
STRENGTHENING CONSUMER RIGHTS: THE NEED FOR ROBUST LAWS ON MISLEADING ADVERTISING AND PRODUCT LIABILITY IN INDIA

Shreya Bansal, Symbiosis Law School, Pune

ABSTRACT

The function of advertising in influencing consumer decisions has never been more accentuated, particularly in a fast-changing market like India. Whereas advertisements stimulate economic activity, the increasing trend of deceptive claims is a matter of serious legal and ethical concern. This research paper critically analyzes the effectiveness of legal provisions in India that govern misleading advertisements and product liability to safeguard consumer interests. It identifies the distinct challenges for the Indian regulatory environment for advertising, such as gaps in regulation and compliance problems, and compares it with international best practices. The study is intended to recommend reforms that can promote consumer trust and legal responsibility in the advertising industry. Despite the passing of the Consumer Protection Act, 2019, serious issues persist in enforcing strong consumer protection legislation. Recommendations are made in the form of developing sector-specific rules, enhancing self-regulatory frameworks, and enhancing mechanism for enforcement in order to ensure a more open and ethical market environment for Indian consumers. The study emphasizes the importance of regulation of advertising for ensuring consumer rights and fair market practices.

Keywords: Misleading advertisement, product liability, Consumer Protection Act, consumer trust, ethical standards

INTRODUCTION

“A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption in our work - he is the purpose of it.”

- Mahatma Gandhi

Advertising is deeply woven into the fabric of modern society, it's ubiquitous, influencing attitudes, informing consumer behavior, and making decisions both consciously and unconsciously. In a nation such as India, where cultural pluralism comes together with accelerated economic growth, the industry of advertising has emerged as a behemoth with the ability to not only sell commodities- but influence lifestyles, desires, and even mores. But with much power comes much responsibility.

The importance of this subject cannot be overemphasized. While the advertising profession continues to expand in print media, television, and the digital space, its persuasive potential has increased enormously quite often blurring the line between information and manipulation. That makes regulation of advertising more than a legal imperative; it turns into an issue of public concern. False advertisements, overstated claims, and deceptive endorsements may cause financial harm and damage to trust on the part of consumers. The legal framework for advertising in India has therefore acquired a significant role, not only in establishing limits of commercial speech but in safeguarding consumers against deception.

Consumer protection goes far beyond mere rectification of inaccuracies. It's about making sure the typical consumer is not kept in the dark, that they get a fair and full picture, and that businesses deal with the public in a way that is responsible and ethical. A healthy regulatory framework fosters not only market efficiency and innovation, but also public well-being by upholding standards of truth, fairness, and transparency throughout the advertising environment.

RESEARCH QUESTIONS

This research paper seeks to address the following questions:

1. How effective are the current legal provisions in India in regulating misleading advertisements and addressing product liability to safeguard consumer interests?

2. How does India's advertising regulatory framework compare with international standards, and what lessons can be drawn to improve consumer protection in India?
3. What are the major challenges faced in implementing advertising regulations in India, and how do factors like regulatory loopholes and institutional constraints affect compliance?
4. What legal and policy reforms can be introduced to strengthen consumer trust and improve accountability in advertising practices?

RESEARCH OBJECTIVES

The aims of this research paper are outlined as follows:

1. To analyse the effectiveness of the legal provisions regulating misleading advertisements and product liability in India.
2. To compare India's advertising regulatory framework with global standards in order to assess its effectiveness in ensuring consumer protection and identify potential areas for improvement.
3. To examine the primary challenges in enforcing advertising regulations in India, including regulatory gaps, institutional limitations, and issues of compliance.
4. To propose reforms that can enhance consumer trust and legal accountability.

RESEARCH METHODOLOGY

The author has relied on **doctrinal research methodology** to complete this paper, drawing heavily on a comprehensive analysis of **secondary sources**, including academic literature, government reports, legal documents, industry publications, and prior research studies, to examine the relationship between advertising regulations and consumer protection under the Indian legal framework.

