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# Unethical Advertisements in the Era of Social Network



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### ABSTRACT

Scammers and Unethical advertisements thrive on Social Network, which also opens the door to instantaneous access to billions of people. Social Network, which was once only used for communication, now has a big impact on how people make and spend money. When doing your shopping online, the last place you should look for dependable products is on Social Network. Selling or making money online is possible for anyone with a phone. Users of Social Network should keep an eye out for scams and closely monitor their accounts.

### Keywords:

Advertisement;  
Social Network;  
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Unethical Advertisement.

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## 1.0 INTRODUCTION

Telecom Regulatory Authority of India (TRAI) has released a report, that there were over 692 million internet subscribers in India as of January 2023. Social Network platforms like YouTube, Telegram, Instagram, Facebook, and others are now widely used and are becoming important channels for communication in society.

Because of the country's rising internet usage, businesses now spend much more money and more time using Social Network platforms to advertise their goods and services to potential customers. This allows them to do so in a targeted and effective way. However, sometimes businesses' overzealous efforts to sell customers on their goods or services can lead to fraudulent or deceptive advertising.

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### 1.1 Advertising *via* Social Network: The Main Stakeholders

Social Network marketing primarily involves two parties:

- (i) The company emphasizes its products or services, and
- (ii) The Social Network sites where their advertisements are posted.

It is also possible that the company will work with “influencers” (*i.e.*, those with access to an audience and the ability to influence that audience's decision-making process on any product, service, or brand) to promote their goods and services. Therefore, depending on the marketing plan used by the commercial enterprise, influencers may also be a major actor.

In this article, we examined the effects of deceptive advertising by commercial entities using Social Network platforms in India. The effects of Social Network platforms and influencers posting and/or endorsing such deceptive advertising will be covered individually in our upcoming articles.

### 1.2 Social Network Advertising

In Indian law, the phrase “Social Network Advertisement” has not clearly explained. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code), 2021 provides a definition of the word “Social Network intermediary” (Intermediary Guidelines). According to the Intermediary Guidelines, an online networking mediator is a third party that facilitates online communication between two or more users and provides them with access to its services in order to produce, upload, share, distribute, change, or access information.

The Advertising Standards Council of India has established guidelines that define the phrase “digital media” (ASCI). In order to safeguard consumer interests, ASCI creates self-regulatory regulations and norms for all forms of advertising. ASCI does not create regulations for the general public or the concerned industry and is not a government agency. The ASCI Influencer Advertising norms for Digital Media (Guidelines) describe “digital media” refers to any type of communication that can be transferred over the internet or other digital networks, including communication received, saved, sent, changed, or processed by a smart media site.. Since the definition of digital media is so broad, and include websites, blogs, applications, etc., its scope will also include “Social Network”.

Furthermore, the Consumer Protection Act of 2019 (the Consumer Protection Act) defines “Any audio or visual publicity, representation, endorsement, or pronouncement made through the use of light, sound, smoke, gas, print, electronic media, the internet, or a website is considered an advertisement, along with any notices, circulars, labels, wrappers, invoices, or other similar documents”. The definition of advertisement under the Consumer Protection Act is fairly broad and includes both classic and contemporary forms of advertising, such as those found in print media, television commercials, billboards, etc (*i.e.*, Social Network).

As a result, Social Network advertising is the promotion or marketing of a product on a platform created by the Social Network middleman and distributed to a large online audience by commercial organisations, advertisers, or individuals.

### 1.3 Unethical Advertising

According to the Consumer Protection Act, “unethical advertisement” is every advertisement in which a business offers its product or service by revealing inaccurate facts, providing a false guarantee, or withholding any critical information. In order to make the product or services appealing to potential customers, companies include situations in which the business entity may

- (a) overdo or overplay the product's or services' effectiveness;
- (b) exhibit unrealistic product or service attributes;
- (c) use grand, sophisticated concepts or aspects that misstate the true essence or the product's quality or service;
- (d) provide untrue guarantees;
- (e) employ cinematic techniques and unethical imagery or
- (f) Provide discounts, gifts, or other incentives.

#### 1.4 Regulations Governing Unethical Advertisement

Since about right now, Since the regulation in India that specifically prohibits false advertising on Social Network sites. However, there are a few laws currently in force that deal with this problem. The Consumer Protection Act established the Central Consumer Protection Authority (CCPA) to monitor consumer rights abuses, unfair business practises, including deceptive or false advertising that harms consumers' interests. The Consumer Protection Act defines a "consumer" as a individual who buys goods or online, traditional, through Teleshopping, direct sales, and multi-level branding are some examples. Thus, the Consumer Protection Act will apply to both offline and internet advertising. The Consumer Protection Act anyways establishes a Punishment in the type of imprisonment or a penalise for businesses that engage in deceptive advertising. Recently, according to a press release from the Press Information Bureau dated March 22, 2022, the CCPA ordered GSK Healthcare Limited (GSK) to stop running "Sensodyne" commercials across overall media, including Social Network. According to the Sensodyne advertising, toothpaste is the most widely used and recommended toothpaste in the world. The CCPA fined GSK INR 1 million because it believed that the commercial was deceptive.

