



A COMPARATIVE STUDY ON MISLEADING ADVERTISEMENT AND SOCIAL MEDIA MARKETING INFLUENCE

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Abstract: The method of marketing changed along with the rapid growth of these social media platforms. It evolved from the traditional marketing method to the social media marketing by the influencer and endorser. This type of marketing further contributes to the existing issue of misleading marketing. The study undertakes a comparative analysis of social media influencers and misleading advertisement and examines how it influences the consumer purchasing decision, trust and the reputation of the brand. It further analyses the existing laws and regulating frameworks that govern these misleading advertisements in India and compares them with the laws in the UK and the US and tries to determine whether the existing law is adequate to address the issue and protect the consumer rights and maintain ethics in the marketing. The study identifies limitations in the enforcement of existing guidelines which regulate the social media marketing by the endorsers and influencers and suggests a proper statutory framework to regulate these issues with an enforcement mechanism and legal consequences for violations to ensure the consumer protection from the deceptive practices and to have ethical and transparent marketing practices.

KEYWORDS: Consumer protection, Deceptive marketing practice, Misleading advertisement, social media influencer, Endorsement.

1. INTRODUCTION

In the current digital era, the social media platform and the method of advertisement have undergone a drastic change. Social media is not only a medium for communication, it has also become a tool that influences the consumers perspective, attitude and their purchasing decisions. Through the influencer endorsement and sponsored content nowadays brands are able to reach and connect with the consumers in a more cost effective way than the traditional method of Marketing. This rise in social media advertisement and influencer marketing has led to an increase in the number of misleading advertisements. A misleading advertisement is one that has deceptive or false information and leads the consumer to take a decision based on that information. These advertisements at certain times blur the line between an authentic review with a paid or sponsored promotion when the endorsement is not disclosed properly. The consumer nowadays, especially adolescents and the youth tend to believe influencers as a credible source and sometimes these misleading advertisements break their trust and violate their rights. These issues raised the concern regarding consumer protection, marketing ethics, accountability and transparency. Though there are existing statutory regulations and guidelines to regulate these misleading advertisements in the social media platform the growing market environment creates the need for these legislations to evolve along with it in order to fill the gap in the consumer protection.

1.1 LITERATURE REVIEW

Joan Nivedha S (2025), New Era of Advertisements Through Social Media Influencers and Their Legal Responsibilities : The study highlights that the influencers are also considered as endorsers and they should also be accountable for their endorsement and nowadays businesses have increased their focus upon influencer marketing. The study further mentioned the historical background of advertisement and marketing. It further states policies which came in response for all these changes like Consumer Protection Act, ASCI, Guidelines for Prevention of Misleading Advertisement and the social media platform liability immunity under section 79 of IT Act in the concept of Safe Harbor. In addition to that, the study gave a perspective that a misleading advertisement not only has a negative impact on the consumer, but also upon the brand and the product based upon a case study. It briefly refers to UK and Japan law like strict disclosure norms, stealth marketing and recommends similar measures for Indian law.

Dr. Rovika Prem (2025), FROM FOLLOWERS TO CONSUMERS: A REGULATORY PERSPECTIVE ON INFLUENCER MARKETING AND CONSUMER PROTECTION IN INDIA : The study examines that there is a rapid growth in the field of influential marketing in India and because of that, there is a need for a proper regulation to regulate social media marketing and the other endorsements. Many influencers are not mentioning whether the content is a paid promotion or it is a sponsored content that misleads the audience to think that it is their personal opinion. The study mentions that the US and UK have enforced disclosure norms and other laws for years. But India introduced the ASCI guidelines in 2021 and the Endorsement know-hows initiative under the Consumer protection act, 2019. The study highlights that the enforcement of these existing laws and the public awareness about these laws are still weak and that need to be improved. It recommends the government to conduct a campaign for public awareness, Proper influencer certification and training process, whistleblower system, real-time monitoring.

