

MISLEADING ADVERTISEMENTS AND THEIR IMPACT ON CONSUMERS

Nikesh Sharma,

Assistant Professor Department of Geography,
Government P.G. College Nagrota Bagwan, District Kangra, Himachal Pradesh, India.

Vinod Sharma,

Associate Professor Department of Geography,
Government P.G College Dharamshala, District Kangra, Himachal Pradesh, India.

ABSTRACT:

The societal structure is based upon the reciprocal needs of each other. The nature of reciprocal needs expanded its horizon in due course of time and becomes complex and complicated further. This leads to generate the commerce activities in society. The basic core of which was that the existing societal structure was not sufficiently enough to accommodate the needs of society, which otherwise has to be fulfilled by external source. This basic core leads to start of commercial activities in the society. Initially the commercial activities were confined in small territorial region with the aim to fulfill the basic needs of the units of society. But these activities become expanded further and in place of needs of each other the profit becomes its motive. This motive of profit further expanded the activity of commerce which crosses many physical barriers in course of time to reach this present era of global commerce. This expansion of commercial activities for more and more profit demanded further expansion; and this expansion of commerce demanded the advertisements of the product. Advertisements are form of communication which is used to encourage the audience to take decisions for their purchase.

Keywords: Advertisement, Misleading, commercial activities, communication.

INTRODUCTION:

Advertisements can be defined as the activity which informs the common public about the details of the product to brought into the public for the purpose of sale and provide the requisite information to the public to help in taking the rational decision for purchase. As long as advertisements serve this purpose of informing consumers about the product to help in taking their decisions rationally, these are ok and acceptable. Since to be informed is one of the basic rights of consumer, these advertisements are not only helping in expanding the commerce and business for the sake of profit but these are also essential for giving information to public in right manner. But this ideal situation is far from reality in present scenario. The advertisements which are meant as a medium of correct information become converted into medium by which through fraudulent and unsubstantiated claims, people get cheated. This is one of the repercussions of making fast, illegitimate and unethical profit from the business activity. Here these misleading advertisements are not only helping in escalation of profit in wrong manner, it also gives wrong and false information to the common man, which is further a kind of denial of their rights to be informed (as a human right). The Consumer protection Act, 1986 can be invoked to seek redressed against any defective products or deficient services including restrictive or unfair trade practices adopted by

the manufacturer or traders¹. The consumer protection Act, 1986 in its various clauses defines the misleading advertisements in its various aspects. This misleading advertisement comes under the unfair trade practices under its ambit in different contexts.

False advertising is the use of misleading, false, or unproven information to advertise products to consumer. Many governments use regulations to control false advertising but in case of India there is no legal provision to deal with such kind of misleading advertisements. A false advertisement can further be classified as deceptive if the advertiser deliberately misleads the consumer, as opposed to making an honest mistake². Misleading advertisements are those advertisements that deceive or likely to deceive its viewer or receiver. Misleading advertisements may affect consumer choice in taking appropriate and correct decision regarding their purchase of goods and services. In India good number of laws is enacted to safeguard the interests of the consumers, particularly all the public utility services are covered under their own acts. With a view to arrest unnecessary litigation the Jurisdiction of civil Courts are specifically ousted in some of the enactments³. In India Various Acts intended to protect the Consumers against different forms of exploitation were enacted, such as, the Indian penal code, 1860; Indian Contract Act, 1872; Drugs control Act, 1950; Indian standard institutions Act, 1952 etc.⁴

These advertisements are so common and frequent that, they become part and parcel of the commercial activities. But the impacts of these advertisements are not confined only to the commercial activities but also have many serious implications and impact over society in its various domains.

OBJECTIVES:

To find out positive as well as negative impact of advertisements on consumers.

METHODOLOGY:

The present study is based on qualitative methods. The secondary data related to this topic based on various books, journals and internet sources.

ISSUES AND ANALYSIS:

Society is undergoing many changes at the 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 general consumer and society in the way that they make people aware about the products and services in very quick 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 creating 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 reason for the purchase of harmful products and commodities. Misleading advertisements which are meant to increase the sale of any product manifold is also responsible for the change in societal structure at 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 consumer is the same person from the same society, but because of the impact of these misleading advertisements and unfair practices in trade, deceptive and luring techniques, the consumer behavior has changed altogether and changing at very fast pace. Despite being literate and aware society, the misleading advertisements are used to force the consumer in silent manner to access the product, which get worsened day by day. The nature and role of advertisements is changing at quick pace in response to change in the media structure. These misleading advertisements lead to many issues and raise many questions needs to be analyzed. Though there are numerous issues and questions to be raised, we may classify the main issues in following category:

- 1) Sale of Goods – commodity (Spurious and fake products).
- 2) Services
- 3) Financial- Banking, Insurance, Mutual Funds, Bonds etc
- 4) Non-Financial- Education, Health, Hospitality, Transport, Health, telecom, real estate etc.

