

REGULATION OF ONLINE ADVERTISEMENT IN INDIA

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ABSTRACT

The emergence of internet popularity in the early 2000s marked the beginning of the evolution of online advertising in India. At first, this young business was governed by very few restrictions. But as internet advertising grew more complex and widespread, regulators realized they needed to put in place a framework of laws to deal with new issues. To guarantee honest, open, and ethical advertising activities, a number of laws and regulations govern online advertising in India. The main goals of these regulations are to safeguard the interests of consumers, stop deceptive or fraudulent advertising, and encourage fair competition in the digital advertising market. The Consumer Protection Act, 2019 is one of the main laws that control online ads in India. The Central Consumer Protection Authority (CCPA) was created in accordance with this Act to control unfair trade practices, such as deceptive or fraudulent marketing. The CCPA has the authority to prosecute deceptive online advertisements and penalize their violators. One important self-regulatory body that controls internet advertising is the Advertising Standards Council of India (ASCI). The "Code for Self-Regulation in Advertising" is a collection of rules established by ASCI that regulates commercials on a variety of media channels, including internet platforms. It is expected of advertisers to adhere to ASCI's principles in order to guarantee ethical and responsible advertising practices. Furthermore, some parts of online advertisements are regulated by the Information Technology Act, 2000 and its later revisions. Furthermore, the Advertising Standards Council of India (ASCI) is essential to the advertising industry's self-regulation. Advertisers can follow the requirements in ASCI's Code of Advertising Standards and Practices to make sure their work is socially conscious, truthful, and honest. Specific criteria for digital advertising, such as influencer marketing, native advertising, and social media advertising, are provided by the Internet and Mobile Association of India (IAMAI) and ASCI in the form of the Digital Advertising Practices criteria.

For example, the act prohibits the distribution of objectionable or dangerous content on digital platforms. The Act also includes rules addressing data privacy, cyber fraud, and security issues pertaining to online ads.

KEYWORDS

Consumer Protection Act, digital media ethics, Information Technology Rules, India regulations, online advertising 2019

INTRODUCTION

Online advertising has grown in importance and influence as a means for businesses to connect with their target market in recent years. The regulation of internet advertisements has become essential as India's digital ecosystem develops in order to safeguard consumer interests, promote fair competition, and uphold ethical advertising practices. In India, there are a number of laws, rules, and self-regulatory guidelines pertaining to online advertising that are designed to safeguard consumers, prevent deceptive or false advertising, and guarantee transparency. Government agencies and self-regulatory organizations are the main entities enforcing these rules in order to establish an equitable and responsible advertising environment. The swift expansion of the internet and digital technology has revolutionized the Indian advertising scene. Due to the intense competition in the digital realm, online advertising has become essential to marketing strategies as companies look to expand their reach and increase their visibility. But as internet advertising develops further, regulation is becoming more and more necessary to address concerns about openness, consumer protection, and fair competition. There are a number of laws, rules, and self-regulatory norms that impact the regulation of online ads in India. These guidelines are meant to guarantee that internet ads are honest, open, and compliant with moral principles. Protecting consumer interests, stopping deceptive or fraudulent advertising, and preserving fair competition amongst companies are the key goals. The Consumer Protection Act of 2019 is one of the main laws that governs online advertisements in the Indian context. The Central Consumer Protection Authority (CCPA) is established by this Act, which possesses the authority to control unfair business activities, such as deceptive or fraudulent advertising.

To discourage dishonest advertising tactics, the CCPA has the authority to prosecute offenders and issue fines. Furthermore, controlling some parts of online advertising is made possible by the Information Technology Act, 2000 and its revisions.

This Act includes provisions to deal with data privacy, cyber fraud, and security issues pertaining to digital platforms. It also gives the government the authority to take legal action against objectionable or dangerous content that is spread via internet adverts.

Furthermore, the Advertising Standards Council of India (ASCI) is essential to the regulation of internet ads.

ASCI is a self-regulatory organization made up of stakeholders, consumer advocacy organizations, and members of the advertising business. It has developed the "Code for Self-Regulation in Advertising" to help marketers produce morally and responsibly worded ads. It is anticipated that advertisers would adhere to ASCI principles in order to guarantee honest and open advertising practices.