T.K. Raghava, Jyotirmoy Banerjee (2025), Misleading Advertisements and Celebrity Endorsements: Legal Protection under the Consumer Protection Act : The paper analyses how the celebrity and influencer endorsement influences the everyday choice and action of the consumers and the purchasing decisions. In order to address these issues, the parliament passed the Consumer Protection Act 2019, and the CPA 2019 imposes a penalty even on the celebrity and influencer endorsers for deceptive advertisements. Various legal frameworks were referred in order to address these issues like Food Safety and Standard Act, Drugs and Magical Remedies Act, and further defines various kinds of misleading advertisements. Even in the case 3 lakh rupees have been imposed as a fine on both the brand and the influencer for a false claims, and finally recommends proper financial allocation to address these issues, National wide Consumer Awareness Initiative should be taken by the government and measures should be taken to collaboration with social media platforms for the compliance of regulations by the influencers.

Dr. Shwetha P (2025), From Puffery to Penalty: Legal Control of Misleading Advertisements in India : The review paper examines the continuing issue of the misleading advertisement even though there are rules and regulations in order to regulate these actions . It discusses certain tests through which the court assesses whether an advertisement is deceptive or misleading. Like the reasonable person test and the impression test, these tests determine how the consumer's perspective is being influenced through these advertisements and their impact on their psychological perspective. The study further refers to several statutes from various sectors like health, food, and drugs along with case laws. The paper concludes that the combined execution of these statutory provisions and the judicial interpretation helps to maintain transparency in the advertisement practices and protect the consumer rights and their interests.

Dr S. Suguna (et al.) (2024), Effects Of Misleading Advertisement On Buying Behaviour Of Consumer Goods : The study analyzed that businesses are using social media influence as a way to influence the consumer's behavior, perspective, attitude, and purchasing intention. The businesses use this marketing strategy to reach the targeted consumer and the sole motive behind all these is profit and that leads to deceptive advertisement practices. The study recognizes the importance of transparency and accuracy in the advertisement process and that the misleading advertisement violates the legal and ethical standards and suggests the consumers to evaluate the advertising claims by themselves before trusting a brand. And these deceptive practices could harm brand reputation and attract penalties for both the advertisers and the endorsers.

Dr.Abdal Ahmed (et al.) (2025), Broken Promises: The Impact of Misleading Marketing on Consumer Trust and Brand Loyalty: The study analyzes the issue of misleading marketing and its impact on two major things, that is the trust of the consumers and brand loyalty of the consumers. It further notes that the consequences of these misleading advertisements does not stop with a single individual, but extend to a larger group of people. The finding of the study mentions that the consequences of these misleading advertisements could be loss of trust on the brands by the consumers, the consumers might stop buying the products of the brand, they might lodge a complaint or share a negative review about that particular product. The study suggests that the companies should adopt some ethical and transparent advertisement practices and to educate the consumers about these misleading advertisements through social, print and electronic modes. It further mentions that the advertisement made on the e-platforms should also be held accountable.

Jay Kumar Dewangan (et al.) (2022), Social media influence marketing: A systematic literature review: The study examined that nowadays companies are switching from traditional celebrity marketing to social media influencer marketing because of various reasons like it is very cost-effective and social media influencer marketing is a growing inevitable area to reach the consumer, and the consumers are seeing these influencers as trustworthy people. The finding of the study mentioned that the research on these topics has been started during the period of 2019 - 2020, and it has a huge impact on the children and adolescents.

Dr. Mohammad Tariq Khan (2025), Legal Responsibility of Social Media Platforms for Misleading Advertisement: Issues and Challenges: The study analyses about the legal responsibility of the social media platforms in deceptive advertisements and referred endorsement guidelines in India, Lanham act and other laws in India and the US. It mentioned in one of the case studies that in Brazil, Meta platform has been fined \$3.6 million for allowing deceptive ads in its platform. It further mentions the challenges in making these social media platforms accountable as there is a limited liability for the intermediaries under section 79 of the IT Act. In order to keep up with the digital era and to protect consumer rights, the study suggests enacting stricter laws, collaborating with other countries and increasing public awareness and knowledge.

Ms. Sonia Maan (et al.), Unveiling deception: A study of false and misleading advertisement on consumers in e-commerce in India: The reviewed paper examines that the misleading advertisement has been increasing along with the growth of e-commerce and that affects the consumer trust and questions the integrity of the e-commerce industry. It mentions certain techniques and forms based upon which the false and misleading advertisement could happen and addresses the issue of surrogate advertisement. 60% of the consumers want to experiment with a product when it is being endorsed by an influencer. It concludes that though ASCI is regulating these misleading advertisements in the e-commerce field, it still lacks a stricter punishment because it is a self-regulatory body and suggests a stronger legal framework to govern this issue in this digital era.

