

DECEPTION: A THREAT TO CONSUMERISM

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ABSTRACT

In today's competitive era wherein every company is trying its best to prove its worth by claiming to be the best and superior in the industry, gaining and sustaining competitive advantage is a challenge for all. Operating in a dynamic environment that is plagued with complexities and uncertainties, many organizations are adopting and offering lucrative value propositions to consumers. Faced with technological advancements, higher customer expectations, a host of new media channels and pressure to deliver more with less, marketers are innovating new strategies to communicate with their existing and prospective customers.

With the rise of consumerism and consumer emerging as the ultimate decider for the success of a product, the marketer is now creating an opportunity to satisfy the customer through better service, quality products, and constant communication with potential customers.

Further due to this cut throat competition for sustainable growth marketers are striving hard to break the clutter by luring consumers with attractive offerings and many are making false claims and providing misleading, indecent, wrong information to customers a clear threat to consumerism. .

This article focuses on highlighting the meaning and types of deceptive advertising practices adopted by organizations to lure consumers along with examples of various deceptive advertising campaigns withheld. It also includes the legislations, laws, types and purpose of regulatory bodies in India to curb deception and false claims in advertising.

Key words: consumerism, deceptive advertising, false claims, competitive advantage, consumer grievance

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Introduction:

The term "consumerism" had been popularly first used in the year 1915 and referred to "advocacy of the rights and interests of consumers. It also refers to the consumerists movement, consumer activism or consumer protection which seeks to defend and inform consumers by having required these practices as honest advertising and packaging, product guarantees, and enhanced standards of safety etc.

The size of the Advertising Market (media spend) in India is Rs.30,800 crore. (Source: Madison Pitch Report 2013).

As it says it all, advertising certainly is one of the most vital in marketing communications and involves not only informing but also caters to persuasion. It informs the public so that they can be aware of products/services and make informed choices among different products or brands. Advertising also benefits businesses in assisting them to sell their brands.

J. Walter Thompson had once quoted "Advertising is a non-moral force, like electricity, which not only illuminates but electrocutes. Its worth to civilization depends upon how it is used."

This quote clearly states that advertising can be used as an essential tool in alluring consumers. Now when we talk about alluring it also includes the false and misleading practices adopted by various organizations to attract consumers, a clear act of deception.

Deceptive advertising, also known as false advertising, refers to using of confusing, misleading, or blatantly untrue statements when promoting a product. It is accused of encouraging materialism and consumption, of stereotyping, of causing us to purchase items for which we have no need, of taking advantage of children, of manipulating our behavior, using sex to sell, and generally contributing to the downfall of our social system. Advertising does not function in a vacuum but in a market environment where several factors like consumer needs, business interests and government regulations are at work. Moreover the high visibility and pervasiveness generates criticism and controversy.

The advertising trends have been greatly impacted by rising awareness on consumer rights and protection. The influence of advertisements on consumer choice is undeniable. And it's this fact that makes it imperative that advertisements should be fair and truthful. Misleading and false advertisements are not just unethical; they also affect competition and consumer choice. A false and misleading advertisement in fact violates several basic rights of consumers: the right to

information, the right to choice, the right to be protected against unsafe goods and services as well as unfair trade practices. Since advertisements are basically meant to promote a product or a service, one does see some exaggeration in the way they extol the virtues of the product. But when it goes beyond that and deliberately utters a falsehood or tries to misrepresent facts thereby misleading the consumer, then it becomes objectionable.

In deceptive advertising Puffery and disparagement plays a crucial role as it refers to exaggerating of facts a brand claims. Puffery is defined as ‘advertising or other sales representations, which praise the item to be sold with the subjective opinions, superlatives or exaggerations, vaguely and generally, stating no specific facts’ and disparagement occurs ‘when a advertiser intentionally and misleadingly presents an identifiable competitor in negative light so as to establish the superiority of its brand’.

Initiatives to curb Deception.....

There are legislations affecting advertising in India like the Consumer Protection Act; The Monopolies and Restrictive Trade Practices (MRTP) Act; Jago Grahak Jago; Drugs and Cosmetics Act etc. Even Advertising Agencies Association of India (AAAI) etc guides the advertisers in their commitment to honest advertising and fair competition in the market place and one of its major objectives is to benefit Indian consumers and to protect their interests by helping ensure that advertising is honest and in good taste.

The Federal Trade Commission (FTC) defines Deceptive Advertising as “a representation, omission or practice that is likely to mislead the consumer and practices that have been found misleading or deceptive in specific cases include false oral or written representations, misleading price claims, sales of hazardous or systematically defective products or services without adequate disclosures, failure to disclose information regarding pyramid sales, use of bait and switch techniques, failure to perform promised services, and failure to meet warranty obligations”.

