

UNETHICAL ADVERTISING: AN INDIAN OUTLOOK

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ABSTRACT

The focus of this paper is to study the ethical issues that arise in print and television advertising and also analyzing the various types of unethical advertisement in India with reference to ASCI principles. Today the India's advertising industry is expanding its business at a rapid rate. India's advertising industry in very little time has carved a niche for itself and placed itself on a global map. But over the years advertising and marketing communication messages have created debatable ethical issues like surrogate advertising, puffery, unverified claims, women stereotype, comparative advertising, use of children in advertising etc. In today's competitive market, advertisers are sometimes following the unethical practices to fight the competition. We have analyzed with the help of examples the different unethical practices used by advertisers in advertisements in India

KEYWORDS: Competitive market, Ethical issues, Marketing Communication, Unethical advertising, Regulatory laws.

INTRODUCTION

In recent years, Unethical advertising has become a highly discussed topic in the Business world. There has been much interest among the consumers, business owners, managers, advertising agencies and academics regarding truthful and untruthful advertising. Businesses are in the game to make money and advertising can go a long way towards selling a particular product. Advertising has played a major role in consumer marketing and has enabled companies to meet communication and other marketing objectives. Typically, advertising is used to inform, persuade, and remind consumers. Companies use advertisements to make current and potential customers aware of the features and benefits of their brand. Today's society is very concerned about creative, meaningful and truthful advertising. Advertising is such an interesting field in the marketing industry. However, the advertising should be an effective attraction and creative to attract the customer. The development of the advertising industry has been increasing year by year to provide the latest information about the product. Advertising is not only promoting the product but it is also can promote the services, entertainment, found and lost, land and more. Advertising can be channeled through media such as the internet, radio, television, pamphlets, banners, billboards, newspapers, magazine and so on according to the creativity of an advertising agency. Truly speaking in this age of tough competition, the business advertiser, at times, manipulates information through advertisements to achieve undesirable benefits and thereby ignores their social responsibilities. The same is true for other unethical aspects. There are a number of instances related to unethical practices sorted out by the ASCI. First, an advertisement of Nestle India Ltd. (Maggie healthy soup) claimed that "Happy Heart" "Healthy Soup". The claim created an impression that consumption of Maggie soup leads to better heart and health, while on testing by independent agency, it has been found that it contains high levels of salt which

releases sodium into body which in turn, causes hypertension and high blood pressure instead of good heart and health. Therefore, on complaint, ASCI declared the advertisement as case of misleading by implication and ambiguity. Thereafter, Nestle India Ltd. assured ASCI to modify its advertisements

WHAT IS ETHICS

Ethics means “Good Conduct” or “Conduct which is right in view of the society and the time period”. By common consent, various modes of behavior and conduct are viewed as “good” or “bad”. In other word, we can say that Ethics are the guideline principles and values that govern the actions, behavior and decisions of an individual or group. Ethics is a choice between good and bad or between right and wrong. It is governed by a set of principles of morality at a given time and at a given place and in a given society.

OBJECTIVES

1. To understand the ethics in Advertising.
2. To do analyses of different unethical advertisements in India.
3. To understand the recent cases of unethical advertisements in India.
4. To understand the various laws governing advertisements in India.

SIGNIFICANCE OF THE STUDY

The Focus of the study is on studying the ethical practices of the various advertisements in India at present and their relative effects. However, it is very difficult to distinguish a clear line of difference between what is true and what is untrue. Over the years advertising and marketing communication messages have created debatable ethical issues, due to the public belief, that advertisements deeply affect the way people perceive themselves and the world surrounding them, including crucial actions and behavior.

METHODOLOGY OF THE STUDY

This study has been conducted to find out the unethical practices of the advertising in India.

Theoretical part of the study significantly used secondary sources such as review of scholarly journals and reading materials. Various case studies and the regulatory framework and laws have been analyzed in completing this paper.

REVIEW OF RELEVANT LITERATURE

Some prior research works in unethical advertising that have basically focused on misleading and unethical practice in the advertising sector. They are extensive and critically reviewed to find out the existing research gap which is given below- Beliefs are the foundations of attitudes that consumers form about advertising. Attitudes toward advertising are operationalized and measured by positive or negative beliefs about advertising.

Singh and Sandhu (2011) have shown that impact of television commercials on the social and moral behavior of Indian viewers – empirical evidence. They also examine the prevalence of unethical practices within the business sector operating in the China to Australia tourism market

Singal and Kamra (2012) conducted an empirical research on ethical issues in advertising. They found out various types of unethical advertisements like advertisements with obscenity and sexual overtone, endorsed by children, surrogate advertising, subliminal advertisements, false and misleading advertisements etc.

Ramachandran and Venkatesh (2012) have found that marketing mix: An area of unethical practices? The researchers intend to develop the model of ethics in marketing. Their emphasis on empirical study in order to show that many unethical marketing practices may be occurring, especially which are related to pricing and advertising practices.

