
CHAPTER - 9

ADVERTISING AND MARKETING ETHICS

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9.1 DEFINITION AND IMPORTANCE

A system of values that dictate what constitutes morally acceptable or unacceptable marketing tactics is known as ethics in advertising and marketing. It involves encouraging integrity, equity, and accountability in the way businesses market their goods and services. Transparency and respect for consumer rights are the main goals of ethical advertising, which steer clear of damaging, misleading, or deceptive content.

For instance, it is unethical for an advertisement to make false promises about a product's ability to help people lose weight without providing scientific evidence.

9.1.1 Significance of Ethics

- a. **Building trust:** Customers are more inclined to trust and stick with a brand when they believe it to be honest. Long-term client connections are a result of trust. For instance, Apple's marketing strategies have established a reputation for safeguarding consumer privacy. Customers are reassured by its unambiguous messaging on data security.
- b. **Positive brand image:** People view ethical businesses as more trustworthy, accountable, and socially concerned. This distinguishes them from rivals and builds a favorable brand image.
- c. **Legal compliance:** Additionally, ethical advertising guarantees adherence to the rules and laws governing marketing strategies. Lawsuits, penalties, or harm to one's reputation may arise from deceptive or fraudulent advertising.

9.1.2 Historical Context

Strict ethical guidelines have not always been followed by marketing. There were not many rules controlling how businesses advertised their goods in the past. Cigarette businesses, for example, used to promote smoking as

beneficial. To stop unethical behavior, however, a number of consumer protection laws and regulations were implemented over time. The digital era has created new ethical marketing issues in recent years. Marketers must embrace new ethical standards in light of data privacy issues, the emergence of social media influencers, and targeted advertisements.

9.1.3 Principles of Ethical Advertising: Ethical advertising is governed by four primary principles:

- a. **Truthfulness:** Ads should not mislead consumers in order to be considered truthful. According to this idea, businesses must refrain from exaggerating their claims and only make assertions that are supported by data. For instance, the manufacturer of a shampoo must provide scientific evidence to back up its claim that it can "repair hair in 24 hours." The Volkswagen emissions crisis, in which the business made misleading claims about how environmentally good its cars were, is a well-known example of unethical advertising.
- b. **Transparency:** In order to assist consumers understand when they are being advertised to, transparency is essential. This idea is particularly relevant to influencer marketing and digital advertisements. Customers need to be able to tell if a social media post is an advertisement or a sincere recommendation. For example, influencers are legally obligated to use hashtags such as #sponsored or #ad to reveal their paid partnerships. This makes it more likely that followers will know the influencer is getting paid for endorsing a product.
- c. **Fairness:** Advertising fairness guarantees that commercials don't take advantage of weaker demographics or influence customers to make choices they otherwise wouldn't. When advertising to children or the elderly, who might not completely comprehend the purpose of some marketing messages, this is especially crucial. For instance, as youngsters may not be able to accurately judge health dangers, several nations have strong rules against the promotion of sugary foods to them.
- d. **Privacy:** Since data is being used more and more to customize advertisements, ethical marketers need to protect the privacy of their customers. This entails getting informed consent before to gathering personal data and making responsible use of it. Numerous nations have implemented data protection laws, such as the General Data Protection Regulation (GDPR) of the European Union, which mandates that businesses disclose all relevant information regarding how they gather, use, and retain personal data.

9.1.4 Common Ethical Dilemmas in Advertising

There are several ethical dilemmas that marketers face, particularly as advertising evolves with technology and consumer behavior.

- a. **Manipulative tactics:** To influence customers to make decisions they might not want to, some marketers employ deceptive techniques. This involves strategies like exploiting customers' anxieties, applying pressure-filled sales tactics, or making exaggerated claims about the capabilities of a product. For instance, companies in the cosmetics sector frequently employ Photoshopped photos and models to produce unattainable beauty standards. Customers are persuaded by this deceptive advertising that they must purchase goods in order to get these unachievable looks.
- b. **Cultural sensitivity:** Ads that are culturally offensive may face harsh criticism. Brands must consider how

individuals of various racial, religious, and ethnic backgrounds may understand their messaging. For instance, Pepsi's contentious 2017 commercial, which included Kendall Jenner, was charged with trivializing significant social justice movements such as Black Lives Matter. Due to its perceived insensitivity to important social issues, the advertisement was taken down and a public apology was made.

- c. **Greenwashing:** When a business misrepresents itself as eco-friendly in order to satisfy consumer demand for sustainable products, this is known as "greenwashing." Because it deceives customers into supporting businesses that are not as environmentally friendly as they pretend to be, this is dishonest and immoral. For instance, a clothing company may promote their range of "eco-friendly" apparel made from recycled materials, but it may not reveal that its factories use non-renewable resources and cause major pollution.



- d. **Deceptive pricing:** Customers are misinformed about the actual cost of a product by deceptive pricing tactics. This includes strategies like inflating pricing to make discounts appear bigger, concealing extra costs, or promoting "buy one, get one free" offers that aren't as good as they seem.

Example: To make a discount appear more significant, several e-commerce sites inflate an item's original price during a sale. Customers believe they are getting a better deal as a result of this.

9.2 THE ROLE OF REGULATIONS

Governments and regulatory bodies play an important role in ensuring that advertisements adhere to ethical standards.

Government oversight: Regulatory bodies that enforce moral advertising norms have been formed in numerous nations. The Federal Trade Commission (FTC) in the US keeps an eye on advertisements to make sure they are honest and not misleading. Businesses that make deceptive promises in their advertisements may face legal action from the FTC.

Examples of government agencies include:

- **FTC (USA):** Ensures truthful advertising and protects consumers from fraud.



- **Advertising Standards Authority (UK):** Regulates ads to ensure they comply with the law.



The Advertising Standards Council Of India

- **ASCI (India):** Ensures ethical practices in advertising in India by reviewing complaints and enforcing guidelines.