Ravikumar J.S. (et al.) (2024), Issues related to fake reviews and deceptive marketing practices - an analytical study: The study questions the reliability of the online reviews as fake reviews have been increasing in the online shopping and digital marketing field. The article mentions various signs of fake reviews and that helps the consumers to identify the fake reviews more easily. In the findings, the study mentions that the deceptive marketing practices and the counterfeit reviews affect the consumer trust and violates the consumer protection laws and regulations, and creates an ethical concern. It concludes the study by suggesting to have a stricter policy and enforce them properly, to maintain the transparency and to have an enhanced detection algorithm.

1.2. METHODOLOGY

The study adopts a doctrinal research method and relies upon the available statutory framework, regulation, guidelines, journals and article in order to examine the existing legal framework which governs the misleading advertisement and the social media marketing in India, US, and UK. The comparative analysis is conducted in order to identify the gaps in the legal frameworks.

1.3. RESEARCH GAP

The existing studies on the misleading advertisement in the social media marketing by the influencers and endorsers are very limited and mostly focus upon the legal frameworks and guidelines which regulate these practices and fail to focus upon addressing the issue of legal liability of these social media influencers and its enforcement challenges. So this study seeks to address these issues by analyzing the legislative framework in the US, UK and India and recommends measures in order to strengthen consumer protection and regulate social media marketing.

2. LEGAL FRAMEWORK GOVERNING THE MISLEADING ADVERTISEMENT IN THE US AND UK

2.1. UK LAWS

2.1.1. Digital Markets, Competition and Consumers Act 2024

Part 3 of the Act outlines the enforcement of the consumer rights, which mentions the mechanism for enforcing through the courts and the Competition and Markets Authority, that is CMA. Both the court and the CMA have the power to impose penalties, remove that misleading content in the advertisement, or even make a direct corrective measure. And the alternative dispute resolution has also been provided to the consumer to make a complaint.

Part 4 outlines the consumer rights and the disputes in that it has mentioned about the commercial practices under S. 225, misleading actions under S. 226, and misleading commission under S. 225.

Section 225 prohibits unfair commercial practices and also mentions the act or commercial practice which will be considered as an unfair one, an act is considered unfair when it is likely to influence the consumer to take a decision which they wouldn't have taken otherwise if it doesn't involve the misleading action or omission or the aggressive practice. Section 226 defines misleading advertisement as a commercial practice which involves misleading information about a product or a trader or other related matters or which is presented in a way that would deceive a consumer or which creates confusion or if they fail to comply with the requirement of the code. Section 227 mentions misleading information at one where that material information or that important information is being omitted or hidden, which should ultimately affect the consumer's choice. Schedule 20 of the Act mentions the practices which will be considered as unfair in all the circumstances.

The act gives a framework to protect the consumer from misleading advertisement, but it doesn't explicitly mention social media marketing, but that could also come under the scope of these provisions.

2.1.2. Social media endorsements: guidance for content creators

The social media endorsements guidelines for the content creator have been now enforced by the Advertising Standards Authority, and the non-compliance of these guidelines by the content creator can be named and shamed by the Advertisement Standards Authority.

If a content creator is making a commercial content or promoting a brand or a product of any social media after they are being incentivized, they should clearly label that content as an ad in an easily understandable and transparent way like

- ad
- advert
- 'AD'
- advertisement
- advertising

There shouldn't be any hidden ads without labelling it as the viewers could get confused with it and that could be an illegal and harmful one. And words which should be avoided during the labelling as certain words could create ambiguities like gift, gifted, affiliate, collab, PR trip, etc... From the very start of the content, it should be very clearly mentioned that it is an ad and it should be in a way that is understandable to the audience as well.

2.1.3. The Consumer Protection from Unfair Trading Regulations 2008

Regulation 5 mentions misleading actions, which means any actions by a content creator which exaggerates or gives false information about the product or service that they are endorsing, and that could result in deceiving the consumers in making their decisions. Regulation 6 mentions about the misleading omission which means wantonly not disclosing the important or material fact about the product or a service or that it is a paid collaboration or sponsored advertisement. The schedule one of the regulations mention certain commercial practices which will be considered an unfair one in all the circumstances.