Singh (2014) has accompanied an empirical research on ethical issues and principles related to advertising. Ethical issues in advertising are contiguous to all businesses and customers. His findings indicated that a different number of industries, companies, firms and advertising organizations use unethical in their advertising to promote the product. Some companies use the prospective ethical issues in their advertising to fulfill the legal framework. Today, consumers

are more conscious and aware to purchase the products carefully. Therefore, the ethics related to advertising are helpful to build up the positive attitude and confidence of consumers.

Ajay (2014) has studied on perception of Indian consumers towards Indian advertisements and observed the development of advertising and its relative effects on the society and the people in particular is considered. The disadvantages of some of the unethical Indian advertisements and their manipulative motives faced by the Indian customers are assessed. He examined to measure the ethical practices of the print and television advertisements in India at present and their relative effects. Advertisements should be decent and not obscene. Sometimes, celebrities endorsing the product and spreading falsehood are also unethical.

WAYS OF UNETHICAL ADVERTISEMENTS: There are several types of advertisement which led to unethical advertisement

SURROGATE ADVERTISING

Surrogate advertising is advertising which involves a brand or product message inside an advertisement which is telecasted for another brand or product. Surrogate advertising came into existence after the Government took initiative to ban advertisements of products that are injurious to health or body. After implementation of it the major companies of liquor & tobacco were badly affected so they found other ways of advertise their products. They have found an alternative path of advertising which helped them to keep on reminding the people of their liquor/tobacco brands: they have introduced various other products with the same brand name in their product line.

PUFFERY

Puffery is an exaggerated statements made by the companies for the purpose of attracting buyers to a particular product or service. Puffery advertisement is basically used by the business in order to rise up the image of their product. Statements made in puffery are usually of subjective opinions rather than objective representations of facts. It is assumed that puffery act as an opinion for the consumers that cannot be verified.

UNVERIFIED CLAIMS

These are those kind of advertisement in which the company who is advertising its particular product makes a false statement or commitment about its product. The unverified claims are generally seen in energy drinks which commit to increase your stamina, foods that increase your child brain or a breakfast that makes you fit. But as the consumer use them, they see that there stamina is still the same, there child is just as regular as he was, and there figure hasn't changed an inch.

WOMAN STEREOTYPE

Television remains of the most predominant mediums that promote stereotypical about the gender roles with the help of advertisement. NO matter what type of life a women lives, the society will create some sort of stereotype about the women's. Generally the entire household product such as soap, washing powder etc. mainly uses women in order to advertise it which generate or add to the stereotype in the society about the women's that they are limited within the boundaries of their house only.

COMPARATIVE ADVERTISING

According to academic literature, "Comparative ads are those ads which involves directly or indirectly naming competitors in an ad and comparing one or more attributes in an advertising medium."

USE OF CHILDREN IN ADVERTISEMENT

Nowadays market is very highly influenced with children's entering into advertisement. Marketers are using children in their commercial advertisements to push their sales. This is done because Indian children are allowed to watch each & every advertisement in the television, so marketers are taking advantages of it. As in the present time there is a rapid increase of use of children in advertisement. This leads to influence our Indian culture as well as Indian children's to push their parent for particular products.

ADVERTISING REGULATION – INDIAN PERSPECTIVE

THE ADVERTISING STANDARDS COUNCIL OF INDIA

The Advertising Standards Council of India (ASCI), established in 1985, is committed to the cause of Self- Regulation in Advertising, ensuring the protection of the interests of consumers. ASCI was formed with the support of all four sectors connected with Advertising, viz. Advertisers, Advertising Agencies, Media (including Broadcasters and the Press) and others like PR Agencies, Market Research Companies etc. The Consumer Complaints Council is ASCI's heart and soul. It is the dedicated work put in by this group of highly respected people that has given tremendous impetus to the work of ASCI and the movement of self- regulation in the advertising.

ASCI CODES

The Advertising Standards Council of India (ASCI) (1985) has adopted a Code for Self- Regulation in Advertising. It is a commitment to honest Advertising and to fair competition in the market-place. It stands for the protection of the legitimate interests of consumers and

all concerned with Advertising - Advertisers, Media, Advertising Agencies and others who help in the creation or placement of advertisements.

ASCI HAVE ONE OVERARCHING GOAL

To maintain and enhance the public's confidence in advertising. ASCI seek to ensure that advertisements conform to its Code for Self-Regulation which requires advertisements to be:
Honest Representations - Truthful and Honest to consumers and competitors. -Offensive to Public - Within the bounds of generally accepted standards of public decency and propriety. - Not used indiscriminately for the promotion of products, hazardous or harmful to society or to individuals particularly minors, to a degree unacceptable to society at large.

Fair in Competition - Not derogatory to competition. No plagiarism.

LAWS AND ACTS GOVERNING ADVERTISEMENT

In India several laws and acts related to advertisement control. Let's mention a few of them.

The consumer protection Act, 1986 and advertising The Section 6 of this Act grants consumers the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be to protect the consumer against unfair trade practices. Section 2(r) of the Act, under the definition the term "unfair trade practice", it also covers the gamut of false advertisements including misrepresentations or false allurements. And to redress against such unfair trade practices on false advertisements may be sought under the Act.