Advertising Standard Council of India (ASCI) is a voluntary organization self-regulating advertising content for the advertising industry. The Role and Functioning of the ASCI and its Consumer Complaints Council (CCC) is in dealing with complaints received from Consumers and Industry, against ad campaigns which are considered as false, misleading, indecent, illegal, leading to unsafe practices, or unfair to competition, and consequently in breaking of the ASCI

code for self-Regulation in advertising. Recently Govt.'s Dept. of Consumer Affairs (DoCA) and ASCI joined hands to address the issue of misleading advertisements.

The misleading advertising and labeling provisions by the Competition Bureau prohibit making any false representations for the purpose of promoting a product or a business interest, and encourages the provision of sufficient information to allow and educate the consumers to make informed choices. The false or misleading representations and deceptive marketing practices provisions of the Competition Act contains a prohibition against materially false or misleading claims and representations. They also prohibit making fake claims that are not based on adequate and proper tests which mislead the consumers. Further deceptive warranties and guarantees promises, false or misleading ordinary selling price representations, untrue, misleading or unauthorized use of tests and testimonials, the sale of a product above its advertised price is not encouraged. Further, the promotional contest provisions prohibit contests that do not disclose required information. The Consumer Packaging and Labeling Act, Textile Labeling Act and Precious Metals Marking Act etc all contain prohibitions regarding false or misleading claims. They also require certain labeling or marking information the purpose of which is to assist and educate consumers in making informed purchasing decisions.

Few examples of complains against advertisements upheld by (ASCI) Advertising Standards Council of India,

- An advertisement of Fair & Lovely claimed that the product marketed in India gives better results than other fairness creams marketed in Dubai, Singapore and Japan stating a comparison versus “some of the world’s best products”. This ad campaign was considered to be exaggerating and misleading.
- In one of the advertisements of The Ego Wellness Center it claimed that one can loose up to 30kgs in 6 months. The ad visuals showing the before and after images of the treatment was also considered to be misleading.
- Chitransh Clinic through its ads guaranteed treatment of stone, heart disease, blood pressure, liver damage, piles, jaundice, sciatica, sugar, STDs in men, white spots and skin diseases, etc. without any operation. This was ad campaign was withheld.

- An advertisement campaign of Zee My Fair Product claimed that it is medically proven that it provides instant fairness. This ad was also monitored.
- The advertisement of Srikara Hospitals claimed to be the only hospital of South India which has performed knee replacements operation from past 30 years which was a misrepresentation of facts and false claims. Even, the advertisement was in breach of code of medical ethics as it showed a Doctor promoting the Hospital which is in violation of the Medical Council of India (MCI) Code of Ethics.

Laws that affect Advertising in India

- Cable Television Network Act
- Drugs and Cosmetics Act
- Drugs Price Control Act,
- Drugs and Magic Remedies (Objectionable Advertisements) Act,
- Emblems and Names (Prevention of Improper Use) Act
- Copyright Act
- Trademarks Act
- Patents Act – Introduction to Intellectual Property Right
- Indecent Representation of Women (Prohibition) Act

Conclusion:

The process of globalization has not only created new business opportunities but also has made the customers virtually the king in so far as the choice of products/services are concerned. As more and more companies have entered the market with various types and range of products, competition has heightened to a great extent. As a consequence of this, advertising has gone undergone a metamorphosis to meet the changing customer's expectations.

Marketing communications no doubt has played and will continue to play a major role by changing the way we lead our lives and influence our lifestyle. And with more and more ratio of millennial coming up it has become very imperative for organizations in keeping pace with competition to survive and grow. As the competition is getting fierce and customers are having a plethora of choice and rising awareness on consumer rights and protection can certainly for sure impact the organization's operations.

Hence, deceptive and false advertising claims and practices is best only for a short tenure however it does create damage to the company once the deceit is revealed to the public. I would like to conclude with a quote of George Bernard Shaw which says - *Beware of false knowledge; it is more dangerous than ignorance.*

References:

1. Shah Kruti and D'Souza Alan. (2009), Advertising and Promotions an IMC perspective, Tata McGraw-HILL, New Delhi
2. Kotler Philip & et.al. (2009), Marketing Management, Pearson Education, New Delhi, India
3. Kumar A. & Meenakshi N. (2009), Marketing Management, Vikas Publishing House, India
4. Saxena Rajan (2009), Marketing Management, TMH, New Delhi
5. Kazmi S H H and Batra Satish k. (2009), Advertising and Sales Promotion 3rd edition, EXCEL BOOKS, New Delhi
6. Murthy S N and Bhojanna U. (2010), Advertising an IMC Perspective 2nd edition, EXCEL BOOKS, New Delhi
7. Satish K Batra and S H H Kazmi (2008), Consumer Behaviour, New Delhi, Excel Books
8. Rishi Raj Sharma and Subhash Chander. What's wrong with Misleading Advertising? - An Empirical Investigation. Asia Pacific Business Review. 2011 Jan 7 (1):191-05
9. <http://www.ascionline.org/>
10. <http://www.mondaq.com/india/x/192384/advertising+marketing+branding/Advertising+Law+in+India>