The historical development of online advertising in India is characterized by rapid expansion and a lack of comprehensive restrictions. A laissez-faire attitude prevailed in the early years, allowing the business to grow naturally. But when the digital world developed and internet advertising spread like wildfire, legislators struggled to establish a strong legal framework.

An early attempt to control internet platforms, especially those hosting adverts, was made with the Information Technology (Intermediaries Guidelines) Rules of 2011. However, given the rapid advancement of technology and the variety of problems it brought with it, a significant revision to the regulatory framework was necessary. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules were introduced by the Ministry of Information and Broadcasting in 2021 as a response, highlighting a determined attempt to modernize regulations and address the growing concerns around online marketing. Online ads have become much more common in India's rapidly developing digital environment, where the internet is a means of contact, trade, and information. That being said, there have been difficulties with this paradigm shift. Concerns regarding user privacy, transparency, and the necessity of regulatory control have gained prominence as the internet advertising ecosystem develops. The Indian government has started a regulatory journey to effectively regulate internet marketing after realizing the need to strike a balance between promoting digital innovation and defending public interests.

Analyzing views on internet advertising laws from throughout the world offers insightful information. One notable example of a standard for protecting user privacy in the digital sphere is the General Data Protection Regulation (GDPR) of the European Union. India may take a cue from the GDPR and create laws that put user consent and data protection first, all the while supporting a thriving online advertising sector. The way the internet advertising ecosystem develops is determined by the dynamic interactions among industry reactions, regulatory frameworks, and international benchmarks. It's still very difficult to strike the correct balance between accountability and freedom of speech. India's regulatory journey not only reflects domestic concerns, but it also provides a case study for the global conversation on creating sustainable and responsible internet advertising environments.

The regulatory system had its share of difficulties and conflicts, despite trying to address issues with online advertising. The possible influence on freedom of expression was one of the main objections raised by the detractors. Some contended that the regulations gave the government undue authority to monitor and manage internet content, possibly limiting different viewpoints and dissent.

The regulations also drew criticism for placing a heavy compliance cost on startups and smaller platforms, which may stifle competition and innovation. The necessity for message traceability was especially divisive because of worries expressed about how it would affect user privacy and how platforms would be able to comply with such demands without jeopardizing encryption. The Indian online advertising market saw a time of adjustment to the new rules. A lot of platforms made investments to improve their regulatory adherence oversight procedures by designating officers. In order to ensure that their material complied with the requirements, advertisers also had to match their plans with the rules.

Smaller participants had trouble adhering to the strict regulations, while some bigger platforms were able to cover the associated expenditures. This sparked conversations on the necessity for a reasonable regulatory framework that takes into account the variety of platforms and their capacities within the business. India is not alone in enacting or proposing regulations governing internet advertisements as a means of addressing the issues raised by the digital age. Analyzing views on internet advertising laws from throughout the world offers important insights into good practices and possible dangers.

One example of a benchmark for safeguarding user privacy in the digital sphere is the General Data Protection Regulation (GDPR) of the European Union. India should learn from the GDPR and create laws that put user consent and data first.

TYPES OF ADVERTISING The world is better informed about a company's goods and services thanks to advertising. In turn, this will draw clients and facilitate the generation of income through sales. The marketer must select the specific form of advertisement that will most quickly and effectively reach the target demographic from the variety of options available. The many advertising strategies that an advertiser could employ to make his product or service noticed in the market are listed in the following list.

1) NEWSPAPER

Newspaper advertising facilitates the dissemination of information about a product or service to a broad audience. These days, if one looks through a newspaper, even the first page is totally taken up with advertisements. Newspaper ads are seen on practically every page; the classified listings, which are located beneath the classifieds section, are the only exception.

Today's newspapers are heavily commercial, with ads appearing even on the major news sections. These days, the commercials have more value than the news because they are commercials.

