

THE EVOLVING LEGAL LANDSCAPE OF MISLEADING ADVERTISING IN E-COMMERCE

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Abstract

The rapid expansion of the e-commerce sector in India has brought significant benefits to consumers and businesses alike. However, it has also given rise to quite a few challenges, particularly in the domain of misleading or deceptive advertising. This research article examines the effectiveness and challenges of legal landscape governing misleading advertising in India's e-commerce industry. The study begins by outlining the historical context and the evolution of advertising regulations in India, focusing on key legislations and regulatory authorities. It also explores notable case studies to illustrate the impact of misleading advertisements and the regulatory responses that ensued. The author endeavours to identify the strengths and limitations of current regulatory framework. It emphasizes the role of advanced technologies, such as artificial intelligence and such other innovative tools, in detecting and preventing deceptive advertisements. The importance of consumer education and empowerment is also discussed, highlighting initiatives aimed at increasing public awareness and enabling consumers to make informed choices. The research further probes into the challenges of cross-border regulation, the authenticity of online reviews, and data privacy concerns in targeted advertising. It proposes future directions for enhancing the regulatory landscape, including stricter penalties, enhanced transparency requirements, and international cooperation.

Keywords: Misleading Advertisements, Consumer, Consumer rights, Consumer protection, Deceptive Advertisements, E-commerce

Introduction

The digital revolution has brought about a seismic shift in the way we live, work, and shop. E-commerce, once a niche sector, has burgeoned into a dominant force in the global economy. From groceries to gadgets, almost anything can now be purchased online with just a few clicks. E-commerce has experienced exponential growth over the past two decades. Several factors have contributed to its rise. The proliferation of smartphones and high-speed internet has made online shopping accessible to a vast audience. Secure payment gateways and user-friendly interfaces have further enhanced the shopping experience. E-commerce platforms offer unparalleled convenience, allowing consumers to shop 24/7 from the comfort of their homes. This convenience is particularly appealing in today's fast-paced world. Online stores often carry a wider range of products than their brick-and-mortar counterparts. Consumers can

easily compare prices and read reviews, empowering them to make informed decisions. The COVID-19 pandemic accelerated the adoption of e-commerce as lockdowns and social distancing measures forced consumers to turn to online shopping.



Fig.1 – Indian E-commerce market forecast 2021 to 2030¹

The rapid growth of e-commerce has significantly altered consumer behaviour in several ways. Consumers now expect a seamless and convenient shopping experience. They demand fast shipping, easy returns, and responsive customer service. Businesses that fail to meet these expectations risk losing customers to competitors. The abundance of information available online has empowered consumers to make more informed purchasing decisions. Product reviews, ratings, and comparison tools enable consumers to evaluate their options thoroughly before making a purchase. E-commerce platforms leverage data analytics and machine learning to offer personalized shopping experiences. Recommendations based on past purchases and browsing history enhance customer satisfaction and loyalty. Brand loyalty has become more fluid in the e-commerce era. Consumers are more likely to switch brands if they find better deals or superior customer service elsewhere. This shift has intensified competition

¹ Image Courtesy - MAXIMIZE MARKET RESEARCH PVT. LTD. – available at <https://www.openpr.com/news/3365242/india-e-commerce-market-global-outlook-and-forecast-2021-2030> - last visited on 17/01/2022

among businesses to attract and retain customers. The ease of online shopping has also led to an increase in impulse buying. Flash sales, limited-time offers, and targeted advertisements can entice consumers to make spontaneous purchases. Brands have even started coming out with products which are exclusively available online.

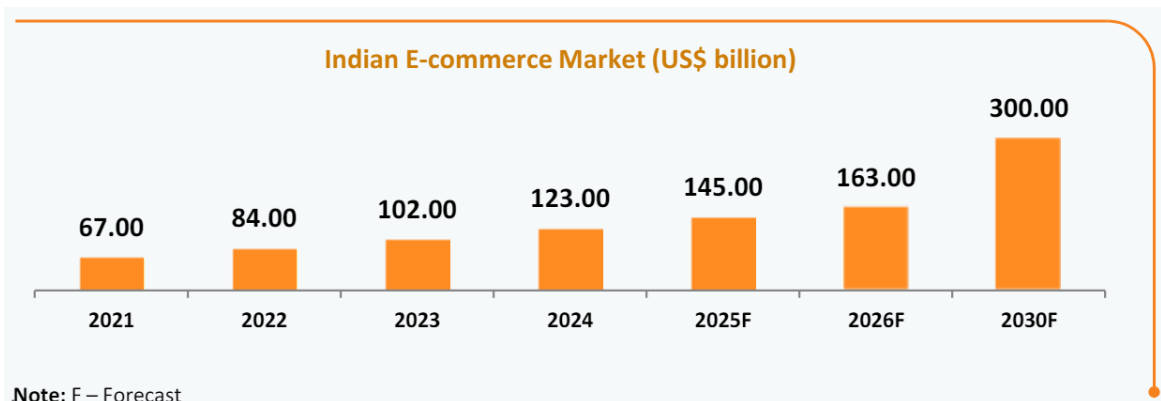


Fig.2 – E-commerce market size forecast in India²

Amazon Prime is a quintessential example of how e-commerce platforms influence consumer behaviour. The subscription service offers benefits such as free shipping, access to exclusive deals, and streaming services. These perks encourage consumers to shop more frequently on Amazon, fostering customer loyalty and increasing the company's market share. Shopify has empowered small businesses to establish an online presence easily. By providing a robust e-commerce platform, Shopify has enabled entrepreneurs to reach a global audience. This democratization of e-commerce has led to a surge in niche markets and personalized shopping experiences. Several brands have embraced the direct-to-consumer model, bypassing traditional retail channels to sell directly to customers online. This approach allows these brands to offer higher quality products at competitive prices, while also building stronger relationships with their customers.

