to engage in similar deceptive practises in order to stay up with the dishonest corporations. The temptation to compete with businesses that utilise misleading advertising strategies can lead to a "race to the bottom," in which businesses resort to unethical practises, affecting not only their competitors but the industry as a whole. This unhealthy rivalry has the potential to inhibit innovation and the creation of high-quality products and services. Furthermore, honest rivals may become embroiled in legal challenges or regulatory measures undertaken by authorities or consumer protection organisations in response to their competitors' dishonest advertising. These legal difficulties have the potential to divert money, time, and energy away from corporate operations and growth. The cost of legal defence and the potential penalties for deceptive advertising can be high, further disadvantageous ethical competitors. Another unintended consequence for competitors is increased consumer misunderstanding. Deceptive advertising frequently confuses consumers, leaving them unclear of whom to trust and what data to believe. Competitors may need to devote more time and money in consumer education and awareness activities to correct the misunderstanding and confusion caused by deceptive ads. To counteract the impact of deceptive advertising, rivals frequently emphasise the openness and accuracy of their marketing efforts. They want to stand out by establishing and maintaining a reputation for honesty and dependability. Such companies may make clear and verifiable product claims, present proof to back up their claims, and engage in responsible marketing practises that prioritise long-term client connections over short-term profits.

CASE LAWS

Horlicks Limited vs Zydus Wellness Products Limited

Horlicks Limited ("Horlicks") petitioned the Delhi High Court for a permanent injunction against Zydus Wellness Products ("Zydus") from airing an advertising claiming a single glass of Complian (a Zydus Product) is equal to two glasses of Horlicks. The contested advertising was broadcast on various networks. Horlicks filed a complaint with the High Court, claiming that the advertisement was deceptive and amounted to disparagement. Zydus, on the other side, claimed that the advertisement was not deceptive because the information presented was factual and was limited to the suggested serving size of both drinks. The High Court ruled that the contested advertisement was deceptive and disparaging because, while a disclaimer was included, it was not clear, and the advertisement gave the impression that one cup of Complian was equal to two cups of Horlicks, without taking into account the serve size. Based on the foregoing, the High Court determined that the balance of convenience was in favour of Horlicks, who would suffer irreparable harm if the telecast of the contested commercial was not prevented, and so granted the remedy of an interim injunction.⁶

Francis Vadakkan v A-One Medicals & others

In this case, brought before a Kerala consumer court, the complainant noticed an advertisement promising that using the product (hair cream) for six weeks will result in luscious hair growth. Because the promise was not met despite using the cream for the specified period, the complainant filed a 'deficiency in service' claim against the product's manufacturers, the actor who promoted the product, and the medical store where it was purchased. The court ordered that all defendants pay the client compensation for making "false promises," and that the actor promote a product only after establishing its legitimacy and effectiveness.⁷

⁶ Horlicks Limited v. Zydus Wellness Products Limited, CS (Comm) 464 of 2019.

Bhupesh Khorana vs Vishwa Buddha Parishad

Twelve students enrolled in the BDS programme at the Buddhist Mission Dental College, which is run by the Vishwa Buddha Parishad, filed a class action lawsuit. The students complained that the college had given the impression in its advertisement and prospectus welcoming applications for the course that it was affiliated with Magadh University, Bodh Gaya, recognised by the Dental Council of India, and was fully equipped to award the Bachelor of Dental Science degree. However, after enrolling in the college and attending courses, the students discovered that the yearly examinations were not being held because the college was not associated with Magadh University, Bodh Gaya, nor was it recognised by the Dental Council of India. As consequence, the students not only lost two valuable academic years, but they also paid money on fees, lodging fees, and so on. Ruling the college to be defective, the National Commission ordered it to repay the admission fees of all twelve students, plus 12% interest.⁸

