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**FROM “UNFAIR TRADE PRACTICE” TO “MISLEADING
ADVERTISEMENT”: INDIA’S EVOLVING LEGAL RESPONSE AND
CONSUMER REALITIES**

Shakshi Kothari¹

ABSTRACT

Misleading advertising has emerged as a serious concern in India, with businesses often resorting to deceptive claims to promote products and services. This article examines the phenomenon of false and misleading advertisements from both legal and consumer perspectives. It first reviews the evolution of consumer protection laws in India – highlighting the limitations of the Consumer Protection Act 1986 and the advancements in the Consumer Protection Act 2019 and related regulations in addressing deceptive advertising. It then presents findings from an empirical survey of 200 consumers, which reveal widespread consumer distrust of advertisements, low awareness of regulatory remedies, and the significant influence of celebrity endorsements. The study identifies key challenges in combating misleading ads in the digital era and suggests practical measures to strengthen enforcement. The conclusion emphasizes that a combination of robust legal frameworks and informed, aware consumers is essential to curb deceptive advertising practices and protect consumer interests.

Keywords: Misleading advertising; Consumer Protection Act 2019; Deceptive marketing; Consumer awareness; Advertising regulation; India

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INTRODUCTION

Advertising is a powerful tool in today's marketplace, shaping consumer perceptions and driving purchasing decisions. Companies invest heavily in advertisements including endorsements by popular celebrities to position their products or services as superior or unique in the eyes of consumers. Advertisements in the current world are a powerful tool big business entrepreneurs use to promote the sale of their products and services. In this competitive drive to capture attention, some advertisements omit key facts or make exaggerated, false claims about a product's benefits. Such practices are termed false or misleading advertising, commonly also referred to as deceptive advertising. It also plays a pivotal role in shaping the consumers' perceptions and driving purchasing decisions. Also, in the digital era, these advertisements and online reviews play a prominent role in disseminating information to consumers, enhancing their right to choose. Also, the companies endorse their products using favorite celebrities to persuade consumers to purchase particular goods or avail of those services. Due to competitive pressure and to grab consumers' attention, these advertisements blatantly portray their products as special and unique to enhance the audience. Thus, there are scenarios where this advertising either omits key details or falsely portrays the product by deception. This condition is referred to as a false or misleading advertisement under the Consumer Protection Act of 2019². "Misleading advertisements in relation to any product or service means an advertisement which:

- (i) falsely describes such product or service; or
- (ii) gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity, or quality of such product or service; or
- (iii) conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or
- (iv) deliberately conceals important information."³

Thus, in simple words, these false advertisements involve disseminating misleading or deceptive information by outrightly exaggerating the product's features or benefits. For example, shampoo companies influence and persuade their consumers to buy their product, saying that it prevents hair fall or resolves dandruff issues with just one wash, and these advertisements are made by celebrities, which makes consumers believe that these products

²Consumer Protection Act 2019 (CPA 2019).

³Ibid S. 2(28).

are used by them as well. This raises serious concerns about consumer welfare and market integrity. Often, consumers, after buying such goods or availing of such services that are inaccurate, suffer financial loss, leading to disappointment. Also, with the advent of new technology and social media platforms, new avenues have emerged for deceptive advertising, making it more difficult for consumers to recognize the difference between accurate and misleading advertisements, thereby violating several rights of consumers, such as the “right to be informed,” the “right to be protected against unfair trade practices,” and the “right to choose⁴.”

To combat such activities and promote the consumer's interest, stringent laws and regulations have been enacted under the 2019 legislation, which repealed the outdated Consumer Protection Act of 1986.⁵ The new legislation provides a comprehensive framework for protecting the consumer's rights and combating the practices of false and misleading advertisements.⁶ Also, the legislature issued “guidelines for preventing misleading advertisements and endorsements for misleading advertisements in 2022.”⁷ This paper attempts to recognize the negative consequences of advertising in manipulating consumers, focusing on the sellers' mindset to manipulate the consumers. Thus, the first part of the paper focuses on the need for laws on false or misleading advertisements in India. The second part of the paper discusses the current laws prevailing in India to combat the practices of false or misleading advertisements with special reference to the 2019 legislation. The third part is an empirical study of 100 consumers done to understand the consumers' perspective and how such tactics largely impact them. This part mainly helps to understand the issues and challenges a consumer faces and how they can be rectified so that consumer welfare is paramount. The fourth part of the paper analyzes the challenges faced in combating false advertising, discussing the loopholes and inadequacies of the existing laws with the rise in e-commerce and digital advertising. The fifth and last part of the paper deals with the concluding remarks and the recommendations that can be made to strengthen the regulatory frameworks by enhancing awareness among consumers against such practices.

⁴ibid S. 2(9).

⁵Consumer Protection Act 1986 (CPA 1986).

⁶Nikesh Sharma & Vinod Sharma, ‘Misleading Advertisements and Their Impact on Consumers’ (2021), 7(4), JournalNX 109.

⁷Department of Consumer Affairs, *The Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements*(2022) (Guidelines on Misleading Advertisement).

**NEED FOR THE LAW ON FALSE OR MISLEADING ADVERTISEMENT: A
DRAWBACK OF CONSUMER PROTECTION ACT OF 1986**

To protect the interest of the consumers against these wrong practices of deception, it became necessary to enact comprehensive legislation focusing on their interests and rights. These concerns were addressed under the “Consumer Protection Act of 1986⁸”. Although the act did not expressly mention the term advertisement, the same was covered under the concept of “unfair trade practices.”⁹ These deceptive practices included making a false or misleading representation concerning the need for or usefulness of the product.¹⁰ For example, advertisements relating to face creams like Fair and Lovely persuaded consumers that by using them once, they could turn fairer than their actual face color. Such advertisements exaggerated the benefits of using these creams for better results. The other deception method mentioned under the Act was giving false or misleading facts disparaging another person's goods, services, or trade.¹¹ With the rising competition among sellers, they try to persuade consumers to purchase their products. Thus, they make advertisements that portray their products as the best and those of their competitors as non-competent. One of the best examples could be detergent advertisements where the sellers in their advertisement not only praise their product but compare it with their competitors and prove that their competitors' products are inappropriate for usage.

To combat such activities, the remedy was provided under the Act, which allowed an aggrieved consumer to approach the “Consumer Dispute Redressal Commissions” established at the “District,” “State,” and “National” levels. By the 2002 amendment, these Forums were given the right to order the “*issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement.*”¹² By such an order, these forums could reduce the number of advertisements that could mislead consumers. However, the 1986 Act was limited in scope and enforcement in addressing remedies against such misleading advertisements. *Firstly*, under the 1986 Act, “misleading advertisement” was not expressly mentioned, and the same was considered a part of “unfair trade practices.” This burdens consumers to identify and report action against those advertisements as the law was not specific about what constitutes

⁸Dr. S. Praveen Kumar & Dr. D. Gunaseelan, ‘Misleading Advertisements and Issues’ (2016), 7(2) IJM 475.

⁹CPA 1986, (n. 4), S. 2(1)(r).

¹⁰ibid, S. 2(1)(r)(vi).

¹¹ibid, 2(1)(r)(x).

¹²ibid, S.14(1)(hc).