Self-regulation: In order to uphold moral principles, several sectors also self-regulate. This implies that businesses and associations establish standards of behavior that all participants are required to adhere to. The International Chamber of Commerce's (ICC) Code of Advertising and Marketing, for instance, offers standards to guarantee that advertisements are truthful, pen, and socially conscious. Self-regulation has the advantage of enabling sectors to adjust to shifting consumer demands and technological advancements more rapidly than is frequently possible under governmental laws.

Case Studies

- Nike and labor practices(unethical):** Nike was heavily criticized in the late 1990s for using unethical labor methods in their factories abroad. The business was charged with paying extremely low wages, abusing workers in sweatshops, and providing them with subpar working conditions. According to investigations, laborers in nations like Vietnam and Indonesia were employed in hazardous conditions and received wages below a livable rate.

Advertising issue: Nike's advertising campaign at the time presented the corporation as a pioneer in advancing athletes and human potential, which contrasted sharply with the working conditions of its factory workers. This discrepancy between the company's real business activities and its ethical image was viewed as extremely dishonest.

Impact: Due to the extensive media coverage of Nike's unethical labor practices, there were boycotts, protests, and a decline in confidence. In order to allay these worries, Nike gradually improved labor conditions, increased transparency, and transformed into a more moral business. The significance of matching a company's advertising image with its actual actions is exemplified by this case.

- Benetton's "Unhate" Campaign (Controversial but Ethical):** Benetton's "Unhate" campaign, which debuted in 2011, featured digitally manipulated pictures of world leaders sharing a kiss. Images of the Pope kissing an Egyptian imam and U.S. President Barack Obama kissing Venezuelan President Hugo Chávez were featured in the contentious advertisements. By depicting politicians "un-hating" one another, the campaign sought to advance world peace and tolerance.

Advertising issue: Reactions to the campaign were not uniform. Some saw it as audacious and provocative, promoting discussion on intolerance and hatred. Others, like the Vatican, denounced the ad as improper and offensive, especially the Pope's image.

Impact: Benetton wanted to question social norms and spark discussion about delicate global issues, therefore even if the ad was contentious, it wasn't necessarily unethical. In addition to sparking controversy, the campaign increased public awareness of international problems and the value of communication. This example

demonstrates how moral advertising can occasionally be contentious while yet conveying a constructive societal message.

- c. **TOMS Shoes – One for One Campaign (Ethical):** With the introduction of its "One for One" campaign in 2006, TOMS Shoes pledged to send a pair of shoes to a child in need for each pair of shoes purchased. Corporate generosity and social responsibility served as the cornerstones of this moral crusade.

Advertising issue: By emphasizing the moral principles of charity and giving back, TOMS used this campaign to strengthen its reputation as a socially conscious business. Through this promotion, the business positioned itself as a pioneer in ethical consumption.

Impact: The marketing helped TOMS become widely known and was a great success. Because they were supporting a good cause, customers felt good about their purchases thanks to the business model it established. Even if some detractors have expressed doubts about the long-term effects of these donations, arguing that they might not address the underlying reasons of poverty, TOMS' "One for One" campaign is nevertheless a crucial illustration of how moral advertising can complement business principles and appeal to customers.

- d. **L'Oréal's False Advertising (Unethical):** Due to its overstated claims on the efficacy of its anti-aging creams, L'Oréal has been sued on multiple occasions for its beauty product ads. Allegations that the company had made fraudulent claims on the potential of its products to "clinically" reduce wrinkles and other symptoms of aging led to a settlement with the U.S. Federal Trade Commission (FTC) in 2014.

Advertising issue: Models with seemingly perfect skin and scientific jargon were used in L'Oréal advertisements to suggest that the products had practically magical results. These assertions, however, were not backed up by any scientific data, which prompted charges of deceptive advertising.

Impact: L'Oréal agreed to pay a fine and cease making these unsupported claims. The case serves as a reminder of how misleading advertising can result in legal repercussions, erode consumer confidence, and harm a brand's reputation.

- e. **Always' "#LikeAGirl" Campaign (Ethical):** In 2014, Always, a brand of feminine hygiene products, began its #LikeAGirl campaign. The campaign attempted to empower girls and women by addressing how the phrase "like a girl" has been used as an insult, signifying weakness or inferiority. The ad portrayed women and girls being asked to execute acts "like a girl," and it attempted to challenge stereotypes by showing that doing things "like a girl" may mean doing them with strength and confidence. Advertising issue: The ad received recognition for being upbeat, empowering, and socially conscious. It addressed the negative effects of language and gender stereotypes, inspiring viewers to question destructive social standards.

Impact: Millions of people viewed the campaign, which was a huge success and sparked numerous discussions about women's empowerment and gender equality. It is regarded as one of the best instances of ethical advertising that aims to have a significant social impact and has won numerous accolades.

- f. **McDonald's and Health Claims (Unethical):** Over the years, McDonald's has come under fire for making its fast food seem healthier than it is, especially when targeting young consumers. McDonald's has occasionally made deceptive statements regarding the nutritional value of its food.

Advertising issue: In one case, McDonald's used the claim that their Happy Meals included healthy options like milk and apples in their advertising. Nevertheless, research revealed that the majority of customers continued to buy the less healthful selections, and the business was charged with employing dishonest marketing strategies to target children.

Impact: Since then, McDonald's has adjusted its menu and marketing tactics in response to new laws and public demand. As a result, the fast-food business has come under more attention for its unethical promotion of harmful foods, especially to impressionable young consumers.

- g. Pepsi's 2017 Kendall Jenner Ad (Unethical):** In a contentious 2017 commercial, Kendall Jenner joined a demonstration and offered a police officer a Pepsi to soothe tensions. Despite its stated goal of fostering harmony and peace, the advertisement drew harsh criticism for trivializing important social justice movements like Black Lives Matter.

Advertising issue: Pepsi's attempt to use social issues for profit was viewed as insensitive and tone deaf. The advertisement was charged of exploiting delicate political topics for commercial gain without actually endorsing those causes.

Impact: Pepsi removed the advertisement within 24 hours due to the rapid criticism. Although the business apologized, the harm to its image had already been done. This case is frequently used as an illustration of how unethical advertising should be handled, particularly when delicate social concerns are involved.