- 5) Advertisements on National Print and electronic media.
 - 6) Local Advertisements.
 - 7) Advertisements on website, email & social media.
 - 8) Issue of celebrity role modeling.
 - 9) Creation of false imagination through false and utopian claims- milk supplements, cosmetics etc.
 - 10) Advertisement in the name of religion or with the help of symbolic religious activities.
 - 11) False claims of education and employment and further fraudulent.
 - 12) Women as a commodity in advertisements (maximum) - deodorants, bikes, mobile, soaps etc.
 - 13) Advertisement related to children.
 - 14) Misleading advertisements are also creating a kind of divide in the society.
 - 15) Need based approach to accumulating tendency.
 - 16) Hiding of attributes of advertiser's identity or making false claims e.g. made in India actually made in China. Recently Hardwar's Additional District Magistrate, found the Patanjali, guilty of releasing **misleading advertisement** by selling certain products with its labels although they were being manufactured by some other firm. Citing Section 52 (misbranding) and Section 53 (misleading advertisement) of the Food Safety and Standards Act, 2006 as well as Section 23.1 (5) of Food Safety and Standard (Packaging and Labeling Regulations, 2011) Act, it ordered to pay the fine within a month. It also directed the district food safety department to "take appropriate action if there is no improvement in the products in future."
1. Puffing is the act of exaggerating a products worth through the use of meaningless unsubstantiated terms, based on opinion

rather than fact. Superlatives and statements such as “greatest of all time”, “best in town” are used to exaggerate the quality of product in wrong way.

2. Lucrative sale offers.
 - (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,’ ‘bio degradable’ 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 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 advertisement 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.

CONCLUSION:

Trade and commerce are inseparable activity from society and so the role of advertisements has to be there. The changing nature of advertisements has created many problems and issues before society, which needs to be addressed. The following steps may be helpful in curbing the negative impact of misleading advertisements and may help in making more aware and rational consumer behaviour. Though in India there are no strict legal provisions for misleading advertisements, legal action could also be taken as per different prevalent laws. In USA, Britain, Australia, New Zealand there are legal provisions to deal with misleading advertisements. In India we may approach to ASCI and GAMA for the misleading advertisements.

In the wake of this scenario, with the growing trade and commerce at very fast pace, the advertisements are needed to be regulated in India too having its own regulatory and censor mechanism before airing or publishing the advertisement in any kind of media channel. Misleading advertisements are needed to be regulated for the sake of consumer as well as for commerce and business too.

SUGGESTIONS:

There are several steps which need to be taken to minimize the misleading advertisement and at the same time to make the consumer as aware and informed consumer:

1. Awareness through different media especially social, print and electronic media.
2. The result of comparative test by consumer voice or any other government approved agency should be made public through popular print and e- media.
3. There should be some punitive and legal action against those who are responsible for the misleading advertisements.

4. Even the platforms and channels on which the misleading advertisement has been made should be held accountable to the some extent to curb and check this kind of behaviour and discourage it in the favour of consumer.
5. Screening of advertisements should be compulsory, especially those which involve health and life risks. Regulatory and censor body should be there to scrutinize the advertisements.
6. There should be some classification of advertisements.
7. Ethical advertising should be promoted.
8. Font size and display of advertisement should be visible and clear.
9. There should be Helpline number to complaint against the misleading advertisements.
10. Advertisement Ethics or code of conduct designed and should be strictly followed.
11. Advertisements on e-platforms should also be held accountable and regulated.
12. Advertisement which affects children's psychology should be strictly aired after approval of concerned govt. authority after having its valid scientific test.
13. The advertisement related to education and career should also get regulated through its govt. agencies and should come public only after its due approval.

Apart from it, there may also be other ways to minimize the impact of misleading advertisement on the society, but informed and aware consumer is only guarantee to ensure that misleading advertisement would not affect their rational choice as consumer. Use of information technology may be one of the better tools to get acquainted with required and requisite information about the goods and services. To be informed and to be informed correctly is the basic right of consumer which is to be protected for the sake of not only

consumer but as the essential condition to ensure the fair practice of trade and commerce in the society.

“Jago Grahak Jago”

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