

Brief on Misleading Advertisements

Misleading happens when the customer faces kinds of advertising that represents false ideas about the product.

Misleading Advertising include:-

- Exaggerating and overstating
- expressing unrealistic attributes of the product
- use of professional concepts for more effect
- fake license
- false warranties
- use of cinematic tricks and misleading images
- Discounts and gifts

Prevalent forms of misleading advertisements:-

- ✓ One example is the case of milk advertisements to children. A number of milk companies claim that their products enhance performance during sports.
- ✓ Additionally, certain advertisements use celebrities to endorse their products. By doing this, the products will be creating the impression that it is those food products that can cause one to live their dreams or live a celebrity-like life. Children usually take things at face value and this misleads them into purchasing those items as they are.
- ✓ Another interesting feature about advertisements to children is that most of them are usually done for products that are low in nutrients; these include breakfast cereals and other junk foods. Such foods are high in sugar and low in other essential nutrients. However, many companies do not include that information in their advertisements; instead, most of them assert that children should actually purchase the products so as to become healthy. This is very misleading and can cause children to become overweight or even obese.
- ✓ In close relation to this example is the labelling of food as containing zero fat. This is also another gimmick that could cause dire consequences to the consumer because it does not necessarily mean that the item has no fat at all; it simply means that its fat content is lower than in other similar products. This means that when consumers continually purchase and use such food items, then they may still be subjected to the same health problems that their counterparts eating the non-low fat foods are.

- ✓ The advertisements regarding fairness creams, getting slimmer or taller by popping pills or the claims by unscrupulous financial institutions regarding giving unrealistic higher returns on investments trick gullible consumers in purchasing their goods or services.

The issues:-

- There are a number of issues that have been plaguing the marketing scene with regard to misleading advertisement. The first one amongst this is advertisements made to children. These advertisements are created in such a manner that they target individuals who do not have the capability of differentiating fact from fiction hence it can be argued that those advertisements are actually misleading.
- Children in India constitute 18.7% of the world's kid's population and one-third of India's population is under 15 years of age. A survey by ac Nielsen showed that an average child watches TV for about 3 hours on week days and 3.7 hours on weekends. About half of this time is spent watching the advertisements which can affect the behaviour of the child.
- The advertisers use superlatives to boast the merits of their products like.... the best, number one, cheapest, greatest, finest, etc. but the subjective statements of opinion about a product's quality are so untrue that it becomes an outright spoof and which is not true.
- Sex appeal is used explicitly to sell all sorts of things. It is used to gain consumer attention. It is used where it is not even appropriate to the product or service being advertised. Women are shown as decorative objects or as sexually provocative figures for products where women are not required.
- Often consumer is lured into a retail outlet by an advertisement for a low cost item and then is sold a higher priced version. Once the consumer enters the store, he/she is pressured to purchase another more expensive item. In such stores, one finds a handful of out-dated products on the discount announced and other better products as 'fresh stock'.
- Advertisement is not restricted to products that are good and useful to the people. In India, advertisements for cigarettes, liquor, and pan masala (chewed tobacco), products that are harmful to the public continue to find a place in the TV channels, despite the ban imposed by the government of India.
- False and misleading advertisements in fact violate the right choice, the right to be informed and protected against unsafe goods and services as well unfair trade practices.
- Despite several laws meant to protect consumers against such unfair trade practices, false and misleading advertisements continue to exploit the consumer.

- Out-dated laws, poor enforcement of laws are the main reasons for the prevalence of mal-advertising. The need of the hour is better laws, regular updating of the laws, better enforcement of laws , deterrent measures and regular surveillance on the advertisements by the authorities.
- Additionally, tackling misleading advertising is of interest to the country as a whole because if allowed to continue, then it would deteriorate the country's business environment. Eventually, the overall marketing climate or the country's economy may even begin to decline

Existing Legislations:-

There are a number of legislations that have provisions to deal with misleading claims and advertisements made by companies regarding their products which include, inter alia,

- The Drugs and Cosmetics Act, 1940 (Department of Health and Family Welfare)
- The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1955 (Department of Health and Family Welfare)
- Food Safety and Standards Act, 2006 (Department of Health and Family Welfare)
- The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (Department of Health and Family Welfare).
- Over and above, the Advertisements aired on private satellite TV channels are regulated under the Advertising Code prescribed in rules framed under Cable Television Network (Regulation) Acts 1995. The misleading Advertisements in print media, which are violative of 'Norms of Journalistic Conducts' are being adjudicated by the Press council of India under Section 14 of the Press council Act 1978. The Food Safety and Standards Authority also provides for penal action against misleading advertisement pertaining to food products.

The existing regulatory authorities:-

1. Food Safety and Standards Authority (FSSAI)
2. Central Drugs Standard Central Organization(CDSCO)
3. Insurance Regulatory Development Authority
4. Telecom Regulatory Authority of India
5. Securities and Exchange Board of India

6. Reserve Bank of India
7. Medical Council of India

Steps taken by the Department of Consumer Affairs to tackle the menace of misleading advertisements:-

- This Department has set up an Inter-Ministerial Monitoring Committee on Misleading Advertisements vide OM dated 21.02.2014 having members drawn from different Ministries and authorities. Advertisement standards Council of India is also represented in the said Committee.
- This department is developing a web portal which would enable consumers to lodge complaints against misleading advertisements.
- Counter Campaign strategies are being worked out with FSSAI and other authorities like RBI NPPA, etc.
- Industry body has been asked to bring out a document titled Corporate Consumer responsibility which would contain code of business ethics on unfair trade practices including misleading advertisements.