CONCLUSION

Deceptive advertising practises have far-reaching and far-reaching implications, hurting not just customers but also market competitors. Deceptive advertising weakens trust, produces confusion, and poses a severe danger to the integrity of the corporate environment. Consumers are highly affected by deceitful advertising. It frequently leads to financial losses, unhappiness, and disappointment for consumers who discover that the products or services they purchased do not measure up to the extravagant claims made in advertisements. Furthermore, the loss of trust and confidence in the marketplace can have long-term consequences, making consumers more sceptical and unwilling to make purchases. When challenged with deceptive advertising practises, competitors have a distinct set of obstacles. When unethical organisations utilise dishonest strategies to achieve a competitive advantage, they frequently find themselves at a disadvantage. Competitors who follow ethical marketing and transparency may have difficulty competing with companies that make inflated promises or participate in fraudulent practises. As a result, honest enterprises must traverse an unequal playing field warped by dishonesty. Furthermore, deceptive advertising can foster an environment of unethical competition, as competitors may feel driven to adopt similar practises in order to compete with the dishonest enterprises. This "race to the bottom" can be detrimental to the industry as a whole, as companies increasingly resort to unethical techniques rather than focusing on innovation and quality. Ethical rivals may also become involved in legal fights or regulatory proceedings to address their competitors' misleading advertising practises, taking resources and attention away from their core business operations. The repercussions of deceptive advertising are compounded in the digital age, as information spreads quickly and

advertising's influence is greater than ever. Consumers and rivals must both be cautious and aware of the prevalence of deceptive practises in the marketplace. By doing so, they will be able to collaborate with regulatory authorities to respect the principles of transparency, truth, and fairness, promoting a corporate environment in which honesty prevails and confidence is restored, to the advantage of all stakeholders. Finally, we can lessen the impact of misleading advertising practises by working together to create a more equal, ethical, and consumer-centric marketplace.

⁷ Francis Vadakkan v. The proprietor, A-one medicals and Ors. CC No.345 of 2012

⁸ Bhupesh Khorana vs Vishwa Buddha Parishad,(2001) 2 CPJ 74 (NC)

LITERATURE REVIEW

1. ARTICLE- "Misleading Advertisements in India", AUTHOR- Tanya Saraswat.

Literature Review:

An in-depth analysis of the problem of deceptive advertisements in India is given in Tanya Saraswat's article "Misleading Advertisements in India," published on Mondaq.com. The author mentions that any business strategy must include marketing, branding, and advertising as they assist businesses with brand awareness, client attraction, and product and service promotion. Advertising can, however, also be untrue, dishonest, or misleading, which could hurt customers and jeopardize the market's integrity. The article deals with provisions that govern deceptive advertisement. In India, the government has developed regulations on advertising and is punishing offenders. The Ministry of Consumer Affairs, Food, and Public

⁹Tanya Saraswat, Misleading Advertisements in India, Mondaq, February 2023. <https://www.mondaq.com/india/advertising-marketing--branding/1279200/misleading-advertisements-in-india#:~:text=For%20violation%20of%20provisions%20related,up%20to%20INR%2050%20lakhs.>

Distribution published the Guidelines for Advertising and Marketing on Digital Platforms (the Guidelines) in 2020. All digital channels, including social media, search engines, e-commerce websites, and mobile applications, are covered by the Guidelines. By ensuring that marketers and endorsers are held accountable for their statements, the Guidelines aim to safeguard consumers against false, misleading, or deceptive commercials. According to the Guidelines mentioned in the article, misleading advertisements provide customers with information that is incorrect, misleading, or deceptive. The report briefly details the five salient features of the guidelines, which include scope, bail advertisement, Non-misleading and lawful advertisements, penalties, etc. The Guidelines provide examples of deceptive advertising, including claims made about a product's effectiveness, safety, or quality, the use of deceptive imagery or testimonials, and overstating the advantages of a good or service. According to the Guidelines, advertisers and endorsers must ensure that their assertions are factual, correct, and supported by facts. Advertisers and endorsers are also required to declare any relevant financial ties to the goods or services they are endorsing. For instance, if a famous person promotes a product, they are required to disclose whether they received payment for doing so. The Guidelines also call on digital platforms to make sure that the advertisements they host adhere to the rules. To resolve customer concerns about deceptive marketing, digital platforms must provide a grievance redressal system. Additionally, digital media are required to reveal the name of the advertising and any