This approach has been selected due to its effectiveness in comprehending and interpreting the legal paradigm that regulates consumer protection, especially where emphasis is on **interpretation of law** as **opposed to collection of empirical data**. As the study seeks to assess the shortcomings and strong points of existing advertising and product liability laws, a

doctrinal approach enables a serious examination of both legislative intent and judicial reasoning.

All sources have been cited using the **Bluebook 20th Edition**, maintaining academic integrity and ensuring proper acknowledgement of authorities.

LITERATURE REVIEW

1. “The Impact of Misleading Advertisements on Consumer’s Right to Free Choice: A Comprehensive Study” by Mohammad Anas¹

Particularly in the context of e-commerce in India, Anas’s research looks at how false ads affect consumer autonomy, the ethical obligations of marketers, and the legislative tools meant to control fraudulent behaviour. Citing judicial precedents such as *Hindustan Unilever Limited v. Sebamed* (2022), it examines the conflict between safeguarding commercial speech and maintaining consumers’ freedom to make informed decisions, hence highlighting the efficacy of current legal systems in handling this matter.

2. “Curbing False or Misleading Advertisements in India: Challenges and Solutions” by Anirban Chakraborty²

Chakraborty’s article discusses the ineffectiveness of the existing Indian legal and regulatory framework in curbing false and misleading advertisements. It highlights the global consensus on the need for a comprehensive framework to address market failures caused by information asymmetry. The author argues for a more effective regulatory model aligned with global experiences to advance consumer interests.

While the article identifies the challenges and advocates for a stronger framework, it was published in 2016, prior to the enactment of the Consumer Protection Act, 2019. Therefore, it does not analyze the potential impact and effectiveness of the new Act and the Central Consumer Protection Authority (CCPA) in addressing these challenges.

¹ Mohammad Anas, *The Impact of Misleading Advertisements on Consumer's Right to Free Choice: A Comprehensive Study*, 1 Int'l J.L. & Legal Sci. 1, 1 (2025).

² Anirban Chakraborty, *Curbing False or Misleading Advertisements in India: Challenges and Solutions*, 4 Int'l J. Com. L. & Pol'y Rev. 1, 1 (2016).

3. Analysis of Advertising Regulations for Consumer Protection in India by Abhishek Gitte³

The article outlines the evolution of advertising regulations in India and their growing alignment with international models. It examines how misleading claims in advertising distort consumer choices and create imbalances in market fairness. While much work highlights the role of bodies like ASCI and CCPA, the literature tends to focus heavily on the theoretical framework and broad enforcement issues. A significant gap remains in examining the real-world effectiveness of recent digital-era guidelines and the consumers' practical experiences in rural and semi-urban India.

4. Consumer Protection in India: Laws, Challenges, and Effectiveness by Kasina Naga Suryanarayana⁴

This article presents a thorough exploration of consumer protection in India, emphasizing the evolution of the legal framework, emerging challenges, and the effectiveness of recent reforms, particularly from 2010 to 2023. It underscores the importance of the Consumer Protection Act, 2019, especially in addressing the digital marketplace's complexities by introducing stricter penalties and broadening rights to cover e-commerce activities. While key issues such as low consumer awareness, systemic judicial delays, and enforcement hurdles are noted, the review remains broad in scope. It does not probe deeply into the operational impact of the CCPA or provide detailed case analyses of product liability enforcement, leaving notable research gaps.

SOCIO-LEGAL ANALYSIS

The phenomenon of misleading advertisements and the changing contours of product liability law in India need to be analyzed both legally and socially. While legislative steps have gradually broadened consumer rights, their actual impact is varied due to limitations of enforcement and societal factors. This section examines the legal regime, socio-legal conditions, enforcement issues, and crucial gaps that still weaken consumer protection in the nation.