“misleading advertisements.” *Secondly*, guidelines or regulations were absent, making it difficult for consumers, advertisers, and regulators to determine the boundaries of acceptable advertising practices, thus leaving a loophole for the advertisers to protect themselves from deterrence caused by such deceptive practices. *Thirdly*, the penalties provided under the Act were relatively less stringent and inadequate to prevent advertisers from committing the wrong of “false and misleading advertisements.” Thus, imposing hefty penalties, injunction orders, or criminal sanctions to create a sense of fear among advertisers could be a drastic step toward protecting the consumer's interests. *Fourthly*, the absence of any dedicated regulatory body, especially overseeing, monitoring, and penalizing such acts of misleading advertisement. Thus, this legislation was a significant step towards enforcing consumer rights and promoting fair competition in the market among businesses.

LEGAL FRAMEWORK AND REGULATORY MECHANISM ON FALSE AND MISLEADING ADVERTISEMENT VIZ A VIZ CONSUMER PROTECTION ACT, 2019

A comprehensive legal framework, including statutes, rules, regulations, and guidelines, has been adopted to regulate advertisements in India, mainly dealing with protecting consumers' interests. Some of the key laws and regulations relevant to the same include.

The Constitution of India¹³:

Simply put, advertising means disseminating information regarding any particular product to the general public, which may fall within the “freedom of speech and expression”.¹⁴ It is undoubtedly considered one of the forms of speech that big corporations employ to make the general public aware of the attributes of the product they are advertising. The Supreme Court has also held that, “commercial advertisement to be a part of freedom of speech and expression, which could be restricted within the limits of Article 19(2) of the Constitution.”¹⁵ Also, advertisers may claim the right to carry on their occupation, trade, or business under the Constitution.¹⁶ To carry out the same, they need to make the consumers aware via advertisements regarding their products, and thus, certain reasonable restrictions may be

¹³The Constitution of India (Constitution).

¹⁴ibid, Art. 19(1)(a).

¹⁵Tata Press Limited v. Mahanagar Telephone Nagar Limited, 1995 SCC (5) 139.

¹⁶Constitution (n. 12), Art. 19(1)(g).

imposed on them to regulate the public health and safety of consumers.¹⁷ Making these rights available to businesses and advertisers, certain restrictions can be imposed on them to ensure the interests of the consumers and the general public, whom misleading advertisements may deceive. Thus, various laws, rules, regulations, and guidelines must be incorporated to make the general public aware of these deceptive practices.

Advertising Standards Council of India (ASCI)¹⁸:

It was established in 1985 and focuses on self-regulation in advertising to ensure the protection of the interests of the consumers.¹⁹ It seeks to make sure that the adherence to the Code of Self-Regulation is adequate, which requires the representations and offers to be accurate, legal, fair, decent, and not harmful or dangerous to people.²⁰ The four fundamental principles of the Code are:

- (i) Ensure “truthfulness and honesty of representations and claims made by advertisements.”²¹ These rules require that all the descriptions, claims, and comparisons be objectively made, which can be substantiated as and when called upon. Also, there should be no distortion or misleading of facts by omission of important points in the advertisement, exaggeration of benefits of the product advertised, or ambiguity in the advertisements made to consumers. One of the best examples could be the exaggeration of the facts by companies selling health drinks emphasizing children's growth by consuming them (Tagline of Horlicks- Taller Stronger Sharper).
- (ii) Ensure the advertisements are “not offensive to generally accepted standards of public decency.”²² These may typically include advertisements not indecent and vulgar, especially depicting women.
- (iii) “Safeguard against indiscriminate use of advertising to promote products regarded as hazardous to society or individuals to a degree or of a type unacceptable to society at large.”²³ For example, advertisements that deal with tobacco or alcohol-

¹⁷ibid, Art. 19(6)

¹⁸The Advertising Standards Council of India, *The Code for Self-Regulation of Advertising Content in India* (Jan 2024) <<https://www.ascionline.in/the-asci-code-guidelines/>> assessed on 29th March 2024 (The ASCI Code).

¹⁹ibid, Introduction to ASCI.

²⁰ibid, Ch. I.

²¹ibid, Ch. I.

²²ibid, Ch II.

²³ibid, Ch. III.

based products should not feature children. Also, these ads should not broadcast children playing with matches or using sharp knives.

- (iv) “Ensure that advertisements observe fairness in competition so that the consumers are informed on choices in the marketplace” and that the cannons of generally accepted competitive behavior in business are both served.²⁴ To ensure fairness, the Council may impose obligations to not compare the product with their competitors in a manner that may attack or discredit their reputation in the market. Also, if comparisons are made, they should be accurate, based on facts, and could be easily substantiated.²⁵ This will ensure positive competition among competing companies and give consumers the right to choose the best options.

Cable Television Networks (Regulation) Act, 1995:

This legislation was enacted to regulate cable TV networks and avoid the practice of broadcasting TV programs as per their whims and fancies. However, for misleading advertisements, Section 6 of the Act mentions, “*No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code.*”²⁶ The Advertising Code is mentioned under Rule 7 of the 1994 Rules.²⁷ It lays down certain conditions or restrictions to be complied with before the advertisement shall be telecasted on these cable TVs. One sub-rule mentions that no advertisement shall be permissible if it promotes, directly or indirectly, the production, sale, or consumption of cigarettes, alcohol, wine, or other intoxicants.²⁸ This indirect way of advertising is referred to as “surrogate advertising,” which was one of the biggest challenges faced by the liquor or tobacco industries, where they indirectly promoted their brands by using other products in place of them. This is more discussed later. Also, it states that advertisements that violate the Advertising Code shall not be displayed on cable services.²⁹

²⁴ibid, Ch. IV.

²⁵ ibid, Ch. IV.

²⁶Cable Television Network (Regulation) Act, 1995, S. 6.

²⁷Cable Television Network Rules, 1994, Rule 7.

²⁸ibid, Rule 7(1) (viii).

²⁹ibid, Rule 7(9).

Consumer Protection Act, 1986³⁰ and Consumer Protection Act, 2019.³¹

“Misleading Advertisements” have been covered under “Unfair Trade Practices” under the 1986 legislation. Therefore, there was no specific mention of “advertisements” under the old law. Also, the old law did not focus on “e-commerce platforms,” and advertisements were telecasted on online platforms. To overcome the lacunae in the 1986 legislation and to meet the changing market scenario, especially the rise in online shopping, the 1986 Act was repealed, and the new law was enacted, referred to as the “Consumer Protection Act of 2019.” The new Act brought about necessary changes, which are as follows:

- (i) Defined the concept of “misleading advertisement.”^{32,}
- (ii) Establish a “Central Consumer Protection Authority (CCPA)” to regulate matters of “false and misleading advertisements.”

Under the 2019 legislation, the CCPA regulates such matters “to promote, protect, and enforce the rights of consumers as a class.”³³ The procedure adopted by this authority has been stated in the new law where an “Investigation Wing” headed by the Director-General would be directed to conduct an inquiry or investigation.³⁴ The outcome of the same would be submitted to the CCPA.³⁵ Reference by CCPA may also be made to the District Collector to conduct an inquiry or investigation within his jurisdiction and submit its report.³⁶ Also, to conduct an investigation after a preliminary inquiry, the Director-General or any other officer authorized by him may approve the search of premises documents, records, or articles and seize them.³⁷ After the report of investigation or inquiry report is submitted, if the CCPA finds that any advertisement is false or misleading, the CCPA is authorized to issue directions to the concerned “trader,” “manufacturer,” “endorser,” “advertiser,” or “publisher” either to discontinue the advertisement or make modifications in the same as per the instructions.³⁸ The establishment of such specific authority under the new consumer laws acts as a positive step towards ensuring the interests of the consumers, as this authority has to ensure that no false or misleading advertisement is made of any goods or services that contravenes the

³⁰CPA 1986 (n. 4).

³¹CPA, 2019 (n. 1).

³²ibid, S. 2(28).

³³ibid, S. 10.