9.3 IMPACT OF DIGITAL MARKETING ON ETHICS

The rise of digital marketing has introduced new ethical challenges, particularly in the areas of privacy, transparency, and the use of AI in advertising.

- a. Social Media Advertising:** Influencers on social media have grown to be a significant component of contemporary advertising, but this presents moral questions regarding transparency. Influencers frequently endorse things without explicitly stating that they receive payment for their articles, giving followers the impression that these endorsements are sincere. For instance, the U.S. Federal Trade Commission has released guidelines requiring influencers to use hashtags such as #sponsored or #ad to indicate paid agreements.
- b. Data-Driven Marketing:** Highly customized advertisements based on user behavior are made possible by digital marketing. However, it is a violation of privacy to gather and use customer data without express agreement. Consumer privacy must be respected, users must be informed about the use of their data, and users must have the choice to opt out of data tracking. For instance, Facebook has come under fire for permitting third parties to access user information for targeted advertisements without the knowledge of the user, sparking discussions regarding the morality of customized advertising.
- c. AI and Automation:** AI is being utilized more and more to target customers with customized advertisements. These algorithms may unintentionally reinforce prejudice, though. For instance, high-paying positions may only be displayed to specific racial groups, or employment advertisements may be more visible to men than to women. To prevent damaging preconceptions from being reinforced, marketers must make sure AI systems are vetted for fairness and transparency.

Ethical Frameworks for Marketers

Ethical decision-making models can help guide marketers in difficult situations. Here are three common ethical frameworks:

- a. **Utilitarianism:** According to this concept, marketers should strive to produce the greatest good for the greatest number of people. When given a choice, marketers should think about the effects of their choices and select the course of action that will benefit the greatest number of people.
Example: Knowing that it may lose some short-term earnings, a corporation may decide to stop promoting a sugary drink to youngsters because it is doing what is best for the public's health.
- b. **Deontological Ethics:** This concept emphasizes abiding by moral obligations. Regardless of the results, marketers must uphold values like integrity, openness, and equity. For instance, even if it means losing a sale, a business should always reveal important facts about a product.
- c. **Virtue ethics:** This strategy highlights the marketer's character by advising them to develop qualities like accountability, honesty, and integrity. A marketer that adheres to this paradigm will always behave in the best interests of society and the consumer.

The role of ethics will only grow as marketing continues to change, particularly in the digital sphere. As consumers gain knowledge, they expect brands to be more accountable and transparent. Social responsibility, data privacy, and sustainability will probably be the main themes of ethical advertising in the future. Avoiding legal problems is only one aspect of ethical advertising; another is acting in the best interests of customers and society at large. In order to ensure that their initiatives respect consumer rights and have a beneficial social impact, marketers must adopt ethical principles.

9.4 ADVERTISING TECHNIQUES AND CONSUMER PSYCHOLOGY

The study of how people's thoughts, beliefs, feelings, and perceptions affect their purchasing decisions is known as consumer psychology. It investigates how advertising can successfully use the thought processes that underlie consumer decisions to sway judgments.

Key concepts related to consumer psychology

- **Motivation:** the motivation underlying consumer behavior, which may be extrinsic (social approbation) or intrinsic (personal fulfillment).
- **Cognition:** The mental operations—thinking, knowing, and remembering—that go into acquiring information and comprehension.
- **Perception:** How customers understand information and marketing messages in light of their past attitudes, beliefs, and experiences.
- **Emotion:** Emotions that are frequently elicited by advertising to establish a connection with consumers and have a significant impact on purchasing decisions.

Common Advertising Techniques

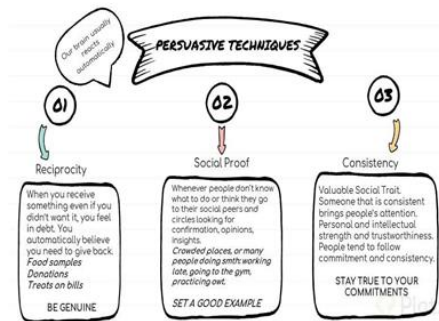
Consumer psychology concepts are used in advertising strategies to produce campaigns that captivate target populations. Here are a few well-known methods:

- **Emotional appeal:**

- **Description:** Ads that arouse powerful feelings in the viewer, including joy, sorrow, nostalgia, or terror, can leave a lasting impression.
- **Psychological Basis:** Consumers frequently base their decisions more on feelings than on reason, which makes emotions a significant factor in decision-making. An ad that conveys a touching tale about family, for example, might make people feel good about the brand.
- **Example:** Coca-Cola's "Share a Coke" campaign, for instance, made the experience more unique by substituting well-known names for the brand's logo, which created an emotional bond and promoted sharing.

- **Social proof**

- **Description:** This method is based on the notion that, particularly in situations where people are unsure of themselves, they will follow the actions of others. Psychological Basis: Because humans are social creatures, they frequently take behavioral signals from other people. When customers observe others using a product, they may be inspired to follow suit. For instance, companies like TripAdvisor and Airbnb display user reviews and ratings to show that a large number of people like and trust their services, which entices new customers to give them a try.



- **Scarcity**

- **Description:** Promoting a product or service's limited availability in order to create a sense of urgency.
- **Psychology:** According to the scarcity principle, people dread missing out (FOMO) when things are scarce and are therefore seen as having greater value. For instance, retailers frequently employ slogans like "Only 5 Left in Stock!" or "Limited Time Offer" to encourage customers to buy now.

- **Reciprocity**

- **Description:** This strategy is providing customers with something for free, which may instill a sense of duty to return the favor by making a purchase. Psychological Foundation: According to the reciprocity standard, we feel obliged to repay others when they help us. This idea has the potential to significantly boost sales. For instance, a lot of companies provide free trials or samples, such food samples in supermarkets or free software trials, to entice customers to buy the product after tasting it.