In addition, ASCI have released guidelines to monitor the Indian Social Network ad industry and regulate inappropriate advertising content, as was already mentioned. According to the Guidelines, all Social Network platform advertisements must follow upcoming rules:

- (a) True portrayal (*i.e.*, being truthful and sincere with customers and competitors);
- (b) Pleasant to the general public (*i.e.*, within the boundaries of generally accepted norms of common decency and propriety); and
- (c) opposed to damaging goods / circumstances (*i.e.*, not used arbitrarily to promote products that are risky or socially harmful or people) and
- (d) fair competition.

Guidelines for advertising in a number of industries, including online funds and services that are virtual, the education system, as well as video gaming, have also been released by ASCI. The corporate enterprises are subject to specific obligations under these rules, including the responsibility to Focus on ensuring that tastemakers are aware of the ASCI guidelines and that all ads abide to them.

#### 1.5 Strengthening the Existing Regulatory System

The fact that ASCI can only advise commercial companies to remove advertisements However, it lacks the lawful power to compel such withdrawal or to provide consumers with any temporary relief or compensation is a major concern with the current regulatory system.

The Ministry of Consumer Affairs (MCA) had published a proposal of the Central Consumer Rights Power (Prevention of Unethical Ads and Necessary Checklist of Endorsement of Ads) Guidance, 2020 to enhance the legal structure for Online Social ads in India (Draft CCPA Guidelines). The Draft CCPA Guidelines state that they apply to “all forms, formats, and media of advertising and marketing communications”. Manufacturers, service providers, advertising agencies, and product/service endorsers are all affected. The Draft CCPA Guidelines outline the requirements for an effective advertisement, which, among other things, include (i) genuine and true representations (ii) not deceiving customers by overstating the product's capabilities or effectiveness; and (iii) not suggesting that the advertisement's assertions are universally accepted.

The government has not yet announced the Draft CCPA Guidelines. The CCPA will have the authority to impose any of the following orders on the company, Social Network platform, or inspirers engaged in any deceptive advertising or unfair business practises once the Draft CCPA Guidelines go into effect: (i) Recalling products, (ii) ceasing or changing the Unethical advertisement, (iii) imposing a fine of up to ₹1 million or, in the case of a continuing crime, up to ₹5 million, or (iv) prohibiting any endorser from making any endorsements for a period of one year, which may increase to three years in the event of a subsequent violation.

### **1.6 The Draft CCPA Guidelines Differ from ASCI Guidelines and the Consumer Protection Act**

The Consumer Protection Act establishes a procedure for consumers to resolve issues with businesses over deceptive advertising and unfair business practises on Social Network platforms. In order to address additional concerns including expression of commercials, bait marketing, false advertisement, puffery, and so on the Draft CCPA Guidelines establishes tougher regulation for various forms of deceptive advertisement. This furthers the objectives of the Consumer Protection Act.

The Consumer Protection Act also gives the CCPA the authority to direct concerned parties to stop running Unethical advertisements or to amend them, and it gives it the authority to apply penalties in the event that they don't. As a result, compliance with an ASCI order is entirely optional. Additionally, ASCI lacks the authority to conduct such investigations or to impose penalties on the corporate firm. When the Consumer Protection Act's legislative powers are combined with the Draft CCPA Guidelines, they can efficiently replace the ASCI norms to the degree that there is correlate, leading to the creation of an enforceable regulatory framework.

## **2.0 SUGGESTIONS**

Social Network advertising is have become into a extremely effective technique to persuade and influence customers in a very less time period as a result of the growing internet penetration. Accordingly, “speed” will be the fundamental component of any action to limit financial, damages, or otherwise, that a novice consumer may experience in order to avoid success of Unethical marketing. The regulatory body responsible for handling Unethical Social Network advertisements may take the following into consideration in order to keep this in mind and make sure that legitimate actors are involved in Social Network advertisements:

- (i) establishing a business enterprise identification process through which only legitimate business
- (ii) business entities are permitted to use Social Network as an advertising tool;
- (iii) establishing a mechanism to block and remove unethical advertisements in a timely manner; and

- (iv) business entities utilize such Social Network platforms to be capable of respond to customer complaints in a timely manner. and
- (v) identification of influencers hired by business enterprises in Social Network platforms.

### **3.0 CONCLUSION**

It's time to defend the interests of companies who legitimately promote their products on Social Network platforms and to impose legal penalties on companies that engage in deceptive advertising. Such action is necessary to safeguard not only the interests of consumers but also those of reputable commercial companies and other participants in the expansion and development of Social Network and advertising.

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