While e-commerce has brought numerous benefits, it also presents some challenges. The collection and use of consumer data raise privacy issues. Businesses must navigate the delicate balance between personalization and data protection. The growth of e-commerce has led to an increase in packaging waste and carbon emissions from delivery logistics. Sustainable practices are essential to mitigate these impacts. One of the most pressing challenges is the prevalence of misleading advertisements. These deceptive practices undermine consumer trust and can lead to financial and emotional harm.

Evolution of E-commerce and Advertising

The e-commerce platforms work in an entirely different manner as compared to a brick-and-mortar shop. The major difference is that the sale happens based on images and description of the product available for sale. The customer will not be able to see or touch the goods physically before making the purchase. This was one of the reasons which held back the growth

² Image courtesy - India Brand Equity Foundation (IBEF) – available at <https://www.ibef.org/industry/ecommerce/infographic> last visited on 17/01/2022

of online shopping for quite a long time. Customers who were accustomed with the traditional form of purchase process couldn't adapt to a situation where they have to buy goods without actually seeing it. They were compelled to compromise on this aspect through the irresistible offers of discount and convenience (Katawetawaraks & Wang, 2011).

Good brands took this as an opportunity to avoid intermediaries and directly get in touch with the customers. This has considerably reduced the price of the goods as well. When the vendor is trustworthy, the customers get good quality products at reasonable or reduced price. By serving the customers better than their expectations, they built trust in them for their products and also on the entire process of online shopping as well (Gefen et al., 2003).

The lack of face-to-face interaction between the vendor and customer was one thing which some miscreants took advantage off to loot money from customers. In the guise of good brands whom the customers trusted, these fake brands used this as opportunity to sell their fake products at a higher price.

Misleading advertisements on e-com platforms may take different forms which resembles the ads in other sectors as well. The most prevalent among them are as follows:

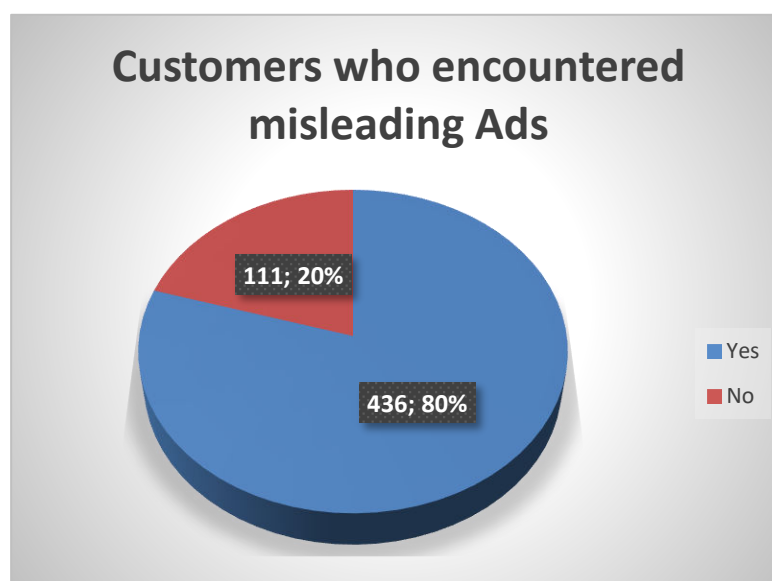
- a. Wrong product description
- b. Fake discounts and offers
- c. Unverified Health Claims
- d. Misleading Images
- e. Fake Reviews and Endorsements
- f. Fake demand on products

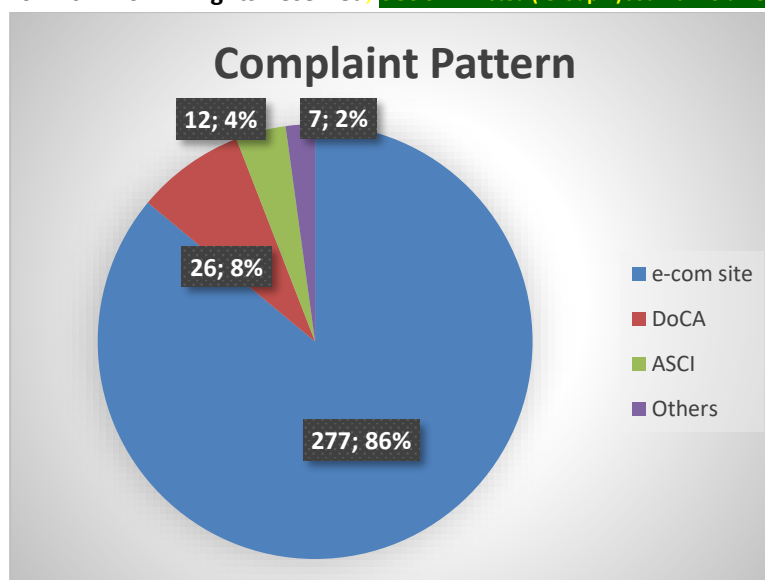
One of the common complaints that we hear about buying products online is regarding the wrong product description or exaggerated detailing of the product. When it comes to e-commerce, the accuracy of product descriptions is crucial for both customer satisfaction and the reputation of the platform. Incorrect product descriptions can lead to a variety of issues. Mismatched expectations can result in customers receiving products that do not meet their needs or preferences. Inaccurate descriptions can also lead to legal issues, especially if the discrepancies are significant. Advertising about fake discounts and offers are also misleading and violate the consumer right of free choice. Indirectly, these discounts or offers will give the consumers an impression that they are getting a better deal when there is no or very little advantage. Misleading advertisements on health-related products are probably the most dangerous ones. Tall claims and health benefits without any proper substantiation of scientific proof appearing as advertisements will surely affect the purchase decision of the consumer. The impact is worse in these cases as it's not just loss of money but the use of such products will cause severe health issues as well.

