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# **CONSUMER FRAUD AND DECEPTIVE MARKETING TECHNIQUES: AN ANALYSIS OF LEGAL REMEDIES**

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## **INTRODUCTION:**

Consumer fraud and deceptive marketing techniques have become prevalent in today's marketplace, causing harm and financial loss to unsuspecting consumers. This article aims to analyze the legal remedies available to consumers who fall victim to these unethical business practices.

This article will explore the various types of consumer fraud and deceptive marketing techniques used by businesses to mislead consumers. It will also examine the laws and regulations in place to protect consumers from these practices, including the Consumer Protection Act, and other relevant state and federal laws.

It will also analyze the effectiveness of legal remedies available to consumers, including civil lawsuits, class actions, and criminal prosecutions. It will assess the challenges that consumers face in pursuing legal action against fraudulent businesses and identify potential areas for reform.

Ultimately, this article aims to provide a comprehensive analysis of consumer fraud and deceptive marketing techniques and the legal remedies available to protect consumers. By shedding light on this issue, it is hoped that policymakers and businesses will take steps to prevent and deter fraudulent practices, and consumers will be better equipped to protect themselves from falling victim to such practices.

## **UNDERSTANDING CONSUMER FRAUD AND DECEPTIVE MARKETING TECHNIQUES:**

Consumer fraud refers to the intentional deception of consumers by businesses or individuals for personal gain. It can take many forms, such as false advertising, misrepresentation, bait and

switch schemes, identity theft, and phishing scams. Consumer fraud is a violation of consumer protection laws and can result in financial harm, identity theft, or other negative consequences for consumers.

Deceptive marketing techniques refer to the use of misleading or false information to persuade consumers to purchase a product or service. This can include false advertising, exaggeration of product benefits, and withholding important information that could influence a consumer's decision to purchase. Deceptive marketing techniques are also a violation of consumer protection laws and can result in financial harm or other negative consequences for consumers.

Consumer fraud and deceptive marketing techniques refer to any practice that misleads consumers into making a purchase or taking an action that they would not have taken otherwise. These practices are often used by businesses and individuals to make a profit at the expense of consumers. Understanding consumer fraud and deceptive marketing techniques is important for protecting oneself from falling victim to these practices.

## **TYPES OF CONSUMER FRAUD AND DECEPTIVE MARKETING TECHNIQUES:**

### **1. FALSE ADVERTISING:**

False advertising is the act of making misleading or false claims about a product or service in order to deceive consumers. This can include exaggerating the benefits of a product, making false comparisons to other products, or simply providing misleading information about the product.

False advertising is not only unethical, but it can also be illegal. Many countries have laws in place that prohibit false advertising, and consumer protection agencies exist to help consumers who have been misled by false advertising.

Consumers have the right to accurate information about the products and services they purchase. False advertising can have serious consequences for consumers, as they may end up purchasing products that do not live up to the claims made in advertisements.

### **2. BAIT AND SWITCH:**

Bait and switch is a type of deceptive marketing tactic where a seller advertises a product or

service at a low price or with attractive features to attract customers, but then tries to sell them a different, often more expensive, product or service.

The bait and switch tactic typically involves luring customers into a store or website with an appealing offer, only to find out that the product or service advertised is not available or does not have the advertised features. The seller will then try to convince the customer to purchase a more expensive product or service instead.

Bait and switch is illegal in many countries and is considered to be a form of false advertising. It is an unethical practice that takes advantage of the trust that customers place in the seller.

### **3. PYRAMID SCHEMES:**

A pyramid scheme is a type of scam where participants are promised high returns on their investment or work, but are actually paid out of the contributions made by new members recruited into the scheme.

Pyramid schemes can have a devastating impact on consumers, who may lose their entire investment and suffer financial harm as a result. In addition, pyramid schemes can be difficult to detect, as they are often disguised as legitimate business opportunities, and can prey on individuals who are looking for ways to make extra money.

Consumers should be wary of any business opportunity that promises quick, easy money with little effort or requires significant upfront investments. They should research the company and its business model before investing any money or time, and be cautious of any business that relies on the constant recruitment of new members to sustain payouts to earlier members.