2.1.4. CAP code for misleading advertisement

The CAP Code on Misleading Advertisements is a provision in the UK Code of Non-Broadcast Advertising and Direct & Promotional Marketing. It is issued by the Committee of Advertising Practice and enforced by the Advertising Standards Authority, and its main aim is to prohibit deceptive marketing communication.

The marketing communication cannot be a misleading one or cannot exaggerate the claims which would manipulate an average consumer, and they cannot omit the material information. Before making a marketing communication, they should make sure and have documentary evidence to prove their claims. They cannot exaggerate the performance of a product.

2.1.5. Consumer rights act 2015

Section 9 of the act mentioned the goods must be of a satisfactory quality which also includes the public statement about the characteristic of a particular good or service made by the trader or their representative or endorser. In that case, the influencer could also be included in it. If the claims of the influencer are not being made, the consumer can ask for the remedy. Likewise, the section 10 of the Act mentioned goods must be fit for the particular purpose which was claimed by the endorser. Further the section 11 mentioned goods must be as described, which means if a product or a service has been promoted by an influencer or an endorser, then the product should be in a way that it has been described in the content of the influencer. Section 50 of the Act mentions any information which has been given to the consumer by the influencer or an endorser about a trader or a service, which could ultimately influence the decision of any consumer should be a binding one.

2.2. US LAWS

2.2.1. FTC guidelines

The FTC have guidelines for advertising and marketing, in that they have specific guidelines for children, advertising and marketing basics, online advertisement and marketing, endorsement influencer and reviews. In that they have guidelines like Disclosure 101 for social media influencers, FTC's endorsement guide, What people are asking, etc.

Disclosures 101 for Social Media Influencers

If a social media influencer posts a content which is being endorsed, then it is their responsibility to disclose that it is an advertised content. And the disclosure should be a visible and an understandable one and it should be placed in a way that it is hard to miss by the viewers or the consumers. They should use a simple and clear term to disclose that it is an advertised content like ad, sponsored or advertisement. The disclosure should be in the same language as that of the endorsed content. The influencers or the endorsers are restricted to share an experience about a product which they didn't even try or use. They cannot make a claim about a product without proper proof or evidence.

FTC's Endorsement Guides: What People Are Asking

The legal basis of this guide is Section 5 of the FTC Act which prohibits the unfair or deceptive practices or methods in order to protect the consumers.

The guide mentioned that social media influencers are also considered as endorsers. The core things in this guide are that the advertisement should be truthful and honest and shouldn't be misleading or deceptive content. The endorser should give an honest opinion of the product or service and cannot raise a claim which a marketer cannot legally make. The material connection between the endorser and the marketer should be disclosed. It further says tagging a brand in their social media post is not considered as a disclosure of the connection between the endorser and the marketer.

2.2.2. Federal Trade Commission Act

The Federal Trade Commission Act is a statutory provision which regulates deceptive or unfair marketing practices. In that, Section 5 mentions about the unfair or deceptive practices though it doesn't explicitly mentions it also includes the endorsers' statement which exaggerate about the products, hype about their sponsorship, advertisement or any deceptive practice by them as an unlawful one by interpreting the section. Further section 12, mentions about the dissemination of a false advertisement as an unlawful one, and that could also be considered as an unfair or a deceptive practice.

2.2.3. Lanham Act

§ 43 (15 U.S.C. § 1125) of the Lanham act mentions about a false designation of origin about a product or false description or representation about a product or a service, which means the use of any word, term, name, symbol or anything which is false or misleading or deceptive one, or would likely to cause confusion or mistake, or it could be misleading one about its characteristics, qualities or geographic origin, then civil action can be taken against that person which also includes influencers as any person under § 43(2) includes any non-governmental entity.

3. ADVERTISEMENT STANDARD COUNCIL OF INDIA

The ACCI was established in 1985 and is a non-governmental and a self-regulatory body which expects that advertisement to be legal, honest, decent and truthful and not to be a hazardous or harmful one.

3.1. GUIDELINES FOR CELEBRITIES IN ADVERTISING

A person who is well-known or famous in a recognized field will be considered as a celebrity, and according to the guidelines, a person with five lakh followers or more in a single social media handle will also be considered as a celebrity.