³ Abhishek Gitte, *Analysis of Advertising Regulations for Consumer Protection in India*, 6 INT'L J.L. MGMT. & HUMAN. 57 (2023).

⁴ Kasina Naga Suryanarayana, *Consumer Protection in India: Laws, Challenges, and Effectiveness*, 5 Int'l J. Rsch. Hum. Res. Mgmt. 94 (2023).

A. Legal Framework in India

1. Consumer Protection Act, 2019

The cornerstone of consumer protection in India is the **Consumer Protection Act, 2019**, a comprehensive piece of legislation enacted to modernise and enhance the protection of consumer rights. Replacing the outdated **Consumer Protection Act of 1986**, the 2019 Act aims to address the complexities of the contemporary marketplace, particularly the rise of e-commerce and digital transactions, and introduces stronger provisions to safeguard consumer interests.

Section 2(28) explicitly defines “misleading advertisement” as an advertisement that falsely describes a product or service, gives a false guarantee, or deliberately conceals important information, thereby influencing consumer decisions.⁵ A **Central Consumer Protection Authority** has been established to regulate matters related to misleading advertisements among many other violations.⁶ Notably, the Act introduces a distinct chapter on **product liability**⁷, making all participants in the supply chain- manufacturers, service providers, and sellers- potentially liable for harm caused by defective goods or services.

2. Constitution of India

While the Constitution doesn’t have a specific provision just for regulating advertisements, **Article 19(1)(a)**⁸ protects the freedom of speech and expression, though it comes with reasonable restrictions.⁹ The Supreme Court has clarified that advertisements are a form of speech, but not every ad automatically enjoys full constitutional protection. Particularly, if an advertisement is commercial in nature and aims to mislead people, it doesn’t fall under the scope of Article 19(1)(a)¹⁰. The Court made it clear that the government has the power to regulate commercial ads that are deceptive, unfair, or untruthful¹¹.

⁵ Consumer Protection Act, 2019, § 2(28) (India).

⁶ Consumer Protection Act, 2019, § 10 (India).

⁷ Consumer Protection Act, 2019, ch. VI (India).

⁸ INDIA CONST. art. 19, cl. 1(a).

⁹ INDIA CONST. art. 19, cl. 2.

¹⁰ *Hamdard Dawakhana v. Union of India*, AIR 1960 SC 554.

¹¹ *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.*, AIR 1995 SC 2438.

3. Self-Regulatory Body in India

The **Advertising Standards Council of India (ASCI)** is the primary self-regulatory body in India, which works in close conjunction with statutory regulation. Despite the lack of statutory authority, ASCI maintains a well-regarded self-regulatory system through its Code for Self-Regulation. It adjudicates complaints and counsels marketers on ethical behaviour, but it cannot compel compliance, making it more of a moral authority than a legal one.

4. Sector-Specific Regulations

In addition, sector-specific legislation enhance the overall consumer protection framework. The **Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954** prohibits exaggerated medical claims; **FSSAI laws**¹² govern food advertising; and the **Telecom Commercial Communications laws**¹³ govern marketing via electronic channels. These frameworks, while individually powerful, sometimes function in silos, resulting in overlap and uncertainty about jurisdiction, particularly when a single advertising violates numerous laws.

B. Judicial Approach to Misleading Advertisements:

Indian courts have increasingly scrutinized advertisements for misleading content, particularly in cases where public health and economic interests are at stake:

- **Horlicks Ltd. v. Zydus Wellness Products Ltd.**¹⁴

Horlicks sued Zydus Wellness over a comparative ad where Zydus claimed that one cup of Complan had as much protein as two cups of Horlicks. The problem was that while their serving sizes were different, the ad showed cups of the same size, misleading viewers. The Delhi High Court granted an interim injunction, noting that the ad aired for just 6 seconds, giving no real time to read the disclaimer about serving sizes. The court held that the visual impression, not the fine print, mattered most.

¹² Food Safety and Standards Act, No. 34 of 2006, Acts of Parliament, 2006 (India).