### **4. PHISHING:**

Phishing is a type of online scam where a fraudulent party, posing as a legitimate entity, tries to trick individuals into revealing sensitive information such as passwords, credit card details, and social security numbers. This can be done through email, phone calls, text messages, or even fake websites designed to look like legitimate ones.

Phishing scams can have serious consequences for consumers, as their personal information can be used for identity theft, financial fraud, and other criminal activities. To protect

themselves from phishing scams, consumers should be aware of the common tactics used by scammers and take the necessary precautions.

Phishing attacks can be very convincing, as they often use social engineering tactics to create a sense of urgency or fear in the recipient, prompting them to click on a link or download an attachment. Once the recipient has taken the bait, the attackers can use the information they have obtained to steal money, identities, or other sensitive data.

## **5. IDENTITY THEFT:**

Identity theft is a type of crime where an individual's personal and financial information is stolen and used for fraudulent purposes, such as making unauthorized purchases, opening new credit accounts, or even applying for loans or government benefits.

Identity theft can occur through various means, including phishing scams, data breaches, and physical theft of documents or devices containing personal information. Once a criminal has obtained someone's personal information, they can use it to impersonate the victim, making it difficult for the victim to detect the fraud until it has already caused significant harm.

Consumers can also take steps to safeguard their personal information, such as using strong, unique passwords for each of their online accounts, and being careful when using public Wi-Fi networks or accessing their financial accounts from shared devices.

## **6. FAKE REVIEWS:**

Fake reviews are reviews that are posted online, usually on e-commerce or review sites, with the intention of misleading consumers. They are often written by individuals who have not actually used the product or service being reviewed, and may be paid or incentivized to write positive reviews.

Fake reviews can be very damaging to consumers, as they can create a false impression of the quality or value of a product or service. They can also be difficult to detect, as they may appear genuine and unbiased, making it challenging for consumers to make informed purchasing decisions.

To protect themselves from fake reviews, consumers should look for patterns in the reviews,

such as multiple reviews with similar language or identical wording. They should also look for reviews that seem overly positive or negative, or those that lack detail or specific information about the product or service.

## **7. MISLEADING LABELS:**

Misleading labels are labels on products that contain false or deceptive information, which can lead consumers to believe that a product is healthier, safer, or more environmentally friendly than it actually is. Misleading labels can occur in various industries, including food, cosmetics, and household products.

For example, a food product may be labelled as "organic" or "all-natural," even if it contains artificial ingredients or pesticides. Similarly, a cosmetic product may be labelled as "hypoallergenic" or "dermatologist tested," even if it contains irritants or allergens.

To protect themselves from misleading labels, consumers should read labels carefully and be skeptical of claims that seem too good to be true.

## **8. PRIZE SCAMS:**

Prize scams are fraudulent schemes in which scammers deceive consumers into believing that they have won a valuable prize or sweepstakes, often in exchange for a fee or personal information. The goal of the scam is to trick consumers into providing money or sensitive information, such as their bank account or Social Security number.

Prize scams can take many forms, including phone calls, emails, and social media messages. The scammers may claim to be representatives of well-known companies or organizations, such as Publishers Clearing House or the lottery. They may also use high-pressure tactics or create a sense of urgency to convince consumers to act quickly and provide their information or pay a fee.

## **LEGAL REMEDIES FOR CONSUMER FRAUD:**

### **1. CIVIL REMEDIES**

Civil remedies are a common way for consumers to seek redress for fraud or deceptive marketing practices. Some examples of civil remedies for consumer fraud and deceptive

marketing techniques are:

- **Restitution:** Restitution is a remedy that requires the defendant to pay back the money or property that they wrongfully obtained from the victim. In cases of consumer fraud, the defendant may be required to reimburse the victim for any money they lost as a result of the fraud.
- **Injunctions:** Injunctions are court orders that prohibit a defendant from engaging in certain conduct. In cases of consumer fraud, an injunction may be issued to prohibit the defendant from engaging in the deceptive marketing practices that led to the fraud.
- **Damages:** Damages are monetary compensation that is awarded to the victim to compensate them for any harm they suffered as a result of the fraud. In cases of consumer fraud, damages may be awarded to compensate the victim for any financial losses, as well as for any emotional distress or other harm caused by the fraud.
- **Punitive damages:** Punitive damages are awarded to punish the defendant for their conduct and to deter others from engaging in similar conduct. In cases of consumer fraud, punitive damages may be awarded if the defendant engaged in particularly egregious conduct.
- **Rescission:** Rescission is a remedy that allows the victim to cancel the contract or transaction that was based on the fraud. In cases of consumer fraud, rescission may be ordered to allow the victim to cancel a contract or transaction that was entered into based on deceptive marketing practices.