tangible ties they may have to the advertiser. Manufacturers, advertisers, and endorsers that violate the Guidelines are subject to sanctions, according to the guidelines. Fines, incarceration, and license suspension or cancellation are among the sanctions. The penalties are intended to discourage producers from participating in deceptive advertising tactics and to safeguard consumers from harm. In India, advertising and marketing are governed by other laws and rules in addition to the Guidelines. The Central Consumer Protection Authority (CCPA), which has the authority to look into and take legal action against deceptive marketing, is to be established in accordance with the Consumer Protection Act of 2019. Manufacturers, advertisers, and endorsers who violate the Act's rules may face penalties from the CCPA. The Guidelines' key elements include the definition of misleading advertising, which is any advertisement that presents consumers with false, misleading, or deceptive information. Advertisers and endorsers are expected to ensure that their claims are accurate, truthful, and supported by evidence.

Additionally, they must reveal any relevant connections to the good or service they are promoting. Digital platforms are required to ensure that the advertisements that appear on them follow the Guidelines and to have a grievance resolution process in place to deal with consumer complaints about deceptive advertising.

Critical Analysis:

The article offers a helpful overview of the guidelines that strive to control advertising in India and the problem of deceptive marketing in that nation. The paper is thoroughly researched and offers pertinent examples to support its arguments. One major drawback of the report is that it does not provide a thorough evaluation of how well the ASCI standards have worked to control advertising in India. Although the article states that the standards prevent deceptive advertising practices, it does not include information on how well the recommendations have succeeded. The lack of discussion of the difficulties associated with enforcing the ASCI principles is another potential weakness of the essay. For instance, it might be challenging to monitor all national advertisements and identify and sanction businesses, advertisers, and endorsers who use deceptive advertising tactics. The article also failed to mention the role of government, which deals with the provision of deceptive advertisements. The Advertising Standards Council of India (ASCI) guidelines are mentioned in the article, however, the involvement of government organizations like the Ministry of Information and Broadcasting in controlling advertising is not covered. Through regulations like the Cable Television Networks (Regulation) Act of 1995 and the Consumer Protection Act of 2019, the government has the authority to control advertising. These laws offer a framework for the regulation of advertising and the defense of consumers from deceptive advertising. The lack of mention of the difficulties in enforcing the ASCI guidelines is another gap in the essay. The ASCI relies on customer and competitor complaints to uncover deceptive marketing, which may not be a reliable method for policing all advertisements in the nation. Furthermore, it's possible that the ASCI's penalties won't be strong enough to stop manufacturers, advertisers, and endorsers from using deceptive advertising tactics.

2. ARTICLE- "Disentangling the Effects of Perceived Deception and Anticipated Harm on Consumer Responses to Deceptive Advertising".¹⁰

AUTHOR- Guang- Xin Xie, Robert Madrigal, and David M.Boush.

Literature Review:

The essay "Disentangling the Effects of Perceived Deception and Anticipated Harm on Consumer Responses to Deceptive Advertising" by Guang-Xin Xie, Robert Madrigal, and David M. Boush looks into the relationship between perceived deception and anticipated harm on customer responses to deceptive advertising. The authors describe advertising deception as "the use of false or misleading information in advertising to influence consumers' attitudes or behavior" at first. They point out that deceit in advertising can take many different forms, such as making false claims, exaggerating, leaving out crucial details, and manipulating images. The authors contend that false advertising can harm consumers and businesses since it can undermine consumer trust and harm a company's reputation. According to the authors' article, there are several ways in which consumers react to deceptive advertising. Some consumers would start to take any advertisement with a grain of salt, while others might begin to be more watchful and research products more thoroughly. Still, some people can get upset and think they were misled. The authors point out that the perceived harm brought on by the deception, along with the buyer's degree of interest in the marketed good or service, determines the extent of the reaction. The authors advise businesses to be open and truthful in their advertising in order to lessen the negative impacts of perceived dishonesty and predicted harm. They contend that enterprises should prevent making false or inflated claims and offer transparent and precise details about their goods and services. The authors advise businesses to handle consumer complaints about their advertising on the front end and to correct any inaccurate or deceptive material. The writers advise businesses to develop trust with their clients and be open and truthful in their advertising. They contend that businesses may gain customers' trust by producing high-quality goods and services, giving top-notch customer support, and responding quickly to customer complaints. Building trust requires time and work, but the authors point out that it can be worthwhile in the long term by resulting in devoted consumers who are more inclined to promote the business to others. There was a statistical study conducted by the author of the usage of various deceptively advertised products. Additionally, they discovered that there was a sizable impact of predicted harm and/or perceived deceit on consumer reactions. In particular, regardless of the degree of perceived deception, consumers were likelier to hold unfavorable sentiments towards the marketed goods and less likely to buy it when predicted harm was high. Consumers were more likely to have negative emotions and be less inclined to purchase the product when projected damage was low but only when perceived deceit was substantial. Overall, the author's evaluation of the literature offers insightful information about how misleading advertising affects consumer behavior. The authors stress the significance of honesty and openness in advertising as well as the necessity for businesses to gain the trust of their clients. Organizations can lessen the harmful effects by adhering to these suggestions.

¹⁰ Guang- Xin Xie, Robert Madrigal, and David M.Boush, Disentangling the Effects of Perceived Deception and Anticipated Harm on Consumer Responses to Deceptive Advertising, Journal on Business Ethics, Vol. 129, No. 2 (June 2015) <https://www.jstor.org/stable/24702914>.

Critical Analysis:

Though the article has come out with useful information about how consumers are affected by deceptive advertisements and how deceptive advertisements affect the future business of the producers, it has some limitations. The meaning of "perceived harm" in the context of advertising deception is ambiguous throughout the article.

Although the writers take notice of the fact that the degree of response to advertising deception depends on the perceived harm brought on by the deception, they do not offer a precise definition of harm. Due to the lack of clarity, it may be challenging for businesses to identify the specific claims or omissions that customers might find offensive in their advertising. One drawback of the study is that the studies are limited to one type of product (a weight-loss product), where the potential for harm is obvious and easily accessible. The findings' applicability to other product categories may be constrained. Another drawback is the studies' use of student and online panel samples, which might not represent the general population. Last, the knowledge that participants were in a research setting with advertisements acting as testing signals may have influenced their responses. Despite these drawbacks, the authors offer insightful explanations of how customer reactions to misleading advertising are affected by perceived dishonesty and predicted harm. According to the research, businesses should exercise caution when utilizing deceptive advertising because it can harm their brand and revenue. The authors also emphasize the need for more excellent research, particularly with more varied samples and other product categories. Overall, this article significantly contributes to the body of knowledge on deceptive advertising and how it affects consumer behavior. The authors give a clear and succinct summary of the literature, and their own research offers insightful information about the effects of perceived deception and predicted harm on consumers' reactions to misleading advertising. While there are limits to the study, the findings have substantial implications for companies and policy-makers alike. Thus, this paper plays a vital role in studying the impact on consumers because of deceptive advertisements. My writing will deal with the lacunae in this particular paper, which includes having clarity over what kind of harm the customers actually go through.