During the initial days of online shopping, most people found it really difficult to cop up with it due to the lack of sensory satisfaction of a purchase transaction. The entire transaction is based on the images that is available in the webpage rather than actually feeling it physically. This is one of the areas where the customers could be deceived through misleading images. Purchasers are forced to buy products based on the images and description, thereby deceiving

them by showing a quality product image and selling them a fake one (Zhang & Chen, 2019). Fake reviews and endorsements which are inserted into the description pages makes the situation even worse (He et al., 2021). Over and above all these, there are advertisements of flash sales and limited time offers which creates an impression on customers that the products listed are on high demand or rare in the market. There are many businesses which comes up with a product in an online platform with a new name and a higher rate. The hype they create through the advertisements will make the customer think that such products are superior to the ones which are already available in the market. In actual terms, it will turn out to be just a rebranded version of an existing product. This happens a lot in the smartphone market. These are all deceptive practices which violates the consumer rights. The e-commerce sector is so dynamic that there are so much of opportunities for the businesses to mislead the customers through different advertisements and still slip through the loopholes of law.

Misleading advertisements in e-commerce are obviously a significant concern. It impacts consumer trust and purchasing decisions of the individuals in multiple ways. The prevalence of such misleading advertisements on e-commerce platforms can be attributed to various factors. The most notable factor among them is the rapid growth of online shopping. The competitive nature of e-commerce and the relatively lower barriers and less or even negligible capital requirement for entry into the online market place for sellers are other important factors. Almost every individual who visits online shopping apps or other such e-commerce platforms encounter misleading advertisements as a regular affair. Here, the customer will have to be careful about the products that they purchase as the chances of being lured into buying some product or service online is so high. Due to the increased awareness on the aspects of misleading advertisements, the quantity of complaints being raised is also heightened. But the tricky part is only a negligible part of these complaints reaches the actual authorities which have jurisdiction to take proper action against the erring businesses. Based on the data collected as part of the empirical study on this aspect, it was found that almost 80% (436 out of a total of 547 responders) of the online consumers encounter misleading advertisements during the purchase process and through other options opened up from the interaction with these e-commerce sites.





The above figure depicts the complaint pattern which is the authority to which the complaint was raised. As you may notice, more than 86% of the complaints were made to the e-com site itself or such other online options like NGOs, etc. which will never reach the correct authorities. This indirectly means that there is no proper punitive action against those wrong doers.

In the arena of e-commerce there is no shop or identifiable vendors. This is where the misleading advertisements could bring devastation for the customers. The prevalence of misleading advertisements in e-commerce has significant repercussions for consumers such as financial loss, mental agony and even health issues too.

Consumers may spend money on products that do not meet their expectations or needs, leading to wasted expenditure. In severe cases, this can result in substantial financial harm. Repeated exposure to misleading advertisements can erode consumer trust in e-commerce platforms and online shopping in general (Gefen et al., 2003). This mistrust can extend to legitimate businesses, harming the overall e-commerce ecosystem. The disappointment and frustration caused by receiving under par or misrepresented products can lead to emotional distress. For some consumers, particularly those with limited financial resources, this distress can be intense. In some cases, misleading advertisements can pose health and safety risks. For example, false claims about the efficacy of health supplements or the safety of electronic devices can lead to serious consequences. This is where a robust legal framework along with proper regulatory and enforcement authorities becomes an absolute necessity.

Current Legal Framework

Online advertising, with its extensive reach and targeted capabilities, has become a crucial component of marketing strategies. However, this digital shift also necessitates a robust legislative and regulatory framework to ensure that advertising practices are fair, transparent, and it protects consumer interests. Consumer Protection Act of 2019 (ACT NO. 35 OF 2019) is the blanket general legislation which deals with all matters regarding consumer rights in India and there are separate legislations for specific areas like cable TV, food items, drugs,

cosmetics, telecom, etc. The general legislation regarding all technology and computer related matters is the Information Technology Act of 2000 (ACT NO. 21 OF 2000). The new consumer protection law introduced in 2019 had some important changes and most significant among them which is relating to misleading advertising is the induction of a proper definition for 'misleading advertisement'. Another one is the creation of Central Consumer Protection Authority (CCPA) which is given ample powers to take action against any entity for misleading advertisements.