³⁴ibid, S. 15(1).

³⁵ibid, S. 15(5).

³⁶ibid, S. 16.

³⁷ibid, S. 22.

³⁸ibid, S. 21.

provisions of the Act³⁹, and also, not any person should be involved in the publication of any false or misleading advertisement.⁴⁰

Also, it is often assumed that the general public is influenced by advertisements based on the celebrities who are part of them. Thus, companies often take influential people like actors (Amitabh Bachchan, Shahrukh Khan, Alia Bhatt), sportsmen (MS Dhoni, Sachin Tendulkar, Virat Kohli), etc., who, because of their fan following can attract consumers to purchase the product they endorse. Thus, to create a sense of responsibility, the 2019 legislation prohibits the endorser of false or misleading advertisements from endorsing any product or service for a period that may extend to one year.⁴¹ These guidelines and stringent rules for the endorser also create awareness among these celebrities, who verify the truthfulness and accuracy provided in the ads before choosing to be endorsers. Apart from the CCPA, the Consumer Forums receiving complaints are entrusted with the power to issue directions regarding the issue of correct advertisements to neutralize the effect of misleading advertisements at the cost of the party that provided that incorrect advertisement.⁴² They may also issue an order to cease such misleading advertisements.⁴³

Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022⁴⁴

CCPA has issued these guidelines in the exercise of the powers conferred under Section 18 of the Act to prevent false or misleading advertisements and endorsements.⁴⁵ These guidelines seek to ensure that unsubstantiated claims, exaggerated promises, misinformation, and false claims do not violate the various rights of consumers, such as the right to be informed, the right to choose, and the right to be safeguarded against unsafe products or services, which have been granted under Section 2(9) of the Act.⁴⁶ These guidelines apply to all advertisements, including print, television, and digital platforms.⁴⁷ Regulation 4 of these

³⁹ibid, S. 28(1)(c).

⁴⁰ibid, S. 28(1)(d).

⁴¹ibid, S. 21(3).

⁴²ibid, S. 39(1)(l).

⁴³ibid, S. 39(1)(n).

⁴⁴Guidelines on Misleading Advertisement (n. 6)

⁴⁵ibid, S. 18.

⁴⁶Sharad Vadehra, "Guidelines For Prevention Of Misleading Advertisements And Endorsements For Misleading Advertisements, 2022 – Part 1", <<https://www.mondaq.com/india/advertising-marketing-branding/1203982/guidelines-for-prevention-of-misleading-advertisements-and-endorsements-for-misleading-advertisements-2022--part-1>> accessed on 29th March 2024.

⁴⁷Guidelines on Misleading Advertisement (n. 6), Reg. 3.

guidelines states certain conditions that must be complied with to be non-misleading, like truthful and honest representations, accuracy, scientific validity, no exaggeration of facts, etc.⁴⁸

Generally, advertisers allure consumers by offering goods or services at a lower price to attract consumers. For example, advertisements of “*sales... till stocks last*” act as bait for consumers as it persuades them to buy the product in no time, considering that it would be the last piece being offered on sale. These practices by advertisers make consumers purchase them irrespective of their real needs. Thus, these regulations lay down certain conditions that must be complied with to stop such attractive policies that mislead them. It is referred to as “*bait advertisement*”⁴⁹ under these guidelines. Also, these guidelines prohibit “*surrogate advertisement*.”⁵⁰ Under this kind of advertisement, the companies generally promote particular goods or products whose sale or promotion is usually prohibited or restricted by law by indirectly promoting the same using different goods or products under the same logo or brand name whose sale and advertisement is permissible. The best examples of this could be seen in tobacco and liquor advertisements. They generally resort to “*surrogate advertising*.” For example, advertisements made by Kingfisher promoted bottled water or soda to push the sales of its liquor. Also, in pan-masala (tobacco) industries, the brands introduced mouth fresheners instead of tobacco products in their advertisements to attract consumers' attention without showcasing the original product, i.e., tobacco. Also, celebrities like Amitabh Bachchan, Ajay Devgan, Shahrukh Khan, etc., have appeared in such advertisements, attracting many followers of these people to consume such products. These are the best examples of advertising agencies using wrong practices to attract consumers through such deceptive practices. With the incorporation of these guidelines, clarity has been brought as to how advertisers, by finding loopholes in the law, made their advertisements give fewer options for consumers to get redressal of their disputes in cases where advertisements issued by big corporations have misled them.

Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954:

To ensure the safety of the consumers and to prevent them from having a false impression about the true character of any drug, the Act prohibits the publication of advertisements that

⁴⁸ibid, Reg. 4.

⁴⁹ibid, Reg. 2(d).

⁵⁰ibid, Reg. 2(h).

contain matters which “directly or indirectly give a false impression regarding the true character of the drug, or makes a false claim for the drug, or is otherwise false or misleading in any material information.”⁵¹ Considering consumers' health and safety, the law is stringent and prevents the promotion of such false claims. One of the recent cases would be against Patanjali Ayurved, where the Supreme Court strongly criticized them for misleading claims and advertisements against modern systems of medicine and reprimanded them from continuing to publish such misleading claims.⁵² In the given case, the Indian Medical Association (IMA) 2022 took legal action in response to Patanjali's Advertisement titled, “*Misconceptions spread by allopathy: Save yourself and the country from the misconceptions spread by pharma and medical industry.*”⁵³ Also, the court declined to engage in the “*Allopathy v. Ayurveda*” discourse then. Thus, the given case marks a positive step towards overhauling regulations in the medical system as it endangers public health by disseminating such misinformation. This legislation was challenged as the primary purpose of this legislation was to prevent the promotion of such products, which often make false claims about their efficacy in curing certain diseases or ailments.

Food and Safety Standards Act, 2006

To ensure that consumers are not misled by false advertisements relating to food products, this Act was enacted in 2006, which primarily focuses on ensuring food safety and quality. The Act seeks to regulate the law of advertising and unfair trade practices in the food sector.⁵⁴ Section 24 of the Act empowers FSSAI to regulate and monitor the advertising and claims about food products.⁵⁵ FSSAI can act against misleading advertisements and issue guidelines to ensure transparency and truthfulness. The penalties for the same have been mentioned under Section 53 of the Act.⁵⁶ Regarding the role of FSSAI, the reference here can be made to the “Nestle India Maggi Noodles Case,” where the ban was imposed on Nestle’s popular instant noodle brand “Maggi” as it was alleged to have elevated levels of lead and

⁵¹The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, S. 4.

⁵²Suraj Kumar, ‘Stop Misleading Advertisements, Will Impose Rs 1 Crore Cost On Every Product Claiming False Cure: Supreme Court To Patanjali Ayurved’ Livelaw (India, 21 Nov 2023) <<https://www.livelaw.in/top-stories/supreme-court-patanjali-baba-ramdev-misleading-advertisements-indian-medical-association-242694>> accessed 27th March 2024.

⁵³Shivanand Pandit, ‘Taken India For A Ride’: Why Supreme Court's Order Against Patanjali Is A Significant Step’ The Wire (India, 14 Mar 2024) <<https://thewire.in/law/taken-india-for-a-ride-why-supreme-courts-order-against-patanjali-is-a-significant-step>> accessed 29th March 2024.

⁵⁴Jeeva C, ‘Impact of Misleading Advertisements: Issues and Remedies’ (2016) 6 Bonfring International Journal of Industrial Engineering and Management Science 155.

⁵⁵ Food and Safety Standards Act, 2006, S. 24.