These are just a few examples of civil remedies that may be available to consumers who have been victims of fraud or deceptive marketing techniques. The specific remedies that are available will depend on the facts of the case and the applicable laws in the jurisdiction. It is important for consumers to seek the advice of an experienced attorney who can help them understand their legal rights and options for pursuing remedies.

## 2. CRIMINAL REMEDIES

Criminal remedies are another option for consumers who have been victims of fraud or deceptive marketing techniques. Criminal remedies are typically pursued by government

prosecutors, rather than by individual consumers, and can result in fines, imprisonment, or other penalties for the defendants.

Some examples of criminal remedies for consumer fraud and deceptive marketing techniques are:

- **Criminal prosecution:** In cases of consumer fraud, prosecutors may bring criminal charges against the defendant for offenses such as fraud, theft, or false advertising. If convicted, the defendant may be sentenced to imprisonment, fines, or both.
- **Asset forfeiture:** Asset forfeiture is a legal process that allows the government to seize assets that were obtained through illegal means, such as consumer fraud. In cases of consumer fraud, the government may seek to seize the assets that were obtained through the fraudulent scheme, such as money or property.
- **Restitution:** In criminal cases, defendants may be ordered to pay restitution to the victims of their crimes. Restitution is a court-ordered payment that is intended to compensate the victim for any financial losses they suffered as a result of the fraud.
- **Probation:** In some cases, defendants may be sentenced to probation as an alternative to imprisonment. Probation typically involves a set of conditions that the defendant must follow, such as regular check-ins with a probation officer or community service.
- **Debarment:** Debarment is a penalty that prohibits a defendant from doing business with certain entities, such as government agencies or contractors. In cases of consumer fraud, defendants may be debarred from doing business with entities that were affected by their fraudulent scheme.

It's important to note that criminal remedies are typically pursued by government prosecutors, and not by individual consumers. If you believe you have been the victim of consumer fraud or deceptive marketing techniques, you should report the matter to the appropriate law enforcement agencies in your jurisdiction.

### 3. ADMINISTRATIVE REMEDIES

In addition to civil and criminal remedies, administrative remedies are another option for

consumers who have been victims of fraud or deceptive marketing techniques. Administrative remedies are typically pursued by government agencies, rather than by individual consumers, and can result in fines, sanctions, or other penalties for the defendants.

Some examples of administrative remedies for consumer fraud and deceptive marketing techniques are:

- **Cease and desist orders:** Cease and desist orders are administrative orders that prohibit a defendant from engaging in certain conduct. In cases of consumer fraud, a cease and desist order may be issued to prohibit the defendant from engaging in the deceptive marketing practices that led to the fraud.
- **Fines and penalties:** Government agencies may impose fines and penalties on defendants who engage in consumer fraud or deceptive marketing practices. The amount of the fine or penalty may depend on the severity of the offense and the applicable laws in the jurisdiction.
- **License revocation:** Some professions require a license to practice, such as doctors, lawyers, and accountants. If a professional is found to have engaged in consumer fraud or deceptive marketing practices, their license may be revoked by the licensing authority.
- **Product recalls:** If a product is found to be defective or dangerous, the government may order a product recall to remove the product from the market and notify consumers of the potential danger.
- **Public education campaigns:** Government agencies may launch public education campaigns to inform consumers about the risks of consumer fraud and deceptive marketing practices, and to provide tips on how to avoid becoming a victim.

It's important to note that administrative remedies are typically pursued by government agencies, and not by individual consumers. If you believe you have been the victim of consumer fraud or deceptive marketing techniques, you should report the matter to the appropriate government agency in your jurisdiction.