Apart from these legislations, there are some regulatory bodies and guidelines which form the corpus of legal frameworks that regulate online advertising in general. The Ministry of Consumer Affairs, Food and Public Distribution is the foremost among them. The Department of Consumer Affairs works under this ministry. They were pivotal in bringing out the new Consumer Protection Act 2019 (CPA). Based on the power conferred to the Central Government under Section 101 of the CPA, there are two sets of rules introduced by the centre. They are the *Consumer Protection e-commerce rules of 2020* which is directly dealing with the different aspects of e-commerce including advertising and the *Consumer Protection Direct Selling Rules of 2021* which deals with all aspects of direct selling. Both these rules create obligation on the respective concerned parties to take necessary steps to avoid misleading advertisements. The Central Consumer Protection Authority (CCPA) was created in 2020 based on the powers conferred to the Central Government under Section 10 of the Consumer Protection Act 2019. As per the provisions of the said Act, powers are given to the CCPA for issuing guidelines regarding any issue which is affecting the rights of a consumer. By virtue of this power conferred to the CCPA under Section 18 of the CPA, a specific set of guidelines for the prevention of misleading advertisements and its endorsements is being drafted.

Since this current study is based on misleading advertisements in e-commerce sector, the Consumer Protection (E-Commerce) Rules, 2020 becomes the most significant set of guidelines and understandably we will have to go a bit deeper into the finer details of the said rules. The Consumer Protection (E-Commerce) Rules, 2020 were introduced by the Government of India under the Consumer Protection Act, 2019. These rules aim to regulate the operations of e-commerce entities and ensure fair practices, transparency, and accountability in the digital marketplace. These rules apply to all goods and services bought or sold over digital or electronic networks, including digital products. They cover e-commerce entities registered in India or abroad but only those entities offering goods or services to Indian consumers. These rules clearly define an "E-Commerce Entity" as any person who owns, operates, or manages a digital or electronic facility or platform for e-commerce. An e-commerce entity that owns the inventory of goods or services and sells directly to consumers is defined as an "Inventory e-commerce entity" and an e-commerce entity that provides an information technology platform on a digital or electronic network to facilitate transactions between buyers and sellers is termed as a "Marketplace e-commerce entity". It is pertinent to define these entities in detail because, each one of them will have a specific set of guidelines and liability attached to them. Among these expressions, the terms like "Platform", "Seller" and "User" are also given specific definitions so that at a later point of time, there should not be any confusion or loopholes regarding the applicability and enforcement of these rules.

Rule 4 of the guidelines gives out a list of duties applicable to all e-com entities. One among the noteworthy aspects of the rules is the mandatory requirement for every E-commerce entity to establish a dispute redressal process and shall also appoint a grievance officer. It is also mandated that the grievance officer's contact details must be prominently displayed on the website and such grievances received must be acknowledged within 48 hours and resolved within one month. There is a set of mandatory disclosures to be done by all e-com platforms. E-commerce entities must provide clear and accessible information about the sellers, including their legal name, address, and contact details. They must disclose the terms of return, refund, exchange, warranty/guarantee, delivery, shipment, and modes of payment. Information about the country of origin of goods and services must be also provided, which can help consumers make informed purchasing decisions. Through these rules the E-commerce entities are prohibited from adopting any unfair trade practices. They must not manipulate the price of goods or services to gain unreasonable profit. They should not impose cancellation charges or any such penalties on consumers unless similar charges are also borne by the e-commerce entity if they cancel the purchase order unilaterally.

As regards the Liability of Marketplace E-commerce Entities, they must ensure that sellers on their platforms comply with the provisions of Consumer Protection Act, 2019. It's their duty not to engage in any unfair trade practices that affect consumer rights. There are certain liabilities imposed on the Inventory E-commerce Entities as well. They are liable for any warranty or guarantee obligations of goods and services sold through their platform and they must ensure that advertisements for goods and services as appearing on the platform are consistent with the actual characteristics, access, and usage conditions. Even though the term 'flash sale' is not directly mentioned anywhere in the rules, it's clearly mandated under the duties of every e-commerce entity that they shall not manipulate the prices or circumstances of sale in such a way as to gain unreasonable profits or to restrict the choice of consumers or the competition in the market. For specific kind of products or services which are sold through these online platforms, they should also comply with all the provisions of statutes, rules, regulations or guidelines applicable to that specific section. For instance, if an e-commerce entity is selling food items, they must comply with the Food Safety and Standards Act, 2006, and it's allied regulations.

The Consumer Protection (E-Commerce) Rules, 2020 are designed to protect consumer interests in the rapidly growing e-commerce sector in India. They aim to ensure transparency, fairness, and accountability, thereby enhancing consumer trust and confidence in online shopping. E-commerce entities must adhere to these rules to ensure compliance and avoid legal repercussions. Those e-commerce entities that fail to comply with these rules may face penalties under the Consumer Protection Act, 2019. Also, the Central Consumer Protection Authority (CCPA) is empowered to take action against violators, including imposing penalties and ordering the recall of goods or the withdrawal of services.