⁵⁶ibid, S. 53.

monosodium glutamate (MSG) in the product but their advertisements claimed them to be “healthy” and “safe” which were misleading consumers.⁵⁷

FALSE AND MISLEADING ADVERTISEMENT: AN ANALYSIS OF CONSUMER'S PERSPECTIVE

Research Methodology

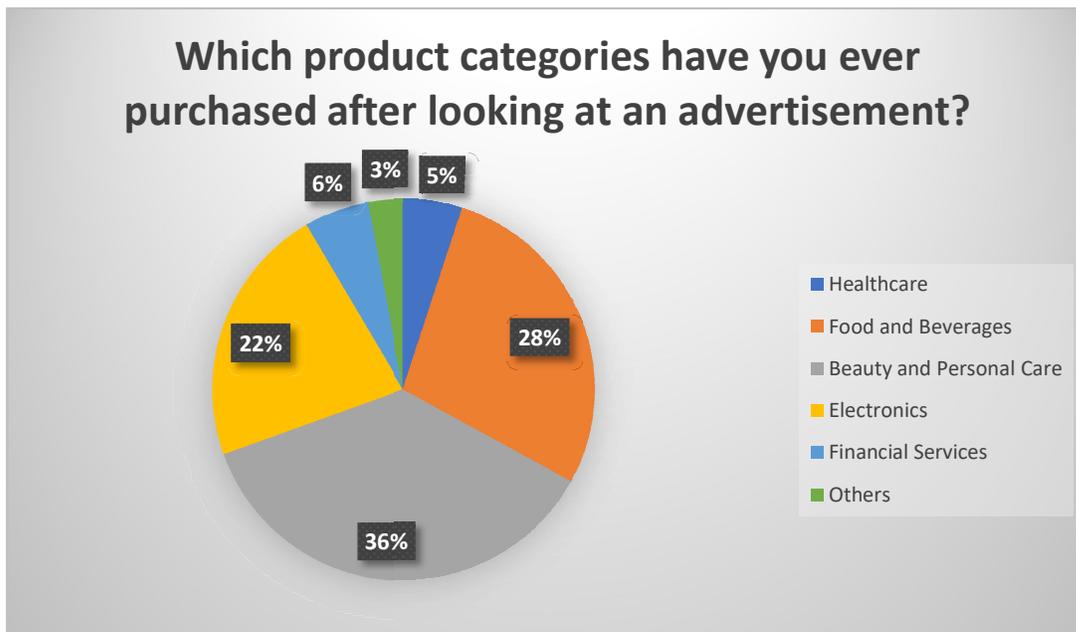
The researcher has adopted an empirical method of research where data has been collected from 200 respondents using a questionnaire method. **Data Collection and Interpretation**

Following is the interpretation of the responses from the data collected with the help of a questionnaire collected from 200 respondents. The details are mentioned below:

⁵⁷ Nestle ‘unhealthy’ food controversy: Looking back at the Maggi Noodles crisis in India, India Today (June 2021) <<https://www.indiatoday.in/business/story/nestle-unhealthy-food-controversy-looking-back-at-the-maggi-noodles-crisis-in-india-1810003-2021-06-02>> accessed on 24th March 2024.

1. Which product categories have you ever purchased after looking at an advertisement?

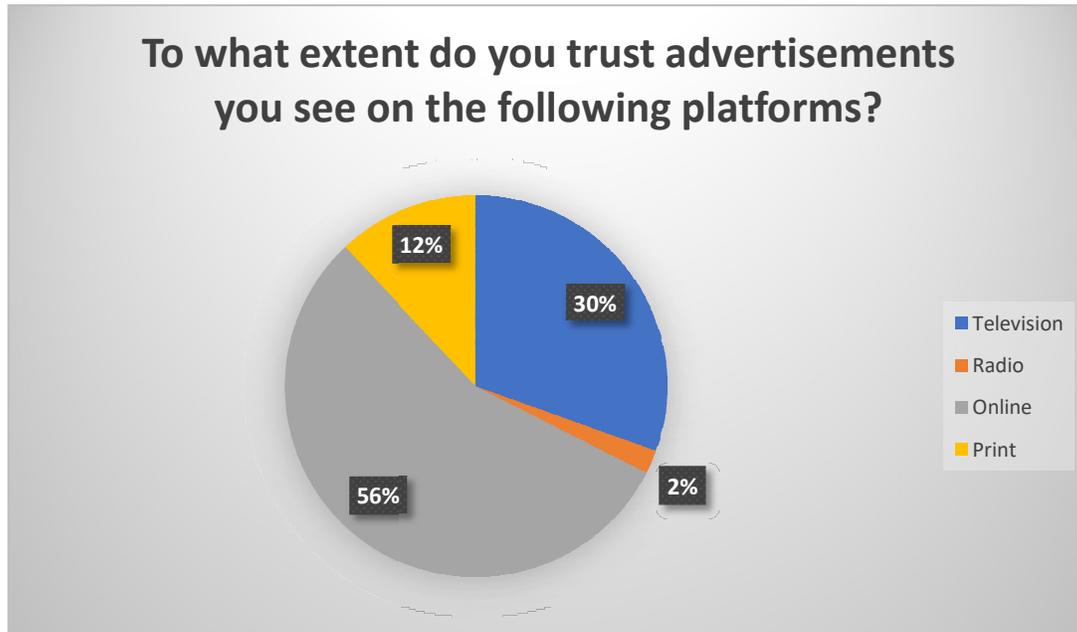
- Healthcare
- Food and Beverages
- Beauty and Personal Care
- Electronics
- Financial Services
- Other (please specify):



The data shows that most respondents purchase beauty and personal care products based on the advertisement. There is also a good number of respondents who purchase food and beverages and electronics based on the advertisement, and these are 28% and 22%, respectively. Only a few have purchased healthcare, financial services, and other services, including clothing, shoes, and automobiles, based on the responses from the respondents.

2. To what extent do you trust advertisements you see on the following platforms?

- **Television: 61**
- **Radio: 4**
- **Online (Social Media, Websites): 111**
- **Print (Newspapers, Magazines): 24**



The data shows that 56% of the respondents trust advertisements on online platforms, followed by television, which is 30%. Then there are print and radio, with the least extent, 12% and 2%, respectively.

3. Do you believe false advertising is a common practice in India?

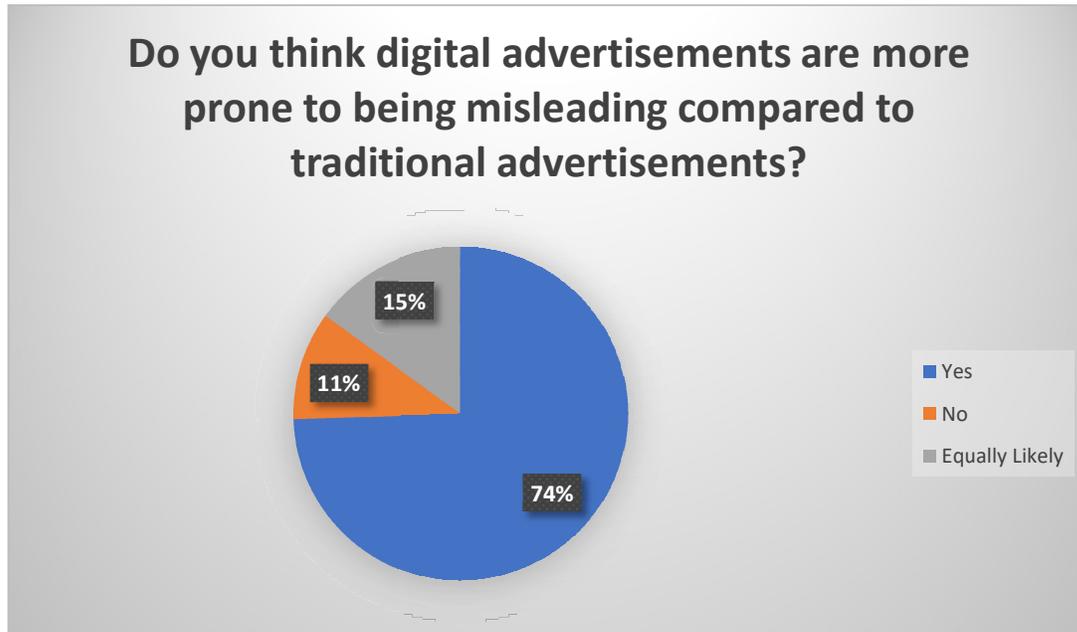
- **Yes- 167**
- **No- 24**
- **Unsure- 9**



The majority of the respondents believe that false advertisement is a common practice in India, which is 83%, while 12% do not believe this, and 5% are unsure about the same. It shows that most consumers are aware of the prevalent practices of false advertisement.