Some of the important guidelines are:

- All the advertisements that show or feature the celebrities should not violate the ASAI code and the celebrities are also expected to have adequate knowledge of these codes.
- The testimonies, endorsement, or the opinion of the celebrities must be based upon their current opinion. It should be genuine and should be based upon the information about the product or the services which are being advertised.
- It is the responsibility of the celebrity to check the description and claims of the product which they are endorsing to make sure that it is not misleading or appears to be a deceptive one. The celebrity should also give a signed confirmation stating that they have undergone the due diligence process of the endorsed product/service.
- The celebrity should not endorse a product that is prohibited under the Drugs and Magic Remedies Act, 1954 and the Drugs and Cosmetics Act.
- Celebrities should not endorse a product which requires a mandatory health warning.

3.2. GUIDELINES FOR INFLUENCER ADVERTISING IN DIGITAL MEDIA

The guideline defines various terms like influencer, virtual influencer, material connection, and the digital media. Influencer is someone who has the power to affect the purchasing decision of the audience, their opinion about the product or services or a brand or their experience over the product through their authority as an influencer or their knowledge or position or the relationship which they have with their audience.

The preamble of the guidelines, consider the digital media as a pervasive one. As the consumers started to get influenced by these advertisements, it wants to regulate these issues as there is just a blurry line between the actual content and the advertisement. The consumers are not able to distinguish whether a content is being promoted for a commercial gain or it is a general opinion based upon their experience, and that becomes misleading and violates the guidelines.

Some of the important guidelines are:

- The first and the foremost thing in the guideline is that the influencers should disclose whether the content is an advertisement or their personal opinion. It further gives the criteria to determine whether it is an advertisement.
- It further says that the disclosure should be mentioned in a way that is hard to miss. It should not be hidden or buried in a lot of hashtags. If it is a 15 seconds of video, then the disclosure should appear for a minimum of 3 seconds. For videos longer than 15 seconds, less than 2 minutes it should appear that it is an advertisement at least for one-third of the video likewise it has rules for livestream and audio contents.
- It further mentions certain disclosure labels to be used such as
 - Advertisement
 - Ad
 - Sponsored
 - Collaboration
 - Partnership
 - Employee
 - Free gift
 - Affiliate
- Disclosure must be in English or in the same language as that of the advertisement so that it will be easier to understand by an average consumer.
- It further mentions the influencers should undergo the due diligence process in order to verify whether the claims made are based upon certain proofs and evidences.
- It further added certain other rules for health and financial influencers on 6/03/2025.

3.3. THE COMPLAINT PROCESS

The consumers complaints council, examining the complaints as well as the responses by the advertisers to those complaints and gives a recommendation whether the advertisement is violating the code or not. The complaints which are under judicial consideration or which have already been decided by court or other regulatory authorities are not being entertained under ASCI.

Types of complaint received by the ASCI:

- Public/consumer complaints
- Complaints from NGOs or government bodies
- Intra-industry complaints
- Suo motu complaints.

PROCESS OF THE COMPLAINT

The complaints may be submitted through various platforms like WhatsApp, online form, email, telephone, post, or by tagging ASCI on social media platforms. After the complaints are being made, it will be redirected to a formal channel. Anonymous complaints are not accepted in ASCI. The person who complains must give their identity and disclose complete details of the advertisement, related evidence and the grounds of objections. The complaints will be closed if the complaint is being withdrawn or the required details are not provided by the complainant within the 5 business days.

After receiving the complaint, the designated officer will verify the complaint to prevent fake cases. After the verification process, the designated officer will decide whether any action is required or not, whether formal response system to the advertiser is necessary in the complaint, whether informally amending the advertisement is enough to resolve the issue. The informal resolution method is being used if the complaint isn't harmful to the consumers or doesn't have any prima facie violation of the code.

After the complaint is being examined, the details of the complaint will be communicated with the advertiser and they have to submit a written response to the complaint and objections within five business days or may be extended to seven business days. And further clarification can be asked by the designated officer if needed. If there is a need, the designated officer may appoint a neutral independent technical expert, and the expert opinion will be shared with the advertiser and they may request for a meeting and the response should be submitted within three business days. After all these procedures the complete file of the complaint will be sent to CCC for final decision.