- **Anchoring**

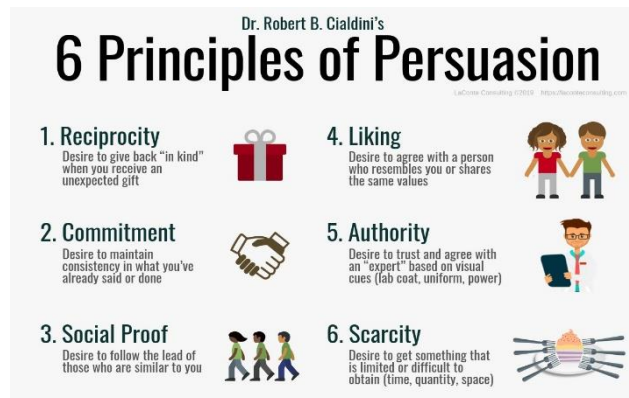
- **Description:** This method affects how much a customer thinks something is worth by using a reference point, or "anchor".
- **Psychological Foundation:** When people base too many of their decisions on the first piece of information they come across, or the anchor, this is known as anchoring bias. For instance, to emphasize the discount and make the sale price seem more alluring, retailers frequently place the original prices adjacent to the sale pricing.

- **Testimonials and endorsements**

- **Description:** Using celebrity, expert, or happy customer endorsements to increase credibility and trust.
- **Psychological Basis:** Consumers frequently seek advice from reliable sources, and product or service endorsements can increase their legitimacy. For instance, a lot of skincare companies use influencers or dermatologists to promote their goods, using their position of authority to influence customers.

- **Narrative and storytelling**

- **Description:** Creating a narrative around a brand or product through stories enables customers to relate to it personally.
- **Psychological Basis:** By making content more memorable and relatable, storytelling may captivate customers' attention on both an emotional and intellectual level. As an illustration, Dove's "Real Beauty" campaign challenges conventional notions of beauty and builds a stronger bond with viewers by sharing the tales of real women.



Consumer Decision-Making Process

For advertising to be effective, it is essential to comprehend how consumers make decisions. There are usually five steps in this process:

- I. **Identification of Problems:** The customer recognizes a need or an issue that has to be resolved.
- II. **Information Search:** Consumers look for information about possible solutions, such as reviews, brand ads, and other people's suggestions.
- III. **Alternatives Evaluation:** Following information collecting, buyers evaluate several brands or items according to features, quality, and pricing.
- IV. **Purchasing Choice:** Based on the evaluation process, which is impacted by psychological and advertising elements, the consumer decides whether to buy.
- V. **Post-Purchase Evaluation:** Customers assess their level of satisfaction with the goods after making a purchase. While bad experiences can result in returns or unfavorable word-of-mouth, positive ones can encourage repeat business and brand loyalty.

Marketing initiatives can be made much more effective by using advertising strategies that appeal to consumer psychology. Marketers may develop tactics that connect with their target audience by knowing how

consumers think, feel, and act. Ethical concerns in these techniques continue to be crucial as the market changes, guaranteeing that advertising not only increases sales but also upholds consumer rights and fosters constructive social ideals.

9.5 DECEPTIVE ADVERTISING PRACTICES

Deceptive advertising is a marketing practice where a company or advertiser makes false, misleading, or unsubstantiated claims about a product or service. These claims can mislead consumers about the nature, quality, benefits, price, or features of the product, resulting in inaccurate perceptions and potentially causing them to make uninformed purchasing decisions. Deceptive advertising can involve false statements, the omission of important information, or presenting exaggerated claims that cannot be substantiated.

Regulatory bodies like the **Federal Trade Commission (FTC)** in the United States define deceptive advertising as any ad that contains a representation, omission, or practice that is likely to mislead a consumer acting reasonably under the circumstances and that is material (meaning it affects the consumer's decision to buy or use the product).

These practices can distort the truth, manipulate consumer perceptions, and lead to informed decision-making based on inaccurate information. This practice can lead to unhappiness, financial losses, and a loss of faith in the marketplace. It also undermines fair competition within industries by allowing unethical enterprises to gain an unfair advantage over honest competitors. In the digital age, deceptive marketing can reach a large audience quickly, causing customers to base their purchasing decisions on false claims, inflated promises, or inadequate information. This can lead to unhappiness, financial loss, and even physical harm.

Deceptive advertising also affects industry competitors, who may find themselves at a disadvantage when competing with dishonest businesses. These dishonest competitors may obtain an unfair edge by enticing clients with misleading claims or reduced pricing that cannot be sustained without cutting shortcuts, sacrificing quality, or engaging in unethical practices. This unfair competition can have a cascading effect, affecting not just competitors but also the

Larger industry and consumers are denied the benefits of a fair and transparent market. Here are some common forms of deceptive advertising practices:

A. False Advertising:

- **Misleading Claims:** Presenting products as having qualities or benefits that they do not possess. For example, claiming a product is "100% effective" when it is not.
- **Unsubstantiated Comparisons:** Comparing a product favourably to competitors without evidence to support the claims.

B. Bait and Switch:

- **Attractive Offers:** Advertising a product at a low price to attract customers, only to inform them that the product is unavailable and attempting to sell them a more expensive item instead.

C. Hidden Fees:

- **Omitting Costs:** Failing to disclose additional costs associated with a product or service, such as shipping fees, taxes, or maintenance costs, which misleads consumers about the true price.

D. Puffery:

- **Exaggerated Claims:** Making broad, subjective claims that cannot be proven or disproven, such as describing a product as "the best" without evidence. While puffery is often legal, it can still mislead consumers.

E. False Testimonials:

- **Fabricated Endorsements:** Using fake testimonials or endorsements from supposed satisfied customers or experts to create a false impression of product quality or effectiveness.

F. Misleading Imagery:

- **Photoshopping Products:** Altering images of products to make them appear better than they are in reality, such as showing food that looks much larger or more appealing than what is offered.

G. Ambiguous Language:

- **Vague Terms:** Using vague or ambiguous terms that can be interpreted in multiple ways to create a misleading impression. For instance, using terms like "natural" or "organic" without proper certification or context.

H. Omission of Information:

- **Failing to Disclose Risks:** Not providing critical information about potential side effects, limitations, or risks associated with a product or service, leading consumers to make uninformed decisions.

I. Misleading Statistics:

- **Selective Data Presentation:** Presenting statistics or data in a way that misrepresents the product's effectiveness or superiority, often by cherry-picking favourable data without providing the full context.