4. Do you think digital advertisements are more prone to being misleading compared to traditional advertisements?

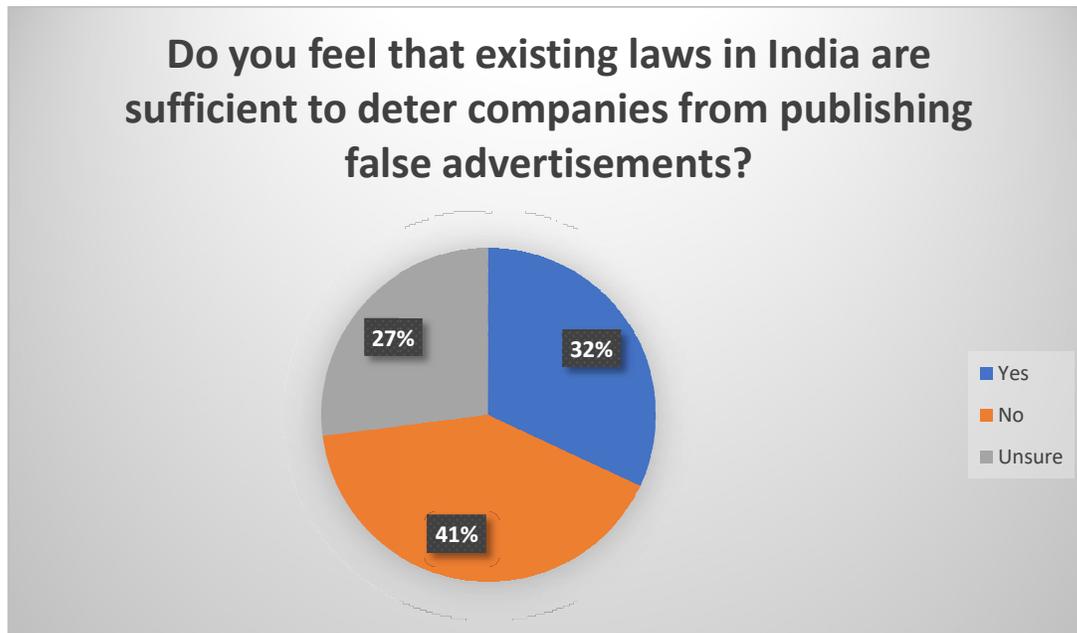
- Yes- 149
- No- 21
- Equally likely- 30



When asked if the respondents feel that digital advertisement is more prone to be misleading compared to traditional advertisement, then the majority of the respondents believe it is true. Only 11% think it is not true, and 15% believe it is equally likely for this. Certain factors may result in this, and the major contribution is based on the online fake reviews about the products, which makes the consumers believe that the product is genuine.

5. Do you feel that existing laws in India are sufficient to deter companies from publishing false advertisements?

- Yes- 64 (implementation of law)
- No- 82
- Unsure- 54



It was clear to interpret that around 41% of the respondents believe that existing laws in India are not sufficient to deter companies from publishing false advertisements, while 32% believe the opposite of this. However, 27% of the respondents are unsure about the situation, and the major reason is not aware of the laws for false advertisement. Consumers believe that big corporations because they enjoy huge financial strength in the market, are not deterred by the penalties and punishments mentioned under the law. Thus, proper measures are required to be taken by the government to empower consumers by making them aware of the impact that a “false or misleading advertisement” may have on them.

6. Have you ever been influenced by your favorite celebrity to make a purchase that you later regretted?

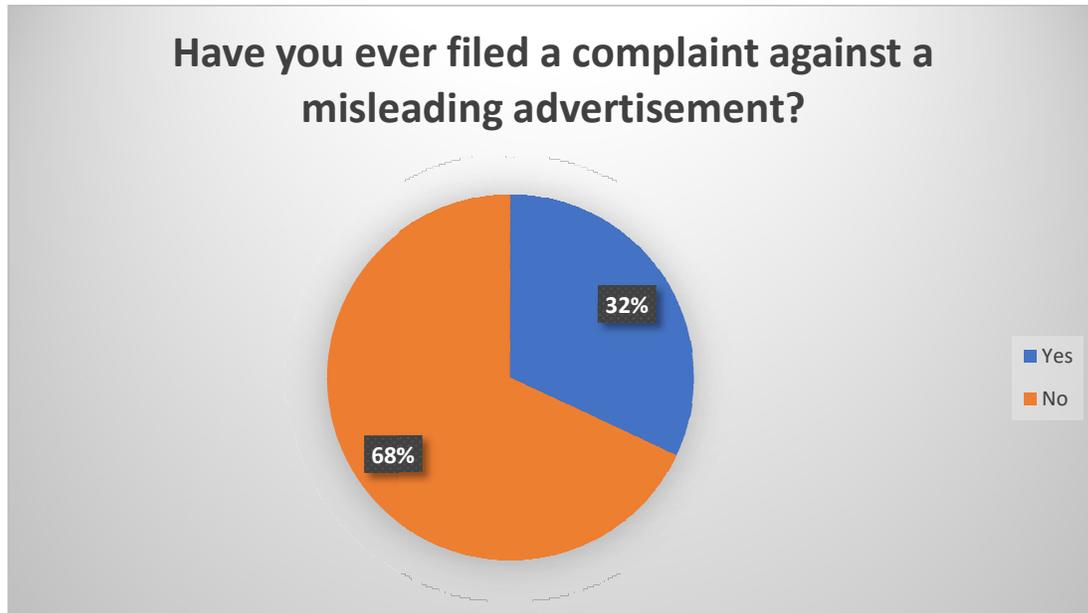
- Yes- 169
- No- 31



The majority of the respondents believe that their favorite celebrity influences them to purchase products online, which they regretted later on. When it comes to endorsers, they have a huge impact on consumers, and that is why advertisers pay hefty amounts of money to celebrities to attract the target audience. Thus, when purchasing goods, consumers pay a good consideration to this point. However, only 16% of the respondents believe the opposite.

7. Have you ever filed a complaint against a misleading advertisement?

- **Yes- 64**
- **No- 136.**



The majority of the respondents agree that they have not filed a complaint against the “misleading advertisement” even after they have suffered huge damage, while only 32% of the respondents have filed a complaint against these “misleading advertisements”. People find the procedure of filing a complaint to be time-consuming and costly. Also, unawareness among consumers about the online platform SCORES for filing complaints is one of the biggest issues for which proper education and training should be provided to the consumers on a large platform.