The cable television network Act, 1995& the Cable Television Amendment Act, 2006 and advertising Section 6 of the Cable Television Networks (Regulations) Act, 1995 provides that no person shall send or transmit through a cable service any advertisement unless such advertisement is in conformity with the advertisement code prescribed under the Cable Television Networks (Amendment) Rules, 2006. However, the provision above does not apply to programs of foreign satellite channels which can be received without the use of any specialized gadgets or decoder.

Restrictions on advertising under the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act, 2003 Section 5 of this Act, prohibits both direct & indirect advertisement of tobacco products in all forms of audio, visual and print media.

Advertising regulations under Drug and Magic Remedies Act, 1954 & Drugs and Cosmetics Act, 1940 This Act is for regulating the advertisements of drugs in certain cases and to prohibit the advertising for certain purposes of remedies alleged to have magic qualities and to give for matters connected therewith; – Section 29 of the Drugs and Cosmetics Act, 1940 imposes a penalty upon whoever uses any report of a test or analysis made by the Central Drugs Laboratory or by a Government Analyst, or any extract from such report, for the purpose of advertising any drug. The punishment prescribed for such an offense is fine which may extend up to five hundred rupees and imprisonment up to ten years upon subsequent conviction.

Advertising restrictions under Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 & Young Persons (Harmful Publications) Act, 1956

Advertisement in any manner regarding facilities of pre-natal determination of sex available at any genetic counseling centre, laboratory, clinic or any other place is prohibited under this Act and has been made a punishable offence under the Act (Section 22); – Section 3 of the young person harmful Publication Act, 1956, inter alia, imposes penalty for advertising or making known by any means whatsoever that any harmful publication (as defined in the Act) can be procured from or through any person.

The Indian Penal Code and criminality of advertisements: The IPC, vide an array of provisions, prohibits obscene, defamatory publication, publication of a lottery and statements creating or promoting disharmony/ enmity in the society. While it is not implicitly written, any advertisement that related to an offence, like hiring a contract killer or inciting violence, terrorism or a crime is illegal and will be punished under IPC or other applicable provisions.

UNETHICAL ADS IN INDIA-CASE STUDIES:

Maggi: The Maggi noodle controversy is most likely one of the biggest ones to hit a popular food item. While the advertisements claimed the noodle to be a healthy and fast food option for children, Maggi samples collected from different states found monosodium glutamate (MSG) and lead in excess of the prescribed limit in the instant noodles. While the manufacturers, Nestle have been taken to consumer court by the government, a court had directed an FIR to be lodged against celebrities Madhuri Dixit, Amitabh Bachchan and Priyanka Zinta for acting in these ads for a fee.

Idea IIN: Idea Cellular has been coming out with various ads which constantly claim that their network is the best. Recently, Idea went a step further by making the internet theirs in a series of ad campaigns which featured characters who join achieve their dreams of learning engineering, algebra, cooking, foreign languages, etc, through Idea's IIN. These ads have led a number of people to believe that Idea has an Institute which teaches people different things, when, in actual, IIN just refers to the internet and is not different from what is provided by other network providers. A complaint was also filed with the ASCI on a particular ad where a girl from Haryana empowers herself through IIN, giving people the false impression.

Dabur Chyawanprash: An ad released by Dabur, which claimed that Dabur Chyawanprash gave children three times more immunity and power to fight diseases, was slammed by the ASCI for making claims that are unsubstantiated.

Dettol: Reckitt Benckiser Healthcare India's Dettol claims, in its ad, that 'Only Dettol gives 10x more protection against germs.' This was found to be misleading as the soap, which contains germicidal actives, was compared to products which do not have germicidal actives. The claim was not substantiated by comparing it with products which have germicidal actives. **Kellogg's Cornflakes:** The Kellogg's Special K advertisement was also under the scanner with the Food Safety and Standards Authority of India (FSSAI) for making false health claims. In the ad, the company claimed that people who eat low fat Kellogg's for breakfast can lose weight as it adds only 114 calories to a person's diet.

CONCLUSION AND RECOMMENDATIONS

The world of advertising has come a long way from a small industry to a large scale industry. For some people it is an important source of getting information while for other describes it as an untrue, misleading and obscene. Advertising Industry has been facing a lot of criticism in the recent times as the advertising practices have not always been ethical. In today's competitive market, due to free allowances, the advertisers are sometimes following the unethical practices to fight the competition. The ethical aspect of Indian advertisement is extremely important for restoration of our Indian culture and heritage. Indian culture is getting diluted by the western culture which influences our country to a great extent. To save our culture, norms and ethics regulations of such unethical advertisements are extremely essential. But today the numbers of unethical and obscene advertisements are increasing in numbers instead of decreasing. This clearly shows that implementation of the laws controlling advertisement is not properly done. The lacks of implementation of the laws are leading to more and more unethical and obscene advertisements. Hence, it is an urgent need for proper implementation of the laws in our country.

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