3. ARTICLE- "The Advertising and the Law".¹¹ AUTHOR- D.P.S. Verma.**Literature Review:**

D.P.S. Verma's work "Advertising and the Law" appeared in the Indian Law Institute Journal in April–June 2006. The article's first section discusses advertising's function in contemporary culture. It highlights how effective it is as a tool for businesses to market their goods and services. The author does point out, though, that some advertising is deceptive and can hurt customers. In order to safeguard customers from such practices, laws and regulations have been put in place. Next, the article discusses all the laws and rules that control advertising in India. These include, among others, the Cable Television Networks (Regulation) Act, the Indian Penal Code, and the Consumer Protection Act. According to the author, these regulations are intended to shield customers from deceptive and false advertising and offensive or obscene advertising. According to the author, misleading or fraudulent promises regarding the performance or operations of a business, as well as the quality, quantity, grade, composition, style, or model of goods or services, are

considered deceptive advertisements. Deceptive advertising can also falsely claim that rebuilt, used, reconditioned, or old products are new or that products or services have the endorsement, performance, qualities, attachments, or benefits claimed for new products. Deceptive marketing may also erroneously claim that the seller or provider is affiliated, endorsed, or sponsored. According to the report, these adverts violate India's Consumer Protection Act and other rules and regulations because they are deemed unfair business practices. The function of self-regulatory organizations in

¹¹ D.P.S. Verma, *The Advertising and the Law*, Vol. 48, No. 2 (April-June 2006), <https://www.jstor.org/stable/43952035>.

policing advertising in India is also covered in the article. One such organization is the Advertising Standards Council of India (ASCI), which ensures that commercials are factual, not insulting, and don't make exaggerated claims. While self-regulation is vital, the author points out that it is not always successful and that there is a need for more enforcement of advertising rules and regulations. The author notes that businesses may be tempted to engage in such practices in an effort to increase sales and market share but that such practices can harm competition by giving an unfair advantage to the business employing them and by misleading consumers about the quality or characteristics of the products or services being offered. The author also notes that competition law in India, including the Competition Act, is stringent when it comes to deceptive advertising. In conclusion, this article provides a thorough overview of advertising and the law in India, highlighting the significance of safeguarding consumers from false and misleading advertising and outlining the different rules and regulations in place to do so.

Critical Analysis:

The author of the paper "Advertising and the Law" thoroughly summarizes the legal system that controls advertising in India. However, there are a number of limitations that should be taken into account. First, the article does not compare the legal systems of different nations' advertising regulations; instead, it concentrates primarily on the legal framework governing advertising in India. This restricts the paper's reach and can make it less attractive to readers outside of India curious about the relationship between advertising and the law. Because of this, the paper's practical applicability is constrained, which may make it less helpful for regulators and politicians who want to strengthen the enforcement of advertising regulations. Thirdly, the article does not analyze the effects of advertising on culture and society in detail. Although the author references how advertising affects vulnerable populations like children and the elderly, the broader social and cultural ramifications of advertising are not covered. This restricts the paper's reach and can turn off readers who are curious about the more general societal effects of advertising. Fourthly, the article doesn't go into great detail on how technology affects advertising and the law. Although the author references how the internet affects advertising, the broader ramifications of technology on advertising and the law are not covered. This limits the paper's applicability to readers curious about how technology affects advertising and the law. Finally, a thorough examination of the ethical consequences of advertising is absent from the work. Although the author references the necessity of ethical advertising practices, the broader implications of advertising are not covered. This reduces the paper's applicability to readers considering the ethical ramifications of advertising. In conclusion, even if the essay "Advertising and the Law" makes a significant

addition to the field of law and advertising, a number of issues need to be taken into account. The lacunae of omitting a comparative analysis of the advertisement law of other countries will be dealt with in depth.