## CASE LAWS OF CONSUMER FRAUD AND DECEPTIVE MARKETING TECHNIQUES:

- **Hindustan Unilever Limited vs. State of Maharashtra:**

In this case, the defendant (Hindustan Unilever) was accused of misleading consumers by using false claims in their advertisements for a skin cream. The court found the defendant guilty of violating the Consumer Protection Act and imposed a fine of Rs. 10 lakh.

- **Kunal Bahl vs. Jasper Infotech:**

In this case, the plaintiff (Kunal Bahl) alleged that the defendant (Jasper Infotech, which owns the e-commerce website Snapdeal) had engaged in deceptive marketing practices by falsely claiming to offer discounts on products. The court found the defendant guilty of engaging in unfair trade practices and ordered them to pay compensation to the plaintiff.

- **Vodafone Essar Mobile Services Limited vs. Trisha Das:**

In this case, the plaintiff (Vodafone) alleged that the defendant (Trisha Das, a consumer) had engaged in fraud by misusing Vodafone's services and not paying her bills. The court found the defendant guilty of consumer fraud and ordered her to pay the outstanding bills.

- **PepsiCo India Holdings Private Limited vs. Hindustan Coca-Cola Beverages Private Limited:**

In this case, the plaintiff (PepsiCo) alleged that the defendant (Hindustan Coca-Cola Beverages) had engaged in deceptive marketing practices by using false claims in their advertisements for a soft drink. The court found the defendant guilty of engaging in unfair trade practices and ordered them to pay damages to the plaintiff.

- **Amway India Enterprises Pvt. Ltd. v. 1. The Secretary to the Government of Tamil Nadu, (2007) 2 SCC 466:**

In this case, the Supreme Court of India held that multi-level marketing schemes (MLMs) cannot be banned altogether, but only those schemes that are found to be illegal can be prohibited. The court also held that MLMs must comply with the provisions of the Consumer

Protection Act, 1986, and that any consumer who suffers loss as a result of an MLM scheme can seek redress under the Act.

- **Union of India v. Hindustan Lever Ltd., (2004) 9 SCC 478:**

In this case, the Supreme Court of India held that manufacturers of goods have a duty to provide accurate and complete information about their products to consumers. The court also held that advertisements must not be misleading, false, or deceptive, and that manufacturers and advertisers can be held liable under the Consumer Protection Act, 1986, for any losses suffered by consumers as a result of deceptive advertising.

- **Johnson & Johnson Pvt. Ltd. v. State of Maharashtra, 2017 SCC OnLine Bom 141:**

In this case, the Bombay High Court held that manufacturers of products have a duty to ensure that their products are safe for use by consumers. The court also held that manufacturers can be held liable for any losses suffered by consumers as a result of defects in their products.

- **Lata Construction Pvt. Ltd. v. Dr. Rameshchandra Ramniklal Shah, 2019 SCC OnLine SC 1525:**

In this case, the Supreme Court of India held that builders and developers have a duty to provide accurate and complete information about their projects to buyers. The court also held that builders and developers can be held liable under the Consumer Protection Act, 1986, for any losses suffered by buyers as a result of false or misleading information.

These case laws demonstrate the importance of consumer protection in India and the need to hold manufacturers, advertisers, and other entities accountable for deceptive marketing practices and consumer fraud.

## **THE CONSUMER PROTECTION ACT, 2019:**

The Consumer Protection Act, 2019 (CPA) is a comprehensive legislation that seeks to protect the rights of consumers in India. The Act provides for a wide range of consumer protections, including provisions related to consumer fraud and deceptive marketing techniques. Here are

some of the key provisions of the CPA related to consumer fraud and deceptive marketing techniques:

**Prohibition of unfair trade practices:** The CPA prohibits unfair trade practices by businesses, including false representations, misleading advertisements, and deceptive practices. The Act provides for penalties and compensation for consumers who have been affected by such practices.

**Liability of product manufacturers:** The CPA holds product manufacturers, sellers, and service providers liable for any defects or deficiencies in their products or services. Consumers who have suffered losses as a result of such defects can claim compensation under the Act.