8. Are you familiar with the “Advertising Standards Council of India (ASCI)” and its role in regulating advertisements?

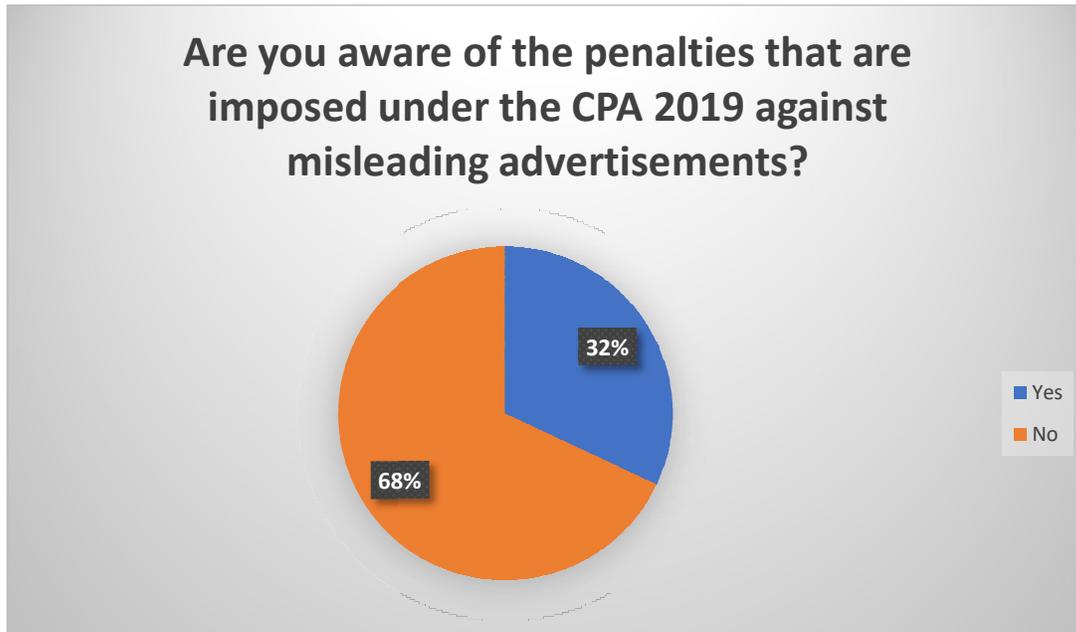
- Yes- 5
- No- 176
- Somewhat familiar- 19



The majority of the respondents are not familiar with the Advertising Standards Council of India (ASCI); only 2% of the respondents were aware of it, and 10% of the respondents were somewhat familiar with the Advertising Standards Council of India (ASCI). This data gives complete clarity as to the non-awareness of codes for the self-regulation of advertisements among consumers. This is one of the bothering issues as there is a very famous saying, “Ignorance of law is no excuse.”

9. Are you aware of the penalties that are imposed under the CPA 2019 against misleading advertisements?

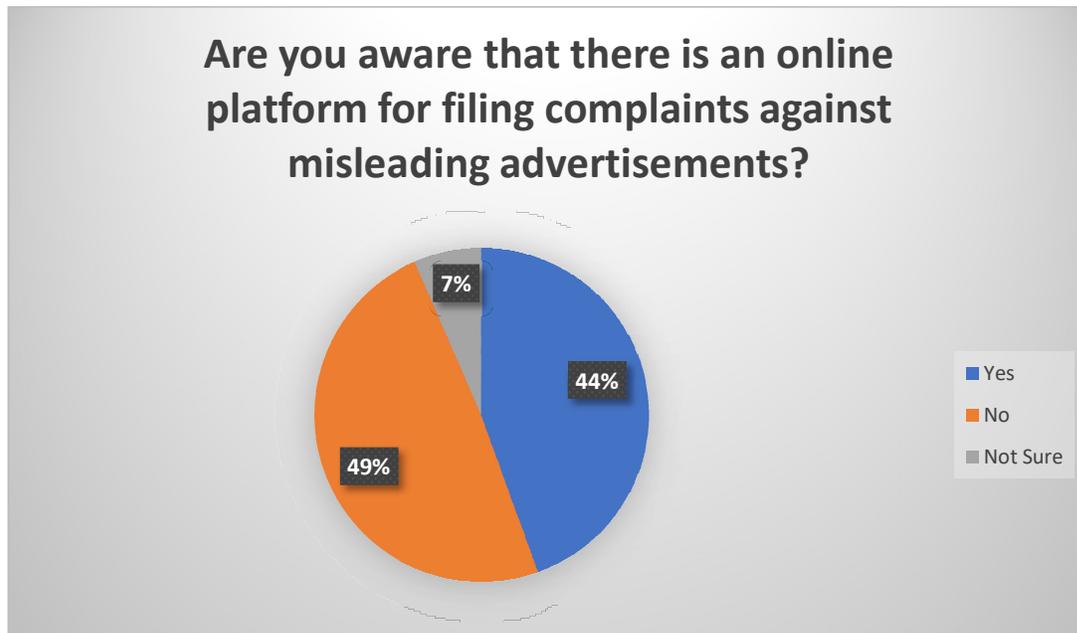
- Yes- 64
- No- 136



Around 68% of the respondents are not aware of the penalties that are imposed under the “Consumer Protection Act of 2019” against “misleading advertisements,” and there are very few numbers of respondents who are aware of the penalties. This unawareness among consumers is the biggest plight as this gives leverage to big corporations and online platforms to continue with the deceptive practices without any fear of being punished and penalized for the same.

10. Are you aware that there is an online platform for filing complaints against misleading advertisements?

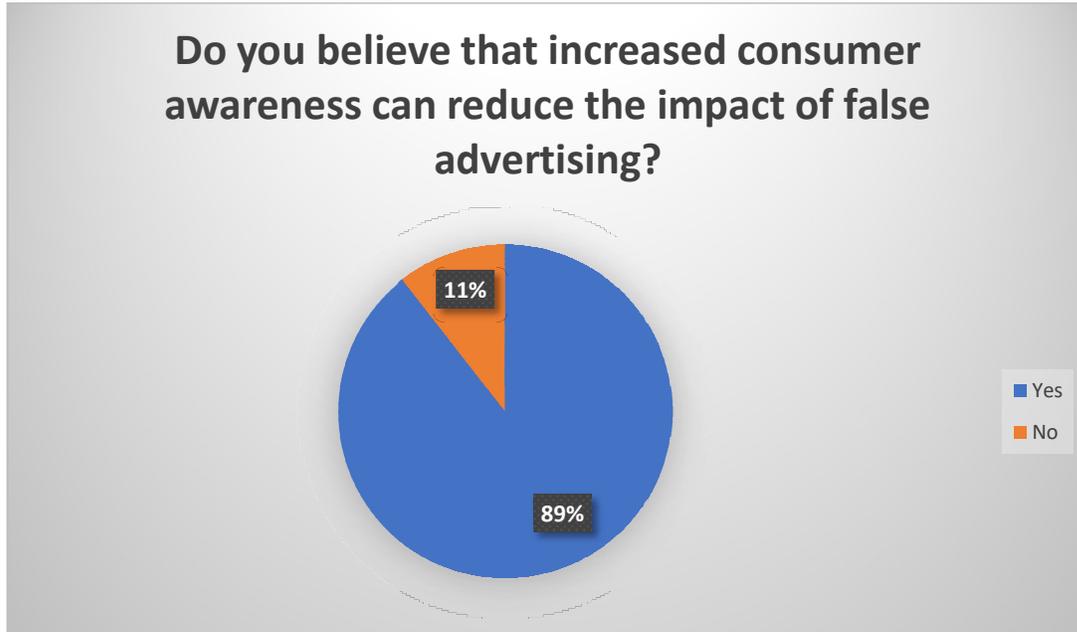
- Yes- 89
- No- 98
- Not sure-13



The majority part (49%) of the respondents are not aware that there is an online platform called SCORES for filing complaints against “misleading advertisements” and other “unfair trade practices” mentioned under the law, while 44% of the respondents are aware of the online platform for complaint filing. They were also made aware of this by Consumer Forums, which enlightened them about this resort being available after the 2019 amendments, and other consumers who have approached these forums for redressal. While there are 7% of the people are not sure about the online platform for filing complaints.

