

# Advertising Regulations in India

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**Abstract:** *This paper explores various advertising regulatory mechanisms related to protect the interests of consumers. In spite of regulations misleading advertisements are witnessing in the market. Government should create awareness among the citizens to protect against such advertisements.*

**Keywords:** Advertising regulations, Misleading advertisements, Consumer protection act, MRTP act, FBAI

## Advertising regulations in India

Misleading advertisements use false statements and misrepresentation about their products and violates the customer's right to know the products they are purchasing. Companies hide or fudge prices of products or services advertised to attract a huge customer base. The advertised prices often do not disclose additional charges and overall cost to the customer. Sometimes companies adopt different standards bypassing the established standards related to the products. This can be seen in the advertisements where the product advertised is compared against products of other leading competitors. Labeling issues are concerned with the issues like misrepresenting the actual weight, and using the words like eco friendly, natural etc., on packaging without explaining the terms. Surrogate

advertisements are related products which come under advertising restrictions. Companies advertise new products in other permitted categories with the same brand name for creating brand awareness and loyalty.

Misleading advertisements of Baba Ramdev's Patanjali products had discussed in an article published in Economic Times News Paper. Baba Ramdev's Patanjali company was fined Rs. 11 Lakh for stating false and misleading claims in its various advertisements by ASCI, as per the article published in NDTV website.

Legal framework and advertising regulations to protect the interests of consumers related to advertising in India are given below.

**Consumer protection act, 1986:** Consumers has rights to be informed about the quality, quantity, purity, standard and price of goods or services, as the case may be to protect the consumers against unfair trade practices through the section 6 of the act. Section 2(r) of the act covers false advertisements including misrepresentations or false allurements under the definition of the term unfair trade practice.

**Cigarettes and other Tobacco Products (Prohibition of Advertisements and Regulation of Trade and Commerce, Production, Supply and Distribution)**

**Act, 2003:** Section 5 of this act prohibits both direct and indirect advertisement of tobacco products in all forms of audio, visual and print media.

**Cable Television Networks (Regulations) Act, 1995 and Cable Television Networks (Amendment) Rules, 2006:** Section 6 of the Cable Television Network (Regulations) Act, 1995 provides that no person shall transmit or re-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. But the provision has exception for the foreign channels programmes which can be received without the use of any specialized gadgets or decoder. Rule 7 of the Cable Television Networks (Amendment) Rules, 2006 lays down the advertising code for cable services which are formulated to conform to the laws of the country and to ensure that advertisements do not offend morality, decency and religious susceptibilities of the subscribers.

**Code for Commercial Advertising over All India Radio:** No advertising for a product or service shall be accepted if it suggests in any way that unless the children themselves buy or encourage other people to buy the products or services, they will be failing in their duty or lacking in loyalty to any person or organisation. No advertisement shall be accepted which leads children to believe that if they do not own or use the product advertised they will be inferior in some way to other children or that they are liable to be condemned or ridiculed for not owning or using it.

**Code for Commercial Advertising on**

**Doordarshan:** No advertisement for a product or service shall be accepted if it suggests in any way that unless the children themselves buy or encourage other people to buy the products or services, they will be failing in their duty or lacking in loyalty to any person or organization. No advertisement shall be accepted which leads children to believe that if they do not own or use the product advertised they will be inferior in some way to other children or that they are liable to be condemned or ridiculed for not owning or using it. Any advertisement which endangers the safety of the children or creates in them any interest in unhealthy practices, shall not be accepted, e.g. playing in the middle of the road, leaning dangerously out of a window, playing with match boxes and other goods which can cause accidents. Children shall not be shown begging or in undignified or indecent manner.

**Code of Ethics for advertising in India issued by the Advertising Standard Council of India (ASCI):** Advertisement should not undermine the role of parental care and guidance in ensuring proper food choices are made by children.

**Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act):** MRTP Prevents unfair trade practices like

- a) Falsely suggests that the goods are of a particular standard quality, quantity, grade, composition, style or model.
- b) Falsely suggests that the services are of a particular standard, quantity or grade.

c) Falsely suggests any re-built, second-hand renovated, reconditioned or old goods as new goods.

d) Represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which they do not have.

e) Represents that the seller or the supplier has a sponsorship or approval or affiliation which he does not have.

f) Makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services.

g) Gives any warranty or guaranty of the performance, efficacy or length of life of the goods, that is not based on an adequate or proper test.

h) Makes to the public a representation in the form that purports to be i) a warranty or guarantee of the goods or services ii) a promise to replace, maintain or repair the goods until it has achieved a specific result, if such representation is materially misleading or there is no reasonable prospect that such warranty, guarantee or promise will be fulfilled.

i) Materially misleads about the prices at which such goods or services are available in the market.

j) Gives false or misleading facts disparaging the goods, services or trade of another person.

**The Food & Beverage Alliance of India (FBAI):** FBAI brings together food and beverages companies around a common goal of helping consumers in India to achieve active and safe lifestyles. FBAI brings together nine leading food and beverage

companies' that have signed the 'India Policy on Marketing Communications to Children, originally signed in 2010.

Through this commitment, FBAI members commit either to only advertise products to children under the age of 12 years that meet FBAI Common Nutrition Criteria or not to advertise their products at all to children under the age of 12 years. Member companies, as part of their global commitments, are already in the process of adopting voluntary specific policies that go beyond the FBAI policy. FBAI Common Nutrition Criteria will become effective from 31 December 2017.

### Discussion

As we are witnessing many misleading advertisements in the market, Government should create awareness among the citizens to protect against such advertisements. Easy complaining methods to report against such advertisements should be facilitated by the Government.

### References

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