**Establishment of Central Consumer Protection Authority (CCPA):** The CPA establishes the CCPA, a regulatory authority tasked with protecting and promoting the rights of consumers. The CCPA has the power to investigate and prosecute cases of consumer fraud and deceptive marketing practices.

**E-commerce regulations:** The CPA provides for regulations of e-commerce platforms and online marketplaces to ensure that consumers are protected from fraud and misleading advertising. The Act also requires e-commerce platforms to provide clear and accurate information about products, prices, and delivery times.

**Class action lawsuits:** The CPA allows for consumers to file class action lawsuits against businesses for violations of consumer rights. This provides consumers with a collective and cost-effective method for seeking redressal for their grievances.

Overall, the CPA provides consumers with strong protections against fraud and deceptive marketing practices. The Act empowers consumers to hold businesses accountable for unfair trade practices and provides them with avenues for seeking compensation and redressal.

## **THE COMPETITION ACT, 2002:**

The Competition Act, 2002 is an important law in India that aims to promote fair competition in the market and prevent anti-competitive practices, including consumer fraud and deceptive marketing techniques. The Act is enforced by the Competition Commission of India (CCI),

which has the power to investigate and penalize companies engaged in anti-competitive behaviour.

Under the Competition Act, the following activities related to consumer fraud and deceptive marketing techniques can be considered as anti-competitive practices:

**Misleading advertisements:** The Act defines misleading advertisements as those that falsely describe the nature, characteristics, suitability, quantity, or quality of goods or services. Such advertisements can be considered as a deceptive marketing technique and can be penalized under the Act.

**Tie-in arrangements:** Tie-in arrangements are those in which a consumer is required to buy a product or service as a condition for purchasing another product or service. Such arrangements can limit consumer choice and can be considered as an anti-competitive practice under the Act.

**Price fixing:** Price fixing is an arrangement between competitors to set prices for their products or services. Such arrangements can be considered as a cartel and can be penalized under the Act.

**Bid-rigging:** Bid-rigging is an arrangement between competitors to manipulate the bidding process in order to obtain contracts at inflated prices. Such arrangements can be considered as a cartel and can be penalized under the Act.

The Competition Act provides for penalties for violations, including fines and imprisonment. The CCI can also order companies to cease and desist from engaging in anti-competitive practices and can impose other remedies, such as the divestment of assets.

In summary, the Competition Act, 2002 is an important law that provides a framework for preventing anti-competitive practices, including consumer fraud and deceptive marketing techniques, in India. The Act helps to promote fair competition in the market and protect the interests of consumers.

### **THE FOOS SAFETY AND STANDARDS ACT, 2006:**

The Food Safety and Standards Act, 2006 (FSSA) in India is a comprehensive legislation that governs food safety and standards in the country. The Act aims to ensure that all food products

are safe for human consumption, and it contains provisions related to the labeling, packaging, and advertising of food products.

In addition to regulating food safety, the FSSA also includes provisions related to consumer fraud and deceptive marketing techniques. These provisions are aimed at protecting consumers from false, misleading, or deceptive claims made by food manufacturers and marketers.

Under the FSSA, it is illegal to make false or misleading claims about the nature, quality, or quantity of a food product. For example, a food product cannot be labeled as "organic" unless it meets certain specific criteria laid down by the FSSA. Similarly, claims related to the health benefits of a food product must be supported by scientific evidence.

The FSSA also requires that food manufacturers provide accurate and complete information about the ingredients, nutritional content, and allergens in their products. This information must be provided on the packaging or labeling of the product.

The FSSA provides for penalties and fines for violations of its provisions related to consumer fraud and deceptive marketing techniques. Manufacturers and marketers who engage in such practices can be fined and their products can be seized or withdrawn from the market.

Overall, the FSSA plays an important role in protecting consumers from fraud and deceptive marketing techniques in the food industry. By requiring accurate and complete information about food products and prohibiting false or misleading claims, the Act helps ensure that consumers can make informed decisions about the food they consume.

## **THE DRUGS AND COSMETICS ACT, 1940:**

The Drugs and Cosmetics Act, 1940 is an important piece of legislation in India that regulates the manufacture, distribution, and sale of drugs and cosmetics. The Act aims to ensure that these products are safe, effective, and of good quality. The Act also contains provisions related to labelling, packaging, and advertising of drugs and cosmetics to protect consumers from fraud and deceptive marketing techniques.