J. Manipulation of Search Engine Results:

- **SEO Deception:** Using unethical search engine optimization practices to manipulate search results, leading consumers to believe a product is more popular or reputable than it actually is.

Impact of Misleading Advertisement on Competitors

Deceptive advertising can have a profound and extensive effect on rivals in the marketplace. The competitive dynamics of an industry can be significantly impacted by these dishonest practises, which can affect how businesses function and compete. First and foremost, when other companies run deceptive advertisements, competitors suffer grave disadvantages. When businesses make misleading or exaggerated claims about their products or services, they usually tempt consumers with promises that cannot be met. As a result, these firms may get an unfair edge over their honest competitors that exercise ethical marketing and openness. Consumers who have been duped by false advertising may initially be drawn to the dishonest business, but when their expectations are not met, they may soon lose interest in it. This might undermine consumer confidence in the market and damage the standing of any company operating in the sector. The decline in customer trust brought on by deceptive advertisements also affects competitors. In an environment where lying is rampant, consumers are wary and distrustful of any marketing promises. Even the most reputable and honourable companies in the field have doubts. Because of this, competitors that engage in ethical advertising face the challenging challenge of overcoming this widespread scepticism, which has the potential to impede company growth. A culture of unethical competition may also be fostered by false advertising, as other companies may feel pressured to use similar deceptive tactics to remain competitive with the dishonest businesses.

This unhealthy competition may stifle innovation and the development of superior goods and services. In addition, sincere competitors may find themselves entangled in legal disputes or regulatory actions brought about by authorities or consumer advocacy groups in reaction to their rivals' deceptive marketing. There's a chance that these legal issues will take resources—money, time, and effort—away from business operations and expansion. Competitors that uphold ethical standards face further disadvantages due to the high expense of legal defense and the possible fines for misleading advertising. Increased consumer misinterpretation is another unforeseen consequence for rivals. Consumers are often left perplexed by deceptive advertising, unsure of whom to believe and what information to accept.

Case Laws

Zydus Wellness Products Limited v. Horlicks Limited

A permanent injunction to prevent Zydus Wellness Products ("Zydus") from broadcasting an advertisement asserting that a single glass of Complian (a Zydus product) is equivalent to two glasses of Horlicks was requested by Horlicks Limited ("Horlicks") in a plea to the Delhi High Court. The contentious advertisement aired on many networks. Horlicks complained to the High Court, stating that the advertisement was disparaging and misleading. Zydus, however, said that the information in the commercial was genuine and restricted to the recommended serving sizes of both beverages, meaning that it was not misleading. The High Court ruled that the contested advertisement was deceptive and disparaging because, while a disclaimer was included, it was not clear, and the advertisement gave the impression that one cup of Complian was equal to two cups of Horlicks, without taking into account the serve size. Based on the foregoing, the High Court determined that the balance of convenience was in favour of Horlicks, who would suffer irreparable harm if the telecast of the contested commercial was not prevented, and so granted the remedy of an interim injunction.

Francis Vadakkan v A-One Medicals & others

The plaintiff in this Kerala consumer court case saw an advertisement promising luxuriant hair growth after using the product (hair cream) for six weeks. The complaint filed a "deficiency in service" claim against the product's producers, the actor who marketed it, and the medical store where it was bought since the promise was not fulfilled even after using the cream for the allotted amount of time. The client was awarded compensation by the court for the defendants' "false promises," and the actor was directed to endorse a product only after proving its efficacy and authenticity.

Consequences of Deceptive Advertising:

- **Consumer Distrust:** Such practices erode consumer trust in brands and the overall marketplace.
- **Legal Ramifications:** Many jurisdictions have laws and regulations prohibiting deceptive advertising, and companies found engaging in such practices may face fines, penalties, or legal action.
- **Market Distortion:** Deceptive advertising can distort market competition, leading to unfair advantages for dishonest companies over those that adhere to ethical marketing practices.

Laws Against Deceptive Advertising Practices

Laws against deceptive advertising practices are designed to protect consumers from false, misleading, or unfair claims made by businesses in the promotion of their products or services. These laws are enforced by regulatory bodies and can vary by country, but their overarching goal is to ensure that consumers are given truthful and accurate information when making purchasing decisions. Below are some key laws and regulatory frameworks against

deceptive advertising in different regions:

1. United States:

Federal Trade Commission (FTC) Act (1914):

- **Overview:** The FTC Act prohibits "unfair or deceptive acts or practices in or affecting commerce." The FTC enforces these rules, ensuring that advertisements do not mislead consumers through false claims, omissions, or ambiguities.
- **Key Provisions:**
 - Advertisers must provide truthful, non-misleading claims about products or services.
 - Claims must be substantiated by evidence, particularly in health or safety-related products.
 - Bait-and-switch tactics and hidden fees are prohibited.
- **Penalties:** Violators can face fines, injunctions, corrective advertising orders, and, in some cases, criminal penalties.

Lanham Act (1946):

- **Overview:** This act protects against false advertising and trademark infringement. It allows competitors to sue for damages if they are harmed by false or misleading advertising.
- **Key Provisions:**
 - Prohibits false descriptions or representations of goods or services in interstate commerce.
 - Allows businesses to take legal action against competitors who engage in deceptive advertising that harms their business.

2. European Union:

Unfair Commercial Practices Directive (UCPD) (2005/29/EC):

- **Overview:** The UCPD standardizes laws across EU member states to protect consumers from unfair, deceptive, or aggressive commercial practices, including advertising.
- **Key Provisions:**
 - Prohibits misleading actions (false claims) and misleading omissions (failure to provide essential information).
 - Includes a blacklist of 31 practices considered deceptive, such as false endorsements, bait advertising, and pyramid schemes.
 - Consumers have the right to file complaints and seek remedies if deceived.
- **Enforcement:** Each EU member state has a national authority responsible for enforcing the UCPD.