While dealing with the present legal frame work regarding misleading advertisements, the role of Advertising Standards Council of India (ASCI) cannot be ignored. ASCI is a self-regulatory organization which is created in conjunction with individuals, agencies businesses, media and several other entities related to advertising. ASCI promotes responsible advertising

and ensures that advertisements adhere to ethical standards. They have put into place a separate code or guidelines for self regulation within the advertising industry. This Code of Advertising standards stipulates that advertisements must be truthful, should not mislead consumers, and should not make unsubstantiated claims. Even though this code of self regulation brought about by ASCI is not specifically for e-commerce sector, all the rules and guidelines in it is interpreted in such a way to make it applicable to e-commerce as well. The ASCI also have a specific complaints redressal procedure through which consumers as well as aggrieved business entities can file complaints against misleading advertisements, which are then investigated and adjudicated by ASCI.

The main objective of ASCI is to protect the interest and rights of consumers by restricting the advertisements in such a way that it adheres to the societal values of morality and truthfulness. But ASCI is not just about protecting the consumers alone, they also provide predominant consideration for the aspect of fair competition among business entities in the market. As evident from the details of ASCI, it is a non-statutory voluntary organisation which regulates advertisements in India. They strive in facilitating industry self-regulation and encourage advertisers, agencies, and media to adhere voluntarily to the ASCI Code.

The ASCI Code is comprehensive and covers almost every aspect of advertising which have honesty and truthfulness at it's forefront. The code prescribes that all advertisements should be accurate, truthful and not misleading. Claims must be substantiated with evidence. Hyperbolic claims that cannot be substantiated are prohibited. Any claims regarding scientific or technical data must be supported by reliable evidence. The code also mandates that all adverts should follow the accepted norms of decency and should not contain anything that is indecent, vulgar, or repulsive. Ads should not mock or denigrate any race, caste, colour, religion, gender, age, or nationality. They should not incite fear or use violence as a means to capture attention especially when those ads are relating to products meant for children. Ads should not exploit the credulity of children or mislead them about product qualities and advertisements aimed at children should not encourage them to engage in unsafe practices or portray them in a manner that could be harmful to their health and general wellbeing.

Promotion of fair competition and social responsibility are some of the other aspects which are reflected in the ASCI code of self-regulation. The code is extremely stringent on the matters of imitation and comparative advertising. Advertisements should not imitate the general layout, copy, slogans, or visual presentations of other ads in a manner that misleads consumers and the adverts that compare products must be truthful and should not disparage competitors. When it comes to the aspect of social responsibility, the society expects a higher level of contribution from all the business entities. In this respect, the code mandates that ads should respect public sensitivities and not exploit social issues for commercial gain. Health and safety of the individuals in the society is paramount and therefore the ads should not promote practices that are harmful to health or safety of anyone. Environmental claims are something which the businesses might use in their ads to denote that they are staying close to the nature. To bring in the aspect of truthfulness to such ads, the code mandates that any claims about environmental benefits must be substantiated and not misleading.

ASCI's Complaint Handling Process is genuinely robust where consumers, industry members, or any interested parties can lodge complaints regarding an advertisement. Complaints are evaluated by the Consumer Complaints Council (CCC), which comprises representatives from various sectors, including consumers, industry members, and experts. If a complaint is upheld, the advertiser is asked to modify or withdraw the advertisement. Non-compliance may lead to further action, including publicizing the non-compliance.

ASCI constantly evolves to address new advertising challenges, especially with the rise of digital and social media advertising. One of their recent initiatives include the introduction of a set of guidelines for influencer advertising to ensure transparency and authenticity in social media endorsements. ASCI has issued these guidelines to ensure transparency in advertisements which appear online in an era which is witnessing a huge rise of influencer marketing on e-commerce platforms as well. These guidelines specifies that the influencers must disclose any material connection with the brand they are promoting. This includes using clear and unambiguous language to indicate that the content is sponsored or paid. Influencers should only make claims that they can personally verify and must avoid misleading their followers. ASCI also have dedicated procedure for monitoring digital media through employing technology to monitor false claims and misleading advertisements online. These are areas where ASCI has concentrated on the e-com sector.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 is another set of guidelines which regulate online advertisements including the advertisements in e-com sector. These rules were introduced by the Government of India to regulate digital content and ensure accountability of intermediaries, including social media platforms, digital news media, and over-the-top (OTT) streaming services. These rules were formulated under the Information Technology Act, 2000 and aim to address the challenges posed by the rapid growth of digital media. Under these rules, the term 'Intermediaries' include social media platforms, internet service providers, search engines, and messaging services.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 represent a significant regulatory framework aimed at addressing the challenges posed by the changing facets of digital ecosystem in India. Even though the rules seek to enhance accountability, transparency, and user protection, they also raise important questions about privacy, freedom of expression, and the balance of regulatory oversight. As digital platforms navigate these rules based on the never-ending advancements in technology, ongoing dialogue and adjustments may be necessary to address the concerns of all stakeholders involved.

Challenges in Regulating E-commerce Advertising

Regulating e-commerce advertising in India presents unique challenges due to the rapidly evolving digital landscape, the diversity of platforms, and the complexities of cross-border transactions. The dynamic nature of digital advertising is the most pivotal point to be taken into consideration while discussing about the challenges in implementing a regulatory framework with regard to e-commerce advertising. The continuous introduction of new technologies such as artificial intelligence (AI), machine learning, and big data analytics

creates sophisticated and dynamic ad campaigns that are difficult to monitor. The use of instantaneous program or campaign-based advertising facilitates real-time buying and selling of ad space, complicating the tracking and regulation of advertisements. Ads appear across multiple platforms including social media, search engines, mobile apps, and websites, each with its own set of advertising standards. Native ads and influencer marketing often blur the lines between content and advertisement, making it challenging to distinguish and regulate misleading content.