¹³ The Telecom Regulatory Authority of India Act, No. 24 of 1997, Acts of Parliament, 1997 (India).

¹⁴ *Horlicks Ltd. v. Zydus Wellness Products Ltd.*, 2020 SCC OnLine Del 873.

- **The Maggi Noodles Controversy (2015)¹⁵**

Another major case was the Maggi noodles controversy. FSSAI tests found excessive lead and MSG in Maggi samples, leading to a nationwide ban under the Food Safety and Standards Act, 2006. The ASCI also found Maggi's advertising claims misleading. Nestlé contested the findings but had to pull Maggi from the market temporarily, suffering huge financial and reputational damage. After months of retesting and legal battles, the Bombay HC lifted the ban, but the case highlighted how critical **accurate labeling** and **transparent advertising** are today.

- **Patanjali Ayurved Ltd. Ban (2023)¹⁶**

Patanjali Ayurved Ltd. was temporarily banned from selling some of its products, especially those that made **unsubstantiated or exaggerated claims** about their medicinal value. These advertisements implied that the products could cure serious illness or disorders, which were within the scope of the Drugs and Magic Remedies Act, 1954. The company was banned after the Supreme Court of India ruled that the company's advertisements were contravening the provisions of the Act, which precludes misleading or deceptive advertisement portraying false health benefits. This move brought to the fore the urgent necessity for advertisements to be supported by **scientific evidence** and **certification** prior to making health-related claims, emphasizing the role of regulatory mechanisms in preventing misleading advertisements and consumer protection.

- **Havells India Ltd. v. Amritanshu Kaitan¹⁷**

The Delhi High Court, in this case, drew a clear distinction between **comparative** and **disparaging advertising**. It held that comparative ads are allowed as they encourage healthy competition, but once an ad becomes misleading and tarnishes another's product unfairly, it amounts to disparagement and can be challenged for being false and misleading.

¹⁵ *Relief for Nestle as NCDRC Dismisses Govt's 2015 Plea Against Sale of Maggi Noodles*, The Economic Times (Apr. 4, 2024), <https://economictimes.indiatimes.com/industry/cons-products/fmcg/relief-for-nestle-as-nedrc-dismisses-govts-2015-plea-against-sale-of-maggi-noodles/articleshow/109036926.cms>.

¹⁶ PTI, *Supreme Court Warns Patanjali Ayurved Against Misleading Ads, Next Hearing on March 19*, THE HINDU, Feb. 27, 2024, <https://www.google.com/search?q=https://www.thehindu.com/news/national/supreme-court-warns-patanjali-ayurved-against-misleading-ads-next-hearing-on-march-19/article67874882.ece>.

¹⁷ *Havells India Ltd. v. Amritanshu Khaitan*, 2015 SCC OnLine Del 8115.

- **Francis Vadakkan v. The Proprietor, A-One Medicals¹⁸**

In this case, the plaintiff bought a hair growth cream after seeing an ad endorsed by Malayalam actor Anoop Menon, which promised visible results in six weeks. When there was no improvement even after seven weeks, the plaintiff filed a complaint. The court held the manufacturer, the actor, and the medical shop liable for misleading advertising. It rejected the defence that a disclaimer was provided, noting that the disclaimer was printed so small it was practically unreadable.

C. Challenges in Enforcing Advertising Regulations in India

The enforcement of advertising regulations in India faces several persistent challenges that weaken consumer protection and fair market practices.

1. Low Awareness

One of the basic hindrances is the general **lack of knowledge by both businesses and consumers**. Consumers are not well aware of the regulations intended to guard them against false or deceptive advertisements. Therefore, they are not in a position to detect false advertising or to ask for redress. Businesses, especially small ones, either unknowingly violate regulations or don't allocate adequate resources to compliance. Additionally, the sharing of knowledge regarding **ethical advertising practices** is still limited even within the industry itself. Without an active push towards regulatory literacy for all stakeholders, non-compliance will most likely continue to erode consumer rights and market integrity.