Misleading and Comparative Advertising Directive (2006/114/EC):

- **Overview:** This directive focuses on prohibiting misleading and unfair comparative advertising.
- **Key Provisions:**
 - Advertising must not mislead consumers or competitors.
 - Comparative advertising (ads comparing products) must not be deceptive or unfairly denigrate a competitor's product.

3. United Kingdom:

Consumer Protection from Unfair Trading Regulations (2008):

- **Overview:** These regulations implement the EU's Unfair Commercial Practices Directive and provide specific protections for consumers in the UK.
- **Key Provisions:**
 - Prohibits misleading actions or omissions in advertising.
 - Prohibits aggressive marketing practices that pressure consumers into making decisions.
 - Outlaws bait advertising, false claims, and high-pressure sales tactics.
- **Penalties:** Violators can face fines, legal actions, and, in severe cases, imprisonment.

Advertising Standards Authority (ASA):

- **Overview:** The ASA is the UK's independent advertising regulator that enforces advertising codes to ensure that ads are truthful and fair.
- **Key Codes:** The ASA enforces the UK Code of Non-broadcast Advertising (CAP Code) and Broadcast Advertising (BCAP Code).
- **Penalties:** The ASA can ban ads, order corrective advertising, and refer non-compliant advertisers to Trading Standards for legal enforcement.

4. Canada:

Competition Act (1985):

- **Overview:** Administered by the Competition Bureau, this law prohibits false or misleading advertising and ensures fair competition in the marketplace.
- **Key Provisions:**
 - Advertisers must not make false or misleading representations about products or services.
 - Price representations must be clear, accurate, and include all costs (no hidden fees).
 - Comparative advertising must be truthful and non-deceptive.
- **Penalties:** Violations can result in fines, imprisonment, or civil remedies such as monetary penalties and restitution to consumers.

5. Australia:

Australian Consumer Law (ACL) (2010):

- **Overview:** Part of the Competition and Consumer Act, the ACL protects consumers from unfair trade practices, including deceptive advertising.
- **Key Provisions:**
 - Prohibits businesses from making false or misleading claims about products or services.
 - Includes rules on false endorsements, pricing, and product descriptions.
 - Advertisers must substantiate any claims, particularly related to health and safety.
- **Penalties:** Breaches of the ACL can result in fines, damages, and corrective advertising orders. The Australian Competition and Consumer Commission (ACCC) enforces the ACL.

6. China:

Advertising Law of the People's Republic of China (2015):

- **Overview:** This law regulates advertising content to protect consumers from deceptive practices.

➤ **Key Provisions:**

- Prohibits false advertising and misleading claims, particularly regarding health, safety, and pricing.
- Endorsements must be based on experience, and claims must be backed by evidence.

➤ **Penalties:** Fines, bans, and legal actions can be imposed for violating advertising standards.

Across the globe, countries have established robust legal frameworks to combat deceptive advertising, ensuring that consumers are treated fairly and that businesses engage in honest marketing practices. These laws and regulations help maintain transparency in the marketplace, hold advertisers accountable for their claims, and promote consumer trust.

Laws and Organisations for Regulating Advertising Practices in India

In India, rules and regulations against deceptive advertising are enforced through various laws, guidelines, and regulatory bodies. These aim to protect consumers from misleading claims, unfair trade practices, and false endorsements. Below are the key laws and organizations that regulate advertising practices in India:

1. Consumer Protection Act, 2019

➤ **Overview:** The Consumer Protection Act of 2019 is the primary legislation that addresses deceptive advertising and unfair trade practices in India. It replaced the earlier Consumer Protection Act of 1986 to better adapt to modern consumer issues, including digital and e-commerce platforms.

➤ **Key Provisions:**

- **Misleading Advertisements:** The Act defines a misleading advertisement as one that falsely describes a product or service, gives false guarantees, conceals important information, or conveys incorrect information to consumers.
- **Central Consumer Protection Authority (CCPA):** The Act introduced the CCPA, which has broad powers to regulate and investigate deceptive advertising. It can order the discontinuation of misleading ads, impose penalties, and direct corrective advertising.
- **Endorsements:** False or misleading endorsements by celebrities or influencers are also prohibited under the Act. Endorsers are required to ensure that their endorsements are accurate and supported by evidence.

➤ **Penalties:**

- A fine of up to ₹10 lakh for the first offense and up to ₹50 lakh for subsequent offenses.
- Endorsers can be fined up to ₹10 lakh for misleading ads and face a ban of up to three years from making further endorsements.
- Imprisonment of up to two years for manufacturers, service providers, or sellers for repeated violations.

2. Advertising Standards Council of India (ASCI)

➤ **Overview:** The ASCI is a self-regulatory, non-governmental organization that sets advertising standards and ensures responsible advertising practices in India. While it does not have legal authority, its codes are widely accepted by advertisers and media houses.

- **Key Provisions:**
 - **Truthfulness:** All advertisements must be honest and not make false or misleading claims about a product's characteristics, benefits, or features.
 - **Substantiation:** Advertisers must have scientific proof or evidence to back up claims, especially for health, beauty, or performance-related products.
 - **Misleading Endorsements:** Celebrity endorsements or testimonials must be based on the actual experience of the person or be supported by verifiable claims.
 - **Prohibition on Offensive Content:** Ads must not offend public decency or exploit consumers' fears, vulnerabilities, or superstitions.
 - **Complaint Mechanism:** Consumers can file complaints with ASCI against deceptive advertisements. The ASCI reviews the complaints and directs advertisers to withdraw or modify ads if found misleading.
 - **Penalties:** While ASCI lacks enforcement powers, it can recommend the withdrawal or amendment of non-compliant ads. In serious cases, it can refer matters to the relevant government authority for legal action.
- 3. Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954**
- **Overview:** This law regulates advertisements related to drugs and magical remedies that claim to cure ailments or enhance physical or sexual capabilities. It aims to prevent people from being deceived by exaggerated claims or "miracle" cures.
 - **Key Provisions:**
 - Prohibits advertisements that falsely claim to cure or treat certain conditions like infertility, obesity, sexual disorders, and others.
 - Ads cannot suggest magical remedies or unscientific methods for treating serious illnesses.
 - **Penalties:**
 - A fine of up to ₹5,000 or imprisonment for up to six months for the first offense.
 - For subsequent offenses, fines can go up to ₹10,000, and imprisonment can be extended up to a year.
- 4. The Drugs and Cosmetics Act, 1940**
- **Overview:** This Act regulates the marketing of drugs and cosmetics in India, including the claims made in their advertisements.
 - **Key Provisions:**
 - **Misleading Drug Ads:** Advertisements cannot make false or exaggerated claims about the effectiveness, benefits, or safety of drugs.
 - **Endorsements by Medical Professionals:** Ads cannot feature endorsements by doctors, hospitals, or medical professionals unless they are based on scientific evidence.
 - **Penalties:** Violators can face fines, imprisonment, or a ban on the sale of the products.
- 5. The Food Safety and Standards Act, 2006**
- **Overview:** This Act governs the advertising of food products in India to ensure that they are safe, truthfully labeled, and marketed without deceptive claims.