In case if the advertiser within three days from the opinion of the expert, request for an informal resolution or voluntary agrees to withdraw or modify the advertisement as per the objection and implement the same within 10 business days or maximum of four months in case of a package of claims, it will be treated as an informal resolution of the complaint. In the CCC meeting no personal representation is allowed for both the complainant and the advertiser and in case of no representation from the side of the advertiser ex parte order will be passed based on the available material.

The recommendation of the CCC has to be implemented within 10 business days and for 5 days will be given as a reminder if the recommendation is not being complied continuously then the recommendation will be forwarded to the concerned government department or the regulatory authority. Fast track complaints has its own procedure and if the aggrieved party requests a review on the recommendation of CCC there is a separate review procedure for that.

3.4. Compliance of the recommendation

In certain cases, advertisers and influencers have amended their ads or content as per the recommendation of AICA, but in certain situations, it has been complied with and the AICA doesn't have any legal authority to take further actions to resolve the violation of the guidelines.

Cases where recommendations of ASCI have been followed

There are lots of cases where the issue raised has been resolved through an informal resolution method or an advertiser amended or modified the advertisement or the content as per the ASCI's recommendation and guidelines and that has been mentioned in their website.

In lots of cases, the influencers assured that they will comply with the guidelines and advertisers are expected to modify the advertisement.

Cases where recommendations of ASCI not been followed

There are many instances where the recommendation of ASCI haven't been followed by the influencers or the advertisers, and all those cases have been listed by the AICI in its official website along with the name of the brand and influencer along with their social media identifiers.

4. LEGAL FRAMEWORK GOVERNING MISLEADING ADVERTISEMENT IN INDIA

The use of the social media platform has been increased in the current growing digital era and protecting the consumers from the deceptive advertisement in these platforms have become a challenge. The legal frameworks, including the Consumer Protection Act 2019, The Central Consumer Protection Authority and their Endorsement Guidelines, the Advertisement Standards Council of India code, aims to regulate these advertisement practices and ensure that the advertisements are not harmful or deceptive ones.

4.1. THE CONSUMER PROTECTION ACT, 2019.

Consumer protection act provides provision to address the issue of misleading advertisement but doesn't explicitly mentions the liability of the social media influencers but mentions the endorses which includes the influencers in the social media platforms. The definition under Section 2(7) could also include the social media followers who buys a product or avails a service based upon the influencer endorsement as a consumer. The definition under section 2(28) also includes the influencer-endorsed posts which exaggerate the product claim in the form of quality, quantity, their standard or its benefit. Section 2(47) defines unfair trade practices and that also includes the false or deceptive claims by an influencer about a product or a service while they are promoting it. section 18 - 21 gives power to the Central Consumer Protection Authority to investigate any misleading advertisement which also includes the social media influencers promotions and can order to remove or correct such advertisement, impose fine and even ban the influencer to make any other promotion. Section 21 of the Act gives a joint liability to the endorsers along with the manufacturer or seller for the violation of the misleading advertisement.

4.2. CONSUMER PROTECTION AUTHORITY

The Central Consumer Protection Authority is established under Section 10 of the Consumer Protection Act in order to safeguard the consumer from unfair trade practices and deceptive and misleading advertisement, which could violate the rights of the consumers. They have certain investigation powers and even can impose penalties and take further actions in case of violation of the consumer rights as per the provisions of the consumer protection act. As the use of social media has been increasing among the people the endorsement of products on these platforms is also been increasing, the CCPA under the Department of Consumer Affairs notified the Guidelines for Prevention of Misleading Advertisement and Endorsement for Misleading Advertisement 2022 with an object to protect the consumers and completely reduce this misleading advertisement, which exploits the consumers.

The guidelines mentions that advertisements should be accurate and truthful and shouldn't be exaggerated to mislead the consumers. It further defines the bait advertisement, surrogate advertisement and the free claims. The endorsement which focuses upon the children shouldn't violate the health or the safety restriction. The disclaimers that the content is an advertisement should be clear, visible, and should be in a language as that of the claim made in the advertisement. It mentions that the influencers and the endorsers should undergo the process of due diligence before promoting a particular product or a service in order to know that it is genuine and is not baseless. The CCPA has the power to investigate these misleading advertisements and can even impose penalties for this misleading advertisement up to 10 lakh rupees upon the manufacturer, advertiser, and endorsers, and in case of the subsequent contravention of these provisions, the penalty may be up to 50 lakh, and further, the authority has the power to prohibit the endorsers from endorsing any further product or service up to 1 year and in case of subsequent contravention they can be prohibited from further endorsement for any product or service up to 3 years.