2) MAGAZINE

The target demographic for magazine advertisements is young people. Products are retained by consumers for extended periods of time, which increases their value and exposes them to the advertised goods and services. Advertisers in magazines, as a group or industry, can target audiences based on their interests, such as women's audiences or trade audiences, etc.

3) TELEVISION

Wide-ranging consumer outreach is facilitated by television as well. The benefit of television ads is that they are simultaneously heard and seen.

If a certain good or service needs to be demonstrated, television advertisements will be the most effective kind of advertising. Television advertising is a very expensive business because the cost

of creating an advertisement depends on a number of factors, including: the time slot in which it should air; the show that is airing at that moment on television; whether the advertisement should only be on a regional channel or on any global channel; and whether it needs to air on multiple television channels.

4) DIRECT MAIL AND CATALOGUES

Direct mail advertising involves advertisers writing to their intended audience directly. Direct mail is one of the greatest techniques to advertise things if the target area is very tiny. Rather than advertising to a broad audience, direct mail advertisements offer a more individualized approach to the intended audience and aid in their selection. One way to advertise a product or service through direct mail is to send the newsletter to an email database, from which emails will be distributed to the appropriate recipients. In addition to newspapers, catalogs and pamphlets can also be used as a means of advertising by being given to the intended audience.

5) ONLINE

In India, online advertising is still in its infancy. At the moment, the finance sector accounts for 40% of the advertising industry in India, dominating the market. A handful of the leading internet advertisers are HDFC, Citi Bank, and SIBI. Procter and Gamble and Hindustan Lever are two FMCG businesses that have begun to promote online. In India, advertising takes many different forms and is not just restricted to product and service sales. Newspapers, magazines, newsletters, direct mail, online forums, posters, chat rooms, slogans, websites, yellow pages, telemarketing, radio, public service announcements, outdoor advertising, and more are some of the different media used for advertising in India. In India, online advertising is becoming more and more popular as the newest kind of advertising. One instrument that uses the Internet is online advertising. An important factor in the growth of enterprises is advertising. Businesses use the internet as their primary advertising platform because it can reach a vast number of people more quickly and efficiently. Through advertising, companies establish their brand. Online advertisements are not specifically regulated by law in India. Online advertising presents customers with the following problems: deceptive advertising, misleading costs, and a disregard for norms. labeling problems.

STATEMENT OF PROBLEM

The purpose of advertisements is to improve consumer reactions to a company's goods and services, hence increasing revenue. In essence, advertisements assist consumers in making well-informed purchasing decisions. The ethical issue in the advertising industry is misleading advertising, which results in deceptive advertising that affects competitors and consumers. Consumer rights like the right to knowledge, the freedom to choose, the right to be shielded from dangerous products and services, and the right to be free from unfair commercial practices are all violated by deceptive advertising. Consumers are still victims of such faulty or misleading advertisements even though there are many laws and regulatory bodies in place to prevent them and to protect their interests. This is because the laws are not well enforced and have gaps or inadequacies in them. This results in the organization of laws to govern and manage internet advertisements. Vice versa, when a product or service is purchased by a consumer, the issues such as size and design differ from those that were advertised at the time of purchase, no one is advertising to the consumer, and there are no standards or guidelines regarding what constitutes acceptable of advertising, since it occasionally compromises people's morality and decency, interferes with other participants' commercial interests, and results in deceptive commercials.

In view of the aforementioned comments, it is claimed that the individuals involved as well as the commercial and non-commercial interests of the advertising agencies in the online media are being harmed by the relevant entities' inconsistent approaches to the advertising issue.

RESEARCH QUESTIONS

1. Is the domain of online advertising impacting people and their social values sufficiently secured and protected?
2. Has India implemented the required legislative steps to guarantee the authenticity, safety, and security of the internet advertising market?

RESEARCH METHODOLOGY

Doctrinal research is the research methodology that was used for the study.

In order to address a specific legal question and the necessity of complete legislation to control internet marketing, doctrinal research is employed in this work. Legislation and reports have been cited as primary resources, and the research will be library-focused. Books, academic papers, journals, websites, and other computer resources have all been used as secondary sources.