2. Diverse and Overlapping Regulatory Frameworks

Advertising regulation in India is overseen by a complex web of authorities, including the ASCI, the **Ministry of Information and Broadcasting**, and sector-specific regulators like the **FSSAI**. Each body issues its **own set of guidelines**, creating a **fragmented regulatory environment**. This diversity can confuse advertisers, complicate compliance efforts, and result in jurisdictional disputes between agencies. The **absence of a cohesive and harmonised framework** hampers consistent enforcement and dilutes the overall regulatory impact.

¹⁸ *Francis Vadakkan v. The Proprietor, A-One Medicals & Others*, Consumer Complaint No. 345 of 2012.

3. Cross-Border Advertising

Cross-border advertisement means advertising products or services to consumers beyond the country where the advertiser is based. Thanks to advances in technology, communications, and internet-based business, such advertising has become more frequent but raises serious regulatory issues. Each nation has its set of advertising laws and standards for protecting consumers, meaning companies must tread carefully to satisfy various legal and cultural requirements. The fact that most advertising today occurs online, particularly on social media, makes it even more challenging, as content tends to end up in places it wasn't even intended for. Cross-border campaigns also introduce problems such as data privacy, protection of intellectual property, and even tax complexities. Businesses need to ensure they manage consumer data in the right way under different privacy legislations and also safeguard their trademarks and copyrights overseas. Maintaining aggressive marketing strategies while remaining compliant across several legal frameworks is currently a significant challenge to businesses.

4. Rapid Technological Changes

The quick pace of technology has utterly transformed the way that advertising is conducted, making it increasingly difficult for regulators to follow. Sites such as social media, search engines, and e-commerce websites provide advertisers with new means of reaching consumers, but they also provide new challenges in monitoring and enforcing.

Currently, advertisers count heavily on artificial intelligence, machine learning, and large data sets to tailor advertising, which maximizes marketing effectiveness but creates extremely troubling issues surrounding privacy, information security, and algorithmic discrimination. Technologies such as deepfakes complicate matters further by making it even more difficult to distinguish between real and artificial content, creating new challenges for regulators seeking to guard consumers.

5. Weak Penalties

Another one of the large issues with the regulation of advertisements in India is that the fines for deceptive advertisements are usually too small to be an actual deterrent. Many times,

companies are fined only a **few thousand or a few lakh rupees**¹⁹, amounts that barely affect large advertisers. This creates a risky situation where businesses may prefer to run deceptive ads and simply pay the fine if they get caught, treating it as just another cost of doing business. It not only weakens regulatory enforcement but also hurts honest companies that follow the rules, giving an unfair advantage to those who don't.

COMPARATIVE STUDY OF INTERNATIONAL CONSUMER PROTECTION LAWS

Examining the consumer protection laws related to misleading advertisements and product liability in other countries provides valuable insights and helps identify best practices that could inform potential reforms in India.

(A) United States of America (USA)

In the US, advertising is regulated primarily by a combination of self-regulation and government regulation. The **Federal Trade Commission (FTC)** is at the forefront, ensuring advertisements are truthful, not deceptive, and supported by facts. In parallel, the National Advertising Division (**NAD**) resolves disputes by voluntary self-regulation in the industry²⁰. In comparison to India, where government agencies such as the Ministry of Information and Broadcasting and the ASCI bear a greater burden of regulation, the US system is more efficient, combining robust self-regulation with federal intervention where necessary.

(B) United Kingdom (UK)

Strong consumer protection regulations in the UK, such as the Consumer Protection from Unfair Trading Regulations 2008 and the Consumer Protection Act 1987, address false advertising and product flaws. Guided by the Committee of Advertising Practice (CAP), the Advertising Standards Authority (ASA) implements the regulations independently. The UK's system is quicker, more open, and more trustworthy than India's more scattered approach. The UK's particular emphasis on safeguarding vulnerable populations, notably children, also reflects a degree of proactive control that India is just starting to develop.