11. Do you believe that increased consumer awareness can reduce the impact of false advertising?

- Yes- 179
- No- 21



The majority of the respondents believe that the help of increased consumer awareness can reduce the impact of false advertisements, while only 11% of the respondents do not believe in this. Awareness can only lead to deterrence among advertisers.

12. Are you more skeptical of advertisements from new or unfamiliar brands compared to well-known brands?

- Yes- 193
- No- 7



Almost every respondent is more skeptical of advertisements from new brands or unfamiliar brands when compared to well-known brands. While only 4% of the respondents do not feel skeptical when trying new or unknown brands, this is mainly for those items that are not very costly, and buying the same would not affect the consumer's pocket to a large extent.

13. Have you ever been a victim of false or misleading advertisements?

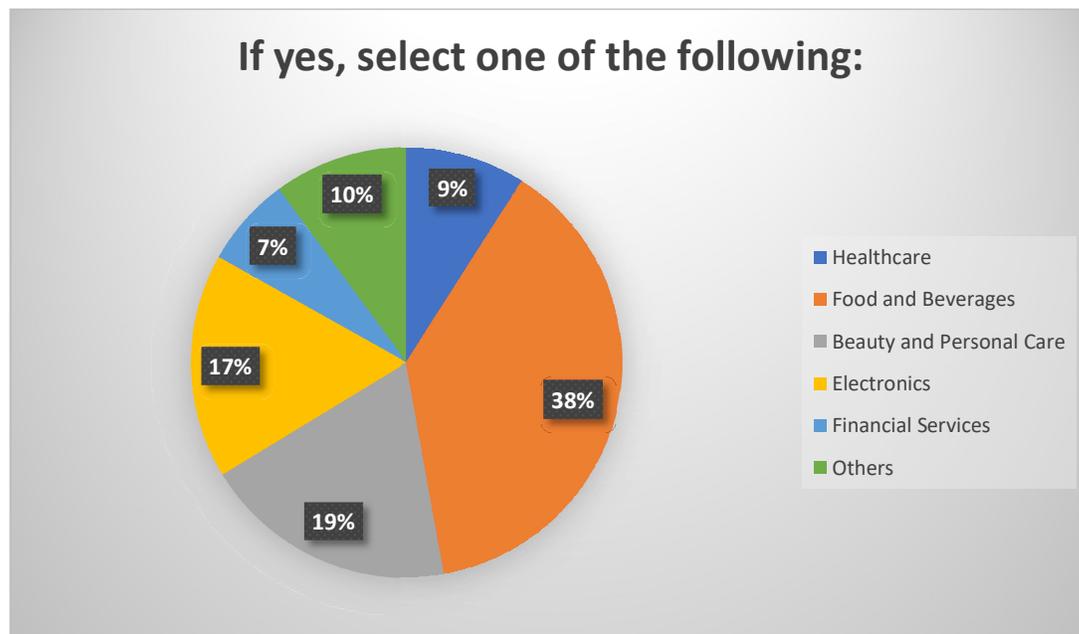
- Yes- 89
- No- 111



Around 44% of the respondents have been victims of false or misleading advertisements, while 56% have never been victims. These frauds have been enhanced recently, especially when there has been a shift towards online shopping.

14. If yes, select which one of the following one of the following:

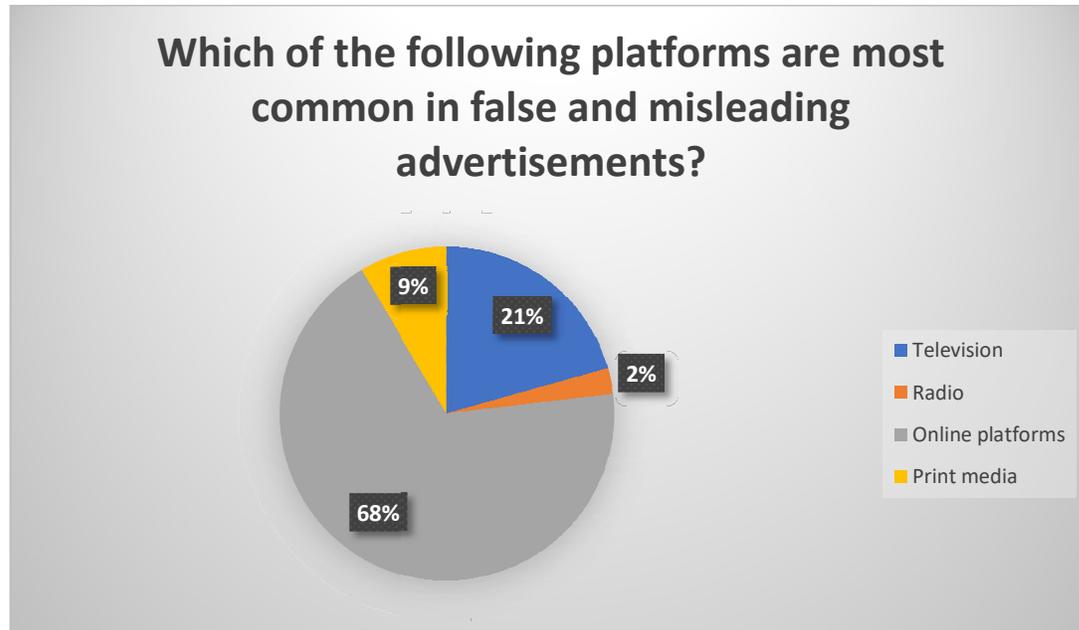
- **Healthcare- 8**
- **Food and Beverages- 34**
- **Beauty and Personal Care- 17**
- **Electronics- 15**
- **Financial Services- 6**
- **Other (please specify): clothing, shoes, automobiles-9**



The majority of the respondents (38%) have been victims of the food and beverages category, then 19% of respondents have been victims of the beauty and personal care, 17% have been victims of the electronics category, 9% in health care, and 7% in financial services. In the other categories, 10% of the respondents have been victims of clothing, shoes, and automobiles. This shows how adulteration of foods is one of the common practices that has a drastic impact on the health and safety of consumers.

15. Which of the following platforms are most common in false and misleading advertisements?

- **Television- 41**
- **Radio- 5**
- **Online platforms- 136**
- **Print media- 17**



According to the respondents, the majority of false advertisements are common on online platforms, and then 21% on television platforms. While 9% and only 2% are common for print media and radio, respectively. Fraud practices are more common, especially post-online shopping and e-commerce transactions. It includes identity theft, card fraud, hacking, and selling the wrong products in terms of quality, price, etc.

Data Analysis

Thematic data analysis is done for the collected data, which will help find the common themes and patterns in the data. With the help of this data analysis, a proper conclusion will be derived regarding the necessary facets that should be considered to keep the interest of the consumers at stake. This will help in developing the required recommendations for the improvement of the situation. The following aspects have been covered under the thematic analysis:

Advertisement influence on purchase decision

The data from the survey suggests that advertisement is one of the key factors that play an important role in influencing consumers' purchase decisions. It is most significant when it comes to products, including beauty and personal care, food and beverage items, and electronics products. Endorsements from celebrities also have a high impact on the purchasing decisions of the consumers, which may be regretted in later stages.