The global nature of e-commerce is yet another bottle neck to be dealt with in regulating e-commerce advertising. Involvement of international sellers and cross border transactions add to these woes. E-commerce platforms frequently host international sellers, making it difficult to enforce Indian advertising regulations on foreign entities. The existence of inconsistency in regulations in different territories should also be featured in this discussion. Different countries have varying standards and regulations for advertising, leading to inconsistencies and enforcement challenges in cross-border transactions. Indian regulatory bodies may face difficulties in taking legal action against foreign companies that violate advertising laws. Effective regulation requires coordination between multiple national and international regulatory authorities, which can be complex and time-consuming.

The massive volume and scale of data involved in e-commerce advertising makes it difficult for any authority to monitor and enforce the policies. The sheer volume of advertisements on e-commerce platforms makes it practically impossible for comprehensive monitoring. The constantly changing nature of digital ads requires real-time monitoring to detect and address misleading advertisements promptly. This is not possible unless the enforcement authorities are equipped with the most updated tools such as AI in their armoury. Regulatory bodies often have limited manpower and financial resources to effectively monitor and enforce advertising standards. There may also be a lag in adopting advanced technologies and tools necessary for robust monitoring and enforcement when it comes to governmental authorities.

Even though there are specific laws, rules, regulations and guidelines to be followed for advertisements, the sheer competition in the market forces certain business entities to opt for the wrong path to bring their products or services to the attention of potential customers. Due to the advancement in technologies and tactics, the businesses are at times able to bend the rules or even make use of the loopholes in the regulations to slip in those misleading advertisements and still get away with those violations. Advertisers may use tactics such as creating multiple accounts, using proxies, or frequently changing ad content to evade detection. The prevalence of fake reviews and endorsements further complicates the enforcement of truthful advertising.

E-commerce and digital advertising are dynamic sectors and as a result, they are able to bring in changes at a faster pace. The requirement for the regulatory mechanism is to keep pace with these changes which is not always practical. The legal and regulatory gaps created by outdated laws and rules always pose a grave challenge in properly regulating misleading advertisements in the e-com sector. Existing laws and regulations may not adequately address

the nuances of modern digital advertising, necessitating regular updates to stay relevant. There is a need for more specific guidelines and regulations tailored to the unique aspects of e-commerce advertising. Deterrence through penalties and sanctions may be the only way to deal with these sorts of situations but current punishments may not be stringent enough to deter misleading advertising practices. The inherent slowness of our judicial process and the huge backlog of cases may very well play a big role in causing delay in the enforcement actions which the erring businesses could take advantage of.

There is a school of thought which believes that consumer awareness and education could be the perfect solution for all the challenges in enforcing regulatory framework against misleading advertisements in e-commerce sector. It's an accepted fact that the awareness level regarding consumer rights is low. Many consumers are not fully aware of their rights or how to report misleading advertisements. If they are not even aware about what qualifies as a misleading advertisement, consumers may find it difficult to identify misleading advertisements, especially those that are subtly deceptive. Therefore, the preliminary focus should be on awareness building and that is the only option available to make the consumers an ally for fighting the menace of misleading advertisements. Once the consumers are empowered, the businesses will be forced to fall in line and abide by the rules.

Awareness building and consumer education should be the foundation for addressing the challenges in enforcing the regulatory framework against misleading advertisements in any sector. The concerned authorities should conduct public awareness campaigns to educate consumers about their rights and how to report misleading advertisements. Along with this, the strengthening legal frameworks is also mandatory. There should be a proper and robust procedure in place to regularly update laws and guidelines to address new challenges in digital advertising. Imposing more stringent penalties on entities that engage in misleading advertising to deter such practices will also help in the course. There may also be rules and regulations drafted specifically to encouraging e-commerce platforms to increase transparency in advertising practices and provide clear information to consumers.

Adopting the latest technological advancements could also play its role as an effective solution for mitigating these challenges. Implementing AI and machine learning tools to automatically detect and flag misleading advertisements seems to be a feasible option. The authorities may also employ advanced data analytics to monitor advertising trends and identify potential violations. Enhancing coordination and international collaboration is also a need of the hour. Working with global regulatory bodies can ensure consistent standards and effective enforcement in cross-border e-commerce. Improving coordination between various national regulatory authorities will also be really helpful in streamlining the enforcement process.

Recent Developments and Trends

Recent developments and trends in regulating misleading advertisements in the e-commerce sector reflect the growing need to protect consumers and ensure fair trade practices in an increasingly digital marketplace. Catering to these requirements, the Consumer Protection Law has been revamped. The Consumer Protection (E-Commerce) Rules, 2020 was also introduced. These rules mandate e-commerce platforms to provide detailed information about products, including the country of origin, and ensure that advertisements are not misleading. E-commerce entities are now required to establish clear and accessible grievance redressal mechanisms to address consumer complaints. The Central Consumer Protection Authority (CCPA), established under the Consumer Protection Act, 2019, has been actively monitoring and taking action against misleading advertisements. It has the authority to impose penalties, order the withdrawal of misleading advertisements, and direct corrective measures. The CCPA has already issued several notices and penalties to companies for misleading advertisements, demonstrating a proactive approach in enforcement.