4.3 ASCI's CODE

AACI is a self-regulatory body which gives guidelines for the celebrities and the social media influencers in order to ensure that the advertisement or the endorsement that they are making is truthful, honest, and not misleading or harmful to the consumers. Further, they mentioned the disclosure of the sponsored content with certain tags and asked them to do the due diligence process in its guidelines.

4.4. Information Technology Act, 2000

Section 79 of the Information Technology Act, 2000 imposes a limited liability upon the intermediaries through the safe harbour protection to the intermediaries like the social media platforms as they people are not liable for the third-party information. Their responsibility is only to go do the due diligence process to verify whether the government guidelines are being complied or not.

4.5 COMPARISON OF US, UK AND INDIAN FRAMEWORK

The legal and regulatory framework in the UK, US, and India gives protection to the consumer against the misleading advertisement and the deceptive practices. In the UK, the Digital Markets, Competition and Consumer Act 2024, the Consumer Protection from Unfair Trade Regulation 2018, and the Consumer Rights Act 2015 give primary protection to the consumer against these deceptive practices. Further through ASA's guidelines for content creators and the CAP code, regulates the deceptive practices by the endorsers in the social media platform. In the US, the Federal Trade Commission Act and the Lanham Act are the primary legislation which protect the consumer against these misleading and deceptive practices, and the FTC guidelines further regulate the activities of the endorsers. Similarly, in India the Consumer Protection Act 2019 and the CCPA are the primary legislation which regulate misleading advertisement and deceptive commercial practices. Further, the Guidelines for Prevention of Misleading Advertisement and Endorsement 2022, along with the ACI's code, regulate the activities of the social media endorsers and their content in the social media platform.

Though all these frameworks regulate the activities of misleading advertisement through its legislation and guidelines, there is a major drawback of all these rules. The regulations govern the social media influencers and their endorsements are just guidelines and not a legally binding statutory regulation, which means the non-compliance of these regulations or guidelines can't be directly punished by the regulatory authority of the guidelines, and only the indirect enforcement is possible through other statutory provisions or bodies. This loophole gives an opportunity to the influencers or endorsers for non-compliance, which could ultimately affect the consumer rights. This circumstances creates a need for a proper statutory mechanism to address the issue of misleading advertisement in the social media platforms by the influencers or the endorsers.

4.6. SUGGESTION

- The role and liability of the influencers should be properly defined under a statutory mechanism.
- Mandatory disclosure requirements should be properly given along with legal consequences for non-compliance.
- Need stronger enforcement mechanism, not just a guideline, but a statutory mechanism to regulate the misleading advertisements in the social media platforms by the influencers and the endorsers.
- Consumers should be educated about these influencer marketing, paid promotions etc.. and how to identify these misleading claims.
- Training should be provided to the influencers regarding ethical marketing practices, how to conduct the due diligence process and what are all the legal obligations in the marketing and advertisement then a certificate should be given to them for endorsement.
- Special guidelines or legal framework should be enacted for sensitive sectors like health, finance, or wellness, which could ultimately create a serious harm to the consumers.
- Periodical review of these regulations and the misleading advertisement in the endorsement should be made by the concerned authority, and these regulations should be updated along with this growing digital era.
- Fast track dispute resolution mechanisms can be introduced in order to resolve the non complaints of these guidelines to resolve the issues by the government.

5. CONCLUSION

The rapid growth of the social media platform has transformed the marketing method from a traditional one to a social media marketing by an influencer endorsement, as it is considered as a powerful and cost-effective tool to reach the ultimate consumers. A comparative analysis of this study shows that all the countries have a legislative framework to address the issue of misleading advertisement. At the same time, the guidelines which regulate the influencer endorsement on the social media platform are a non-binding one and can't be explicitly enforced through a statutory provision. This research paper highlights the critical need for a proper statutory legislation to regulate these misleading advertisements in the social media marketing and suggest to clearly define the roles, duties, and liability of the influencer, to create consumer awareness programs and campaigns, to provide influencer training and certification, to have sector-specific regulations, by implementing all these measures, consumer rights can be protected while ensuring ethical and transparent social media marketing practices.

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