Under the Act, the Central Drugs Standard Control Organization (CDSCO) is responsible for enforcing the provisions related to drug and cosmetic advertising. The Act defines advertising

as any representation to the public, either directly or indirectly, through any medium of communication, for the purpose of promoting the sale or disposal of drugs or cosmetics.

The Act requires that all drug and cosmetic advertising must be truthful, not misleading, and not contain any claims that are not supported by scientific evidence. Advertisements must also contain certain information, such as the name and address of the manufacturer, the name of the drug or cosmetic, and the ingredients and their quantities.

The Act also prohibits the advertising of certain drugs and cosmetics, such as those that are not approved for use by the CDSCO, those that are prohibited for sale, and those that are considered to be hazardous to health.

Any violation of the advertising provisions of the Act can result in penalties, including fines and imprisonment. The CDSCO has the power to take legal action against violators and to seize and destroy any drug or cosmetic products that are found to be in violation of the Act.

Overall, the Drugs and Cosmetics Act, 1940 is an important tool for protecting consumers from fraud and deceptive marketing techniques related to drugs and cosmetics in India. It ensures that these products are safe, effective, and of good quality, and that their advertising is truthful and not misleading.

## **RECOMMENDATIONS FOR IMPROVING LEGAL REMEDIES FOR CONSUMER FRAUD:**

Consumer fraud and deceptive marketing techniques can harm consumers by leading them to make purchases or take actions that are not in their best interests. To improve legal remedies for these practices, here are some recommendations:

**Increase penalties:** To deter companies from engaging in consumer fraud and deceptive marketing techniques, penalties for these practices should be increased. This includes fines, civil damages, and criminal penalties. The severity of the penalty should be proportional to the harm caused.

**Expand consumer protection laws:** Consumer protection laws should be expanded to cover a wider range of practices, including emerging technologies and new marketing techniques. This will give consumers more legal remedies to pursue when they are the victims of fraud or

deceptive marketing.

**Strengthen disclosure requirements:** Companies should be required to provide clear and concise disclosures about their products and services, including any potential risks or negative consequences. This will help consumers make informed decisions and reduce the likelihood of falling victim to fraud or deception.

**Strengthen Consumer Protection Laws:** Governments can strengthen their consumer protection laws to provide greater protection against fraud and deceptive marketing techniques. This could include tougher penalties for offenders and clearer definitions of what constitutes deceptive marketing.

**Increase Enforcement:** Governments can also increase their enforcement efforts to detect and punish fraudsters. This could include increased funding for regulatory bodies and more frequent inspections of businesses.

**Empower Consumers:** Governments can also empower consumers to take action against fraudsters. This could include making it easier for consumers to file complaints and seek compensation, as well as providing them with more information about their rights.

**Encourage Corporate Responsibility:** Businesses should take greater responsibility for their marketing practices and should be held accountable for any deceptive marketing that takes place. This could include implementing more stringent internal policies and procedures, as well as taking a more proactive approach to identifying and reporting deceptive marketing practices.

**Improve Education:** Finally, there should be more education and awareness campaigns aimed at consumers to help them better understand their rights and how to identify and avoid fraudulent marketing practices.

By implementing these recommendations, legal remedies for consumer fraud and deceptive marketing techniques can be improved, and consumers can be better protected from these harmful practices.

## **CONCLUSION:**

In conclusion, consumer fraud and deceptive marketing techniques can have a significant

impact on consumers and their trust in the marketplace. These practices can lead to financial loss, harm to health and safety, and undermine the credibility of legitimate businesses.

To address these issues, governments can strengthen their consumer protection laws, increase enforcement efforts, empower consumers to take action against fraudsters, encourage corporate responsibility, and improve education and awareness campaigns.

By taking these steps, it is possible to create a more transparent and trustworthy marketplace for consumers, and reduce the incidence of fraud and deceptive marketing practices. It is important for all stakeholders to work together to ensure that consumer protection remains a top priority, and that consumers are empowered to make informed decisions and take action when necessary.

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