The Advertising Standards Council of India (ASCI) has always been a very effective mechanism for preventing misleading advertisements. Their code of advertising has proved to be an effective tool in countering the menace of misleading advertisements over the years. With the changing times, ASCI has also changed their game to adapt to the present high-tech world of digital advertising and e-commerce. They have introduced specific guidelines for social media influencers and digital advertising. ASCI has also enhanced its digital monitoring capabilities to track and review advertisements across multiple platforms, ensuring compliance with advertising standards.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 introduced under the Information Technology Act has been a welcome move in regulating the content and misleading advertisements in the digital arena. These rules mandate intermediaries, including e-commerce platforms, to exercise due diligence in preventing the dissemination of misleading advertisements. Platforms are also required to appoint a Grievance Officer to address consumer complaints and ensure prompt action against misleading content.

One among the notable emerging trend in advertising industry is the use of artificial intelligence. Regulatory bodies and platforms are increasingly using AI and machine learning tools to automatically detect and flag misleading advertisements based on patterns and anomalies. Advanced technologies enable real-time monitoring of advertisements, allowing for quicker identification and rectification of misleading content.

There is a growing trend towards harmonizing advertising standards across jurisdictions to address the challenges of cross-border e-commerce. Regulatory bodies are working together to take coordinated actions against multinational companies that engage in misleading advertising practices.

The present day focus of the authorities are on empowering the customers and strengthening the legal framework. Governments and regulatory bodies are conducting public awareness campaigns to educate consumers about their rights and how to report misleading advertisements. At the same time, they are working on revamping the regulatory framework as

well. The amends to existing laws to suit the present requirements and introduction of newer regulations is aimed at effectively countering the misleading advertisements in all areas.

There is a growing emphasis on ethical advertising, with companies being encouraged to adopt responsible advertising practices. Industry bodies and associations are promoting self-regulation and ethical standards to ensure fair and truthful advertising. Recent developments and trends in regulating misleading advertisements in the e-commerce sector highlights the evolving efforts to protect consumers and ensure fair trade practices. Enhanced consumer protection laws, proactive regulatory bodies, technological advancements, international cooperation, and consumer education initiatives are key components of this evolving regulatory landscape. The current course of actions and its results are positive about the capability of authorities in addressing the challenges posed by misleading advertisements in the digital age.

Case Studies

Regulatory authorities have been particularly stringent in the case of digital advertisements which were deceptive in nature. The introduction of social media influencers as advertisers have created a lot of regulatory issues since there were no specific laws at that point of time in this regard. Advertising by social media influencers has become a significant aspect of digital marketing, leveraging their reach and influence to promote products and services. Social media influencer advertising offers numerous benefits, including authenticity, targeted reach, and cost-effectiveness, making it an appealing option for many brands. However, it also comes with challenges such as potential inauthenticity, lack of control, and measurement difficulties. Numerous instances can be found online where influencers casually explain about a product or service or campaign and provide links to access the e-com websites for their followers. They also highlight that the people who make purchases through those links will get additional discounts as well.

ASCI has brought in the highest level of transparency in their work with the publication of press releases and reports on the activities relating to complaint handling. The entire data of complaints received and non-compliant business is available in their webpages. When we look at the significant cases against prominent e-commerce platforms, almost every one of them appear in the non-compliant list, either directly or otherwise through the social media influencers. All e-commerce platforms like Amazon, Flipkart, Myntra, Snapdeal, etc. have their own sale campaigns such as the 'Great Indian Sale', 'Big Billion Days', 'End of Reason Sale', 'Season Bumper Sale', etc. The traffic to these platforms is breaking records every time they come out with these campaigns. There have been so many complaints regarding the discounts and products available to the consumers through these sale campaigns.

A usual strategy which all of them commonly use is to provide a higher price as the original price so that the amount of discount would look really attractive. Another option is to project the stock availability with the statements like "60% of offer already claimed!!!!" or "Only 3 left in stock!!!!". This will give an impression to the customer that these products are in high demand and an urgency is created. They also resort to pressure tactics like limited time offers to force the customers to buy those products immediately. The offers which provide a range of discount like that of "Upto 65% discount!!!" is also misleading as there is no guarantee

that a customer will get 65% discount for that product, and it doesn't provide the customers with any details of how many people have already received such discounts. There are product discounts which comes up with a lot of terms and conditions which the customer will get to know only at the check-out stage. Prizes and contests are other ploys that the e-commerce platforms resort to for luring more customers to their sale campaigns.

The advertisements that appear online is so difficult to track due to its dynamic nature and the level of control that the advertisers have over their ads. They will be able to make quick changes to it when there is an issue pointed out about their ads. These aspects make it really challenging for the consumers as well as the regulators to take timely and proper action against such adverts. Deceptive description or imagery and unsubstantiated claims regarding the benefits or performance of the products are usual cases of misleading advertisements in the e-commerce sector. There was an instance where Patanjali Ayurved Limited came up with a medicinal product claiming that it can cure COVID-19. This claim was not substantiated or scientifically proven, and the company was asked to withdraw the advertisement.

These cases highlight the challenges and efforts in regulating misleading advertisements in the e-commerce sector. The regulatory responses and outcomes emphasize the need for transparency, accurate information, and ethical advertising practices to protect consumer interests.