➤ **Key Provisions:**

- Prohibits misleading or exaggerated claims regarding the nutritional value, health benefits, or quality of food products.
- Advertisements for food products must not mislead consumers about their safety or nutritional content.

➤ **Penalties:**

- A fine of up to ₹10 lakh for companies found guilty of deceptive advertising.
- Potential imprisonment for serious violations that threaten public health.

6. The Cable Television Networks (Regulation) Act, 1995

➤ **Overview:** This Act regulates television networks in India and ensures that advertisements broadcast on TV comply with the standards of truthfulness and decency.

➤ **Key Provisions:**

- Prohibits misleading, vulgar, or offensive advertisements from being broadcast on television.
- Ads must comply with the **Advertising Code** under this Act, which prohibits deceptive claims, exaggeration, and false endorsements.

➤ **Penalties:**

- The Broadcasting Authority can fine networks, suspend licenses, or ban misleading ads from being aired.

7. The Legal Metrology Act, 2009

➤ **Overview:** This Act ensures accurate information on quantities and measures in advertisements, particularly in pricing and weights.

➤ **Key Provisions:**

- Ads that falsely advertise the quantity, weight, or measurement of a product can be penalized under this Act.
- Product packaging must truthfully represent the contents as advertised.

➤ **Penalties:**

- Fines for non-compliance and possible suspension of the right to sell certain products.

8. E-commerce Rules (2020) under Consumer Protection Act

➤ **Overview:** These rules apply specifically to advertisements on e-commerce platforms to protect consumers shopping online.

➤ **Key Provisions:**

- Prohibits false and misleading ads on e-commerce platforms.
- Mandates transparency in the pricing of products and services, with no hidden fees or misleading discounts.

➤ **Penalties:** E-commerce platforms found guilty of hosting deceptive advertisements can face fines and corrective measures by the CCPA.

India has a comprehensive legal framework to regulate deceptive advertising practices, protecting consumers from false claims, exaggerated endorsements, and misleading product descriptions. The **Consumer Protection Act (2019)** and the **Advertising Standards Council of India (ASCI)** play crucial roles in promoting truthful and ethical advertising, while other sector-specific laws like the **Drugs and Cosmetics Act** and **Food Safety and Standards Act** ensure the integrity of claims related to health and food products. These laws, coupled with consumer vigilance, create a robust system to counter deceptive advertising practices in India.

9.6 ETHICAL ADVERTISING AND SOCIAL RESPONSIBILITY

Ethical advertising refers to the practice of promoting products or services in a manner that is truthful, transparent, and respectful of consumer rights, ensuring that the information presented does not mislead, deceive, or exploit the audience. Ethical advertising goes beyond mere compliance with laws and regulations; it is about building trust, promoting fairness, and contributing positively to society. In the context of **social responsibility**, ethical advertising can play a pivotal role in shaping consumer behaviour, raising awareness of important social issues, and promoting sustainable, socially beneficial choices.

Key Principles of Ethical Advertising:

1. Honesty and Truthfulness:

- Advertisers must provide truthful and accurate information about their products or services, avoiding any form of misrepresentation or exaggeration. Claims about a product's features, benefits, or performance must be backed by evidence.

2. Transparency:

- Clear communication is essential in ethical advertising. Prices, terms, conditions, and any hidden fees should be clearly stated. Advertisers should avoid using fine print to obscure critical information or mislead consumers.

3. Fairness:

- Ethical advertising ensures fairness by avoiding manipulative tactics, such as exploiting consumers' fears, insecurities, or lack of knowledge. Vulnerable groups like children, the elderly, and those in financial distress should not be targeted unfairly.

4. Non-discrimination:

- Ethical ads avoid reinforcing negative stereotypes or promoting discrimination based on race, gender, religion, ethnicity, or sexual orientation. Inclusive messaging that celebrates diversity and equality is encouraged.

5. Social Responsibility:

- Advertisers should be aware of their impact on society and the environment. Ethical advertising should promote responsible consumption, sustainability, and positive social values. For example, promoting eco-friendly products, health-conscious living, or responsible financial practices aligns with social responsibility.

6. Respect for Privacy:

- In the digital age, ethical advertisers must respect consumer privacy, particularly when collecting or using personal data. Transparent data policies and consent mechanisms are crucial in protecting consumer

rights.

Social Responsibility in Advertising:

Social responsibility in advertising refers to the commitment of brands and companies to go beyond profit-making and contribute positively to societal well-being. This can be achieved by incorporating social, environmental, and ethical considerations into marketing strategies and advertising campaigns.