¹⁹ Consumer Protection Act, 2019, § 89 (India).

²⁰ Federal Trade Commission, <https://www.ftc.gov/> (last visited Apr. 27, 2025).

(C) Australia

Australia has a mixed model of self-regulation and legislative regulation. The Australian Association of National Advertisers (AANA) provides codes of ethics, and complaints are dealt with by Ad Standards. Australia focuses particular attention on the fields of environmental claims and marketing of foodstuffs, domains where Indian law is still behind. Its mechanism is nearer the UK's balance, though India is making an improvement through such new developments as the Guidelines for Influencer Advertising.

Feature	India (CPA 2019)	USA (FTC Act, State Laws)	UK (Consumer Protection Act 1987, Regulations 2008)	Australia (Australian Consumer Law)
Misleading Advertising Penalties (First Offense)	Imprisonment up to 2 years & fine up to NR 10 lakh	Varies by state and specific violation; FTC can seek monetary penalties and injunctions	Unlimited fine and/or imprisonment up to 2 years under Regulations	Significant fines (up to AUD 10 million for corporations) and other remedies
Product Liability Standard	Strict liability for manufacturers	Strict liability in most states; some states also allow negligence claims	Strict liability for producers	Strict liability for manufacturers and importers
Burden of Proof (Product Liability)	Initial burden on consumer to prove defect, breach, and causation; may shift in certain cases	Generally on the plaintiff to prove defect and causation	Generally on the claimant to prove defect and causation	Generally on the consumer to prove defect and causation

Overall, while India is similar to the USA, UK, and Australia in its shared commitment to consumer protection as evidenced by advertising regulation, it differs significantly in its government intervention dependence, the level of self-regulation, and the culture of enforcement. These international comparisons identify potential avenues for strengthening

India's regulatory institutions, particularly by building up self-regulatory frameworks, simplifying enforcement, and developing sector-specific regulations that account for new advertising strategies.

CONCLUSION & RECOMMENDATIONS

Though India has taken a positive step towards building a better consumer protection system through the passing of the Consumer Protection Act, 2019, there are still issues at hand in effectively protecting consumers against false advertisements and harmful products. The existing legislation is a starting point, but its potential is still to be explored due to numerous gaps and execution challenges.

Based on the analysis, the following recommendations are proposed to further strengthen consumer protection in India:

- **Legislative Amendments:** The government can consider certain amendments to the CPA 2019 to enhance punishment for repeat offenders of deceptive advertising, offer better clarity on the burden of proof in some product liability matters, include specific provisions for regulating online advertising and influencer marketing, and examine the possibility of implementing "lemon laws" for faulty products.
- **Enhancing Enforcement:** There should be more investment in CCPA and state consumer protection agency resources and abilities to expand their monitoring and enforcement efforts in every medium of communication. Making procedures in consumer courts more streamlined for faster dispute settlements will enhance consumers' access to justice.
- **Development of Consumer Awareness:** Sustained and widespread consumer awareness campaigns should be initiated through a multi-pronged strategy involving traditional and new media to alert consumers to their rights, prevalent deceptive trade practices, and redressal avenues.
- **Encouraging Self-Regulation:** The active promotion of self-regulatory organizations such as ASCI should be further supported and strengthened to facilitate the adoption and enforcement of ethical advertising practices among industry players.

- **Sector-Specific Regulations:** The government may consider framing more specific and detailed regulations for industries that are most prone to deceptive advertising or have a greater risk of product liability cases, including drugs, foodstuffs, and online shopping.

Adopting these recommendations has important practical and theoretical consequences. Enhanced consumer protection will empower citizens, make the marketplace more ethical and transparent, and enhance the economic prosperity of the country as a whole. By solving the problems presented by deceptive advertisements and product liability, India can establish a consumer-friendly environment that encourages trust, fairness, and safety for everyone.

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