Future Directions

Addressing the issue of misleading advertisements in the e-commerce industry requires a multifaceted approach involving regulatory changes, technological advancements, and industry collaboration. Clear and stricter laws and equally strong regulatory framework remains the best option to bring in a notable change in the situation.

The first wave of change should be from the part of the businesses itself. They should take positive steps in increasing transparency considering the welfare of the customers and legal compliance in perspective. Pricing and product description are the major concerns when it comes to the transparency aspect. All e-commerce entities should be mandated to strictly provide clear and accurate pricing information, including the original price, discounted price, and the basis for any discount claims. The consumers require detailed and truthful product descriptions, including specifications, features, and any applicable warranties or guarantees in order for them to take an informed purchase decision. The mandatory disclosure requirements have to be strictly adhered to. All promotional campaigns and discounts should have clear, accessible terms and conditions that are prominently displayed. There shall be clear disclosure of influencer and sponsored content which ensures that the consumers can easily identify paid promotions.

The legal framework and its enforcement mechanism has to be reinforced so that there should be a certain level of deterrence on the mind of these entities to prevent them from engaging in the creation and dissemination of misleading marketing content. Higher fines and penalties should be implemented for companies that engage in misleading advertising practices to serve as a stronger deterrent. Regular audits and inspections should be conducted on e-

commerce platforms to ensure compliance with advertising standards. Strengthening regulatory authorities and empowering them with wider and deeper jurisdiction will surely help a lot in the cause of preventing misleading advertisements in the e-commerce sector. Current laws and regulations need to be revamped adequately to provide more authority and resources to regulatory bodies like the Central Consumer Protection Authority (CCPA) and the Advertising Standards Council of India (ASCI) to monitor, investigate, and penalize misleading advertisements. The world of digital advertising is growing at a much faster pace and the only way to counter this is collaboration between regulatory bodies and technology platforms to enhance monitoring and enforcement capabilities.

Self regulation and voluntary compliance activities needs to be encouraged through proper appreciation and incentives. The state should take initiative and the laws need updation to include these aspects as part of the normal framework. The customers have the right to know and they should be informed about the business entities who are rated high for their transparency and compliance to advertising standards. Consumer education and awareness is also of utmost priority. More public awareness campaigns needs to be launched to educate consumers about their rights and how to identify and report misleading advertisements. Information on consumer rights and the procedures for filing complaints against misleading advertisements needs to be made more accessible to the common public.

International cooperation and harmonization are the need of the hour to regulate cross-border transactions. State must work on harmonizing advertising standards across jurisdictions to address the global nature of e-commerce. International collaboration between regulatory bodies must be fostered to tackle misleading advertisements by multinational companies.

The dynamic nature of e-commerce and the pace in which it grows indicates that the customers require a special level of protection. A transparent and independent rating and review system could add to the transparency aspect and will surely help the customer in taking informed purchase decisions. The state can also get involved in this through providing something like a unified portal for receiving feedback regarding advertisements in every e-commerce platform.

Implementing these regulatory changes can significantly reduce the prevalence of misleading advertisements in the e-commerce sector. By enhancing transparency, strengthening enforcement, leveraging technology, fostering international cooperation, and promoting consumer education, regulatory bodies can better protect consumers and ensure fair trade practices in the digital marketplace.

Conclusion

The evolving legal landscape of misleading advertising in e-commerce in India reflects a dynamic interplay between regulatory frameworks, technological advancements, and consumer protection laws. As the e-commerce sector continues to expand rapidly, the potential for misleading advertisements poses significant challenges to maintaining fair market practices and safeguarding consumer interests. India has made substantial progress in addressing misleading advertising through strengthened regulations and the establishment of bodies like

the Central Consumer Protection Authority (CCPA) and the Advertising Standards Council of India (ASCI). These entities play a crucial role in monitoring, investigating, and penalizing deceptive advertisements. Leveraging advanced technologies such as AI and other innovative technologies can enhance the detection and prevention of misleading advertisements. These tools enable real-time monitoring and more efficient enforcement of advertising standards. Increasing awareness and understanding among consumers about their rights and the mechanisms available for reporting misleading advertisements is vital. Public awareness campaigns and accessible consumer rights information can empower consumers to make informed choices and hold advertisers accountable in the case of misleading advertisements. Encouraging self-regulation within the e-commerce industry through codes of conduct and the establishment of self-regulatory organizations can complement regulatory efforts. Such collaboration will ensure that ethical advertising practices become a norm rather than an exception.

Despite the steady progress, several challenges remain in the enforcement of laws and regulations against misleading advertisements. This includes regulation of cross border transactions, ensuring the authenticity of online reviews, and protecting consumer data from misuse in targeted advertisements. Addressing these challenges requires continuous regulatory adaptation, international cooperation, and robust technological solutions. To further enhance the legal landscape, future regulatory efforts should focus mainly on strengthening the domestic legal framework, adoption of advanced technological tools and facilitating international cooperation. Transparency on the part of the advertisers is also a decisive requirement.

In conclusion, the legal landscape governing misleading advertising in India's e-commerce sector is in a state of continuous evolution, driven by the need to protect consumers and ensure fair competition. By embracing a multi-faceted approach that combines regulatory oversight, technological innovation, industry collaboration, and consumer empowerment, India can effectively mitigate the risks of misleading advertisements and foster a more transparent and trustworthy e-commerce environment.

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