4. ARTICLE- “False and Misleading Advertisement in India”¹² AUTHOR- Sharad Vadehra.

Literature Review

In India, where advertisers frequently use unethical tactics to draw in more customers, enhance their sales, and boost their profits, the problem of deceptive and misleading advertisements is becoming more and more of a worry. The goal of this review of the literature is to look at the research that has already been done on deceptive and fraudulent advertising in India and to pinpoint the leading causes of this issue. The absence of a comprehensive legislative organization for regulating commercials is one of the critical causes of incorrect and misleading advertisements in India. The Consumer Protection Act 2019 is one of India's most important laws governing promotions, according to the author. However, it is insufficient to handle all the problems concerning deceptive and misleading advertising. Advertisers can now make deceptive promises about their goods or services without suffering any severe repercussions as a result of this. The fierce market competition in India is another aspect that contributes to deceptive and fraudulent advertising. Advertisers frequently make inflated or inaccurate promises regarding their goods or services due to the ongoing pressure they face to attract more customers and boost revenue. Advertisers may make unsupported claims like treating diseases or guaranteeing employment in healthcare and education, for example. It is impossible to emphasize the harm that false and deceptive advertising does to consumers and market competitiveness. Consumers duped by misleading advertising may wind up buying goods or services that fall short of their expectations, which can result in losses in money and, in certain situations, even health hazards. False advertising also lessens competition in the market by providing unethical businesses an unfair edge. More vital rules and enforcement measures are required in India to address the issue of deceptive and false advertising. Although the Consumer Protection Act of 2019 established the Central Consumer Protection Authority (CCPA), it is only a first step in ensuring that advertisers are held responsible for their deeds. This can entail toughening up the laws against deceptive advertising, raising awareness of the problem, and enticing customers to report fraudulent claims to the appropriate authorities. In a nutshell, false and misleading advertising is a significant issue in India that demands the public, leaders, and policymakers to pay immediate attention. It is possible to build a more open and moral advertising climate that benefits both customers and businesses by addressing the major contributing elements and putting up practical solutions.

¹² Sharad Vadehra, False and Misleading Advertisement in India, April 2022, <https://www.lexology.com/library/detail.aspx?g=55951606-036e-4f42-b0dd-156a32cd53b4>.

Critical Analysis:

Though the paper deals with the misleading and deceptive advertisement law in India in a well-analyzed manner, it has its own lacunae. Initially, the paper has a narrow emphasis because it solely addresses the problem of deceptive and false advertising in India. Although this is a significant concern, unethical advertising practices as a whole are a bigger one. Future studies might look into additional corrupt advertising practices, like exploiting weaker demographics or using subliminal messaging. Second, the essay extensively uses secondary sources, including legislative papers and the Consumer Protection Act, 2019. Although these sources offer insightful information, they don't fully reflect the scope of India's deceptive advertising issue. Thirdly, the article omits a thorough examination of the effects of deceptive advertising on many stakeholders, including consumers, companies, and the government. Although the paper briefly discusses the harm that deceptive advertising causes to consumers and market competition, it does not offer a thorough study of the economic, social, and political ramifications of this problem. Future studies might examine the larger effects of deceptive advertising on various stakeholders and society as large. Fourthly, a thorough evaluation of the efficiency of India's current legislative framework against deceptive advertising is absent from the study. The Consumer Protection Act 2019 and the Central Consumer Protection Authority (CCPA) are mentioned in the text, but a thorough evaluation of their advantages and disadvantages is not given. Future studies could examine how successful the current regulatory system is and pinpoint opportunities for development. The function of media in promoting deceptive advertising in India is not thoroughly discussed in this article. Media outlets are crucial in spreading advertisements to the general public, and it is their duty to make sure that the commercials they run are honest and truthful. Future studies could examine how media in India contributes to deceptive advertising and develop tactics to encourage ethical media behavior. Another drawback is that the article doesn't go into great length about how the media contributes to spreading fraudulent advertising throughout India. Media outlets are crucial in applying advertisements to the general public, and it is their duty to make sure that the commercials they run are honest and truthful. Future studies could examine how media in India contributes to deceptive advertising and develop tactics to encourage ethical media behavior. Finally, a thorough analysis of the global implications of deceptive advertising in India is absent from the essay. False advertising in India may have repercussions for customers and enterprises all across the world as global supply chains and cross-border advertising grow in popularity. Future studies could look at the global implications of deceptive advertising in India and develop tactics to advance ethical advertising