SIGNIFICANCE OF STUDY

The study aims to increase the body of knowledge in the area of online advertisement regulation. The study would also be somewhat helpful because it is well known that India has less regulation pertaining to this topic, which means that there are fewer remedies available for competition-related difficulties. The government creates norms and regulations, yet this does little to assist the victims. This study would contribute to the development of a comprehensive online advertisement regulation strategy in such a scenario. Academicians, students, and the government would all benefit from the study when it comes to regulating online advertisements.

CONCLUSION

As a marketing tool, advertisements reach a large audience and function similarly to a consumer's mobile informational vehicle. The main advantage of advertisements is that they can help with time and money savings, as well as with learning about the potential benefits of any product before it is released onto the market. Any advertisement's main goal is to further the financial interests of its sponsors; as such, regulations should be in place to safeguard the public interest. In the nation, the right to freedom of trade and commerce has been recognized as fundamental. Since advertising are a type of speech, care should be made to ensure that they do not restrict any fundamental rights authorized under the Indian Constitution.

However, advertisers should not abuse this fundamental liberty by creating deceptive and fraudulent commercials that would turn off the general population. When an advertisement's only seed is deceit, it needs to be controlled and, if necessary, removed immediately because it doesn't include any accurate information. Similar to this, corrective advertising can be altered to the

amount necessary to make them honest and truthful, but doing so shouldn't compromise the protections provided by the constitution.

Due to their inherent vulnerability, Indian customers frequently fall for deceptive and inaccurate marketing. The principal defense used by advertisers or merchants in such a case to counter such deceptive or fraudulent advertisements is the argument of absence of mens rea. Customers' entitlement to compensation should not be restricted by this appeal from advertisers. In India, an expression clause provides for the publication of a correction advertisement in response to an advertisement that is incorrect or misleading. In actuality, this clause has provided some security to the legislation that aims to prevent deceptive and false advertising. The Consumer Protection Act should include a comparable clause as well. They should also be given additional provisions such as a temporary injunction and a cease and desist order so that they have a reliable legal framework and process to deal with deceptive or fraudulent advertisements.

Therefore, it may be concluded that the area of online advertising that affects consumers and their social values lacks proper security and protection. Although India has implemented some statutory regulations pertaining to advertising, these are limited to specific categories of goods and services. There isn't any national legislation that would stop deceptive and false advertising across all industries.

The majority of goods and services are exempt from the advertising rules. Internet advertising is still a subject of investigation and study, necessitating strict legal regulations. There is currently no legislation pertaining to online advertising. Online advertising is only partially governed by the Advertising Standards Council of India (ASCI) Code of Self-Regulation. Beyond that, the market is too big for a marketer to create deceptive and fraudulent content.

India has not enacted any laws to guarantee the authenticity, safety, or security of the online advertising industry. Every advertising-related law covered in this study demonstrates that none of them addresses internet advertising.

Together with self-regulatory standards, there is enough regulation in nations like the United States and the United Kingdom to address online advertisements. In India, laws pertaining to advertisements are focused on the specific industry or field for which they were created.

Despite providing consumers with remedies in all media, the Consumer Protection Act of 1986 is really quiet on internet ads. The Act only addresses provisions pertaining to bargain advertisements and unfair trade practices. The Act still lacks regulation of online advertising. There is less litigation in the Consumer Court for matters pertaining to advertisements as well as all other goods and services when cases are delayed in being listed in court and during the case's processes. appropriate care in creating their ads and making sure they are accurate, sincere, polite, and equitable. Negative effects of deceptive advertising are inevitable and can include bad press, a damaged company brand, customer boycotts, the need to pay compensatory damages and punitive damages, as well as various legal repercussions. On the other hand, a sincere marketing can boost repeat business by enhancing the company's reputation. It would also educate Indian consumers about their rights and the protections afforded by various laws if they were aware of the numerous legal rules controlling advertisements. The Consumer Protection Act 1986 is going to be amended and will be in action soon. The amended Act contains new provisions relating to establishment of a Consumer Protection Authority to investigate consumer protection issues, issue safety notices for goods and services, and pass orders for recall of good and against misleading advertisements

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