Key Aspects of Social Responsibility in Advertising:

1. **Sustainability and Environmental Protection:** Brands can promote sustainable practices through advertising by highlighting environmentally friendly products, eco-conscious production methods, and responsible waste management. They can also advocate for environmental causes, such as reducing plastic usage or combating climate change. For example, companies like Patagonia and IKEA integrate environmental responsibility into their advertising, promoting sustainable products and encouraging consumers to adopt greener lifestyles.
2. **Promotion of Social Causes:** Ethical advertising can raise awareness about pressing social issues like gender equality, education, public health, and poverty. Brands like Nike and Dove have used advertising to challenge stereotypes and promote messages of inclusion and empowerment. Cause-related marketing is an effective strategy in which brands align themselves with charitable organizations or social movements, contributing to the cause while engaging consumers.
3. **Consumer Education:** Socially responsible advertisers often use their platform to educate consumers on important issues. For instance, public health campaigns may promote healthy lifestyle choices or spread awareness about disease prevention. Similarly, brands can educate consumers on responsible financial habits, such as saving, investing, or managing credit wisely.
4. **Ethical Endorsements:** Advertisements featuring celebrities or influencers should ensure that the endorsements are genuine and based on personal experience or verified claims. False or exaggerated endorsements are unethical and can damage consumer trust.
5. **Avoiding Harmful Content:** Socially responsible advertising avoids promoting harmful behaviours such as smoking, excessive drinking, unhealthy eating habits, or irresponsible financial spending. Ethical advertisers understand their influence and aim to protect consumers, particularly younger audiences.

Benefits of Ethical Advertising and Social Responsibility:

1. **Building Consumer Trust:** Ethical advertising helps build a strong reputation for brands, fostering consumer trust and loyalty. Consumers are more likely to support brands that they perceive as honest, transparent, and socially responsible. **Long-term Brand Value:** While unethical advertising may lead to short-term gains, ethical advertising builds long-term brand value by enhancing credibility and maintaining consumer relationships.

- 2. Positive Social Impact:** Ethical advertising contributes positively to society by addressing social and environmental challenges, promoting healthy lifestyles, and supporting community initiatives.
- 3. Regulatory Compliance and Avoiding Legal Issues:** By adhering to ethical standards, brands can avoid legal challenges, fines, or regulatory actions that arise from deceptive advertising practices. This ensures smooth operation and brand integrity.
- 4. Market Differentiation:** Brands that practice ethical advertising and embrace social responsibility often stand out from competitors. Consumers, particularly younger generations, prefer brands that share their values and take a stand on important issues.

Examples of Ethical Advertising and Social Responsibility:

- **Tata Group:** The Tata Group, one of India's largest conglomerates, has a strong commitment to ethical business practices and social responsibility. Their advertisements often reflect their commitment to social causes, education, and community welfare.
- **Dove's Real Beauty Campaign:** Dove's "Real Beauty" campaign challenged societal beauty standards and promoted body positivity by featuring women of different shapes, sizes, and ethnicities in their ads. This campaign not only aligned with social responsibility but also resonated with consumers by promoting inclusivity.
- **Procter & Gamble's "Like a Girl" Campaign:** P&G's "Like a Girl" campaign by its brand Always addressed the gender stereotype associated with doing things "like a girl." The campaign promoted empowerment and broke down gender barriers, sending a positive message about female strength and capability.

Social Responsibility of Business by Multinational Companies in India

Over the last two decades, multinational corporations have been instrumental in shaping marketplaces and swaying the actions of numerous customers. Companies now have a fantastic chance to increase their production base and market share and become internationally competitive thanks to globalisation and liberalisation.

Numerous progressive organisations in our nation have been actively involved in social issues in recent years. Some of these organisations have adopted the strategy of concentrating solely on business-related activities, or those that are directly related to their line of business. These organisations operate on the idea that social reasonability is only beneficial when it is profitable.

Both the organisation and the stakeholder gain from this strategy. In order to increase the amount of raw materials available for its paper plant, ITC has been afforesting privately owned deteriorated property. In a similar vein, Hindustan Lever has been enhancing the quality of the water in several towns since it needs high-quality water to produce its food items. Businesses such as Richardson Hindustan, Glaxo, and Cadbury India assist farmers in cultivating crops that are used as their raw materials. Lipton, which purchases milk from the Eath district of Uttar Pradesh, has established veterinary facilities in the area. In Delhi, British Gas, a company that supplies compressed natural gas to India, has begun training jobless youth to work as technicians on gas-powered autorickshaws.

Coca – Cola: Coca-Cola, one of the biggest and most international corporations in the world, takes seriously its obligation to improve the communities in which it did business. As per the Coca-Cola Promise, the company's mission statement reads, "The Coca-Cola Company exists to benefit and refresh everyone who is touched by our business."

The Company has worked to promote good citizenship in the community by tackling water, climate change, and waste management programs, as well as by enhancing the standard of living in the communities where they operate. The Coca-Cola Foundation, which focused on higher education as a means of fostering strong communities and enhancing individual opportunity, and The Coca-Cola Africa Foundation, which was established to stop the spread of HIV/AIDS through collaboration with governments, UNAIDS, and other NGOs, were also among their endeavours. Coca-Cola also had a substantial presence in India. The company employed 7000 residents and maintained that, throughout the supply chain, 30 to 40 more jobs were generated for every direct employment. Coke India's Corporate Social Responsibility (CSR) programs were centred on the environment and society, just as those of its parent company. Priorities included health, water conservation (where the Company funded community-based rainwater collection projects to restore water levels and promote conservation education), and education (where elementary education initiatives had been established to help children in slums and communities).

PepsiCo: Pepsi-Cola also contributes to the economic development of rural areas. It also proposed to transfer technology to India for food processing, packaging, and water treatment. After winning four Ps for entering a market with its package of perks, Pepsi added two more Ps: politics and public opinion. In a similar vein, nearly all multinational corporations (MNCs), including Microsoft, McDonald's, Nokia, Unilever, and ITC, have embraced corporate social responsibility as a means of achieving sustainable market development and growth in both their home nations and the countries in which they operate.

Ethical advertising and social responsibility are integral to modern marketing practices. Advertisers have a duty not only to promote their products truthfully but also to consider the broader impact of their messaging on society and the environment. By adhering to ethical principles and embracing social responsibility, brands can foster trust, differentiate themselves in the marketplace, and contribute to a more sustainable and equitable world.

End of Chapter Questions:

1. What is the purpose of advertising ethics in the marketing industry?
2. Define “puffery” in advertising. Why is it typically allowed in ads?
3. Why is transparency important in advertising?
4. How can advertising targeting children be considered ethically sensitive?
5. Name one example of a deceptive advertising technique and briefly explain it.

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