Distrust in advertisement

Consumers widely believe that false advertisements are a common practice in India. This is because most consumers have expressed their skepticism about advertisements, mostly for new or unfamiliar brands. It is also perceived that online advertisements are more prone to be misleading than traditional methods of advertisement.

Lack of awareness of the existing laws, rules, and regulations.

Based on the data from the questionnaire, consumers are not aware of existing laws or regulatory bodies like ASCI. Consumers also lack knowledge about the report filing mechanisms when it comes to false advertisements. Many respondents believe that the current rules and regulations are insufficient to deter companies from publishing or broadcasting misleading advertisements.

Need for consumer awareness and education.

Although people know what false advertising is, there is the majority of the respondents believe that with the help of the increase in consumer awareness, the impact of misleading advertisements can be reduced. It also helps highlight the need for the education of consumers related to the existing laws and regulations, and with the help of awareness campaigns, individuals can be empowered to recognize false advertisements and effectively respond to them.

False advertisement across different sectors.

According to the data collected, false advertisements prevail among different categories, including food and beverages, beauty and personal care, and the electronic sector, and these

are mostly affected. On the other hand, some other sectors like healthcare, financial services, shoes and clothing, and automobiles have reports of false advertising.

Major channel for false advertising

Based on the responses from the survey, online platforms, which include social media and websites, are considered the channels that most commonly promote false and misleading advertisements. It is way more than the traditional media partners: television, radio, and print media.

CONCLUSION AND RECOMMENDATIONS

Advertisements have become an indispensable part of society. With the rising competition in the field of trade and commerce, especially with the rise of e-commerce transactions, consumers rely on advertisements, online ratings, and information about products on websites. Thus, regulating these mediums becomes indispensable for the welfare of the consumers and the trust they have developed, which is entirely based on these ads and online reviews. Post COVID-19 and the rise of online shopping, more stringent laws regulating misleading advertisements have become necessary, and the 2019 legislation is a positive step taken by the legislature in dealing with such matters. Before the 2019 legislation was enacted, a plethora of laws, rules, regulations, and authorities dealt with this matter directly or indirectly. One such law enacted comprehensively for the consumer interest was the Consumer Protection Act of 1986, which dealt with “unfair trade practices,” which included “misleading advertisements” within its ambit. However, the 1986 legislation had its setbacks: no recognition of “e-commerce and online platforms,” “misleading advertisements,” a specialized and dedicated authority referred to as the “Central Consumer Protection Authority,” and “provisions for imposition of stringent penalties.”

Therefore, this paper delves into the various laws that protect the consumer’s interests and remedies necessary for their redressal. To exhaustively analyze the consumer’s behavior and understand the issues and challenges that a consumer faces due to a lack of knowledge of relevant laws and remedies available against such practices, a questionnaire was prepared and shared with consumers who have been associated with purchasing goods or availing of services, either online or offline. The survey’s outcome helped to understand consumers’ plight and the issues they face, which require immediate attention from all the stakeholders

like government, big businesses, advertisers, endorsers, online e-commerce platforms, and other consumers. Based on the answers, it can be interpreted that many consumers are unaware of: *firstly*, the laws applicable to dealing with issues of misleading advertisement. Secondly, the mechanism of filing complaints includes an online platform for filing complaints. *Thirdly*, stringent penalties may be imposed for disobeying these laws. Thus, steps and measures must be taken to minimize “false and misleading advertisements,” and for the same, awareness must be created among the consumers.

The existing consumer protection laws in India, especially the 2019 legislation, provide a comprehensive framework that addresses the concern of “misleading advertisements.” However, some measures that can be taken to address these loopholes are as follows:

1. **Consumer Awareness and Education:** Consumer as a class covers a vast and diverse population, and with the widespread online platforms for creating awareness, like “*Jago Grahak Jago*,” there needs to be awareness made about such deceptive practices to the population who are not well-versed with mobile phones, social networking websites, and online platforms and for them awareness can be created by using methods like dramas (nukkadnaatak), screening of short movies or videos. As consumers are in huge numbers, thus, creating awareness requires innovative and relevant methods based on the group being addressed. Also, more government initiatives can be taken by educating consumers through campaigns and educational programs.
2. **Easy procedure of filing complaints and redressal:** Sometimes consumers, even after facing “defect in goods’ or “deficiency in services,” avoid filing suits for multiple reasons, such as not being aware of the procedure of filing, time taking procedure for filing of complaints, especially unaware about online filing mechanism, or technological challenges in filing such complaints. For these reasons, consumers do not show interest in filing complaints. Thus, to create this, the Ministry of Consumer Affairs can introduce guidance videos that can be displayed to varied consumers on online platforms, televisions, screening videos, and broadcast messages on WhatsApp. Also, volunteers can be appointed to guide and help consumers file complaints. Making accessibility for consumers is the need of the hour.
3. **Strengthening Enforcement Mechanisms:** With the advent of 2019 legislation, CCPA has been introduced as an authority apart from Consumer Forums to deal with “false and misleading advertisements” matters. These authorities have been entrusted with the

powers of investigation, search and seizure, etc. The inclusion of these relevant provisions can make a drastic change in enforcing punishments against the wrongdoer. Thus, this authority needs to ensure the proper enforcement of the law, which requires support from all stakeholders like consumers, big corporations, e-commerce platforms, Consumer Forums, etc.

4. **Using mediation as a resolution method:** Sometimes, to save cost and time, consumers prefer to redress their disputes without approaching quasi-judicial bodies, i.e., consumer forums. There, more preference is given to the adoption of outside court settlements. Mediation is one of the elements that has been included in the 2019 legislation. If provided to the consumers, this remedy will ensure proper redressal of disputes in an efficient and effective manner. Also, it will reduce the burden of cases that are brought to the Consumer Forums. Thus, more focus should be given to mediation as a first preference for resolving disputes for the welfare of the consumers.
5. **Transparency and Accountability:** Making companies, advertisers, and endorsers liable and accountable for the claims they make in advertisements will ensure no false, inaccurate, or incomplete information is provided to the consumers. Thus, the imposition of hefty penalties and punishments, for example, for spurious or adulterated goods, is necessary to create an atmosphere of deterrence among advertisers. ASCI guidelines are enforced, focusing on this aspect in detail. Some of the best measures that should be imposed compulsorily on advertisements include the “terms and conditions applied” part of the advertisement. It should be in a font size that is readable, and the speed with which it is said should be understood by the audience.

Thus, it is essential that issues of “false advertising” be addressed in a multi-pronged approach that includes regulatory measures, consumer education, collaboration with various stakeholders, and regular review of laws and forums on these laws. If these measures are adopted and stringent penalties are imposed, it will ensure a fair market that will prevent consumers from malpractices and ensure a transparent market for all.

In implementing these recommendations, it is crucial to take a collaborative approach: regulators, industry players, consumer groups, and the general public all have roles to play. Misleading advertising is a multifaceted problem, but with robust legal provisions already in place, India is well-positioned to tackle it by focusing on execution, awareness, and continuous improvement of policies. By adopting the measures outlined above, the country

can significantly **reduce the prevalence of deceptive advertisements**, ensure that consumers are not left disillusioned or defrauded by marketing, and foster an advertising culture that is truthful and responsible. This will ultimately lead to a more trustworthy marketplace, where consumers can engage with advertisements – be it on television or on their smartphones – with confidence that they are receiving information they can rely on.