

“Relevance of Obsolete Advertising Laws in New Epoch of Social Media”

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Around a decade ago (in 2009) smartphones were launched in India, with smart phones came easy access to internet, with internet came apps, everything you want is just a touch away and now we can't even imagine a day without our phones, smartphones have become artificial organs of our bodies.

Let's talk about addictions, I mean social media, admit it or not we all are addicted to social media. sure, social media is a media is a great platform to express your views, connect to people, explore world with your fingertips but In this new dawn of social media, where people have launched their careers and became celebrities ,influencers and they directly or indirectly effect our choices and decisions have no actual reliability or credibility .

We all are familiar with Instagram, YouTube – influencer marketing, according to altimeter report Influencer marketing will grow at an exponential rate (projected at almost 40%) annual growth for the next five years and according to Fashion Monito 57% of companies already have an influencer marketing programme underway (cooper, 2018). with growing trend of social media marketing, where our purchases are based on reviews of our favorite bloggers, which most of them are sponsored by brands, there is no guarantee that review of the products is genuine, we just buy products with bona fide and where exactly consumer protection comes into play in this scenario? Harsh truth is that where 50% of the purchases are being made have no real time consumer protection policies and no advertising policies to govern them.

In India online advertisers should comply with ACSI, information technology act, Indian penal code and other applicable laws. ACSI- advertising standards council of India is a self-regulatory voluntary organization. It is established to regulate the advertisements and make them consumer – friendly and reliable. ACSI lays down codes for advertisements but these are not mandatory to follow, so practically nobody follows them. RBI, SEBI, IRDA regulate their own advertisements. advertising In India there is an absence of comprehensive and precise statutory laws that govern the social media, there are multiple vague laws, just providing statutory provisions superficially. These are following provisions for advertising in India.

- Securities and exchange board of India act ,1992
- The drugs and cosmetic act, 1940
- Infant food regulation act ,1992
- The drugs and magical remedies (objectionable advertisements) act ,1954
- Banning of cash, chits, circulation money act,1978
- Food safety standards act ,2006
- Public gambling act ,1867
- The lotteries regulation act ,1998

- The prize competitions act ,1955
- Cigarettes and other tobacco products prohibition of distribution, advertisement, regulation of trade and supply act ,2003
- Standards of weight and measures act ,1976
- Intellectual property rights
- Emblems and names (prevention of improper use) act, 1950
- Companies act ,1956
- Indecent representation of women prohibition act,1986
- Emblems and names prevention of improper use act ,1950
- Young persons harmful publications act ,1956

THE SETBACKS OF SOCIAL MEDIA ADVERTISING:

Minors:

Social media has no restrictions that only certain age group of people are allowed to use or become influencers. So, we as consumers we actually don't know that people who are advertising products on social media are actually even major or not. not to mention there are many kids who are apparently beauty gurus or influencers and they advertise products and get into sponsorships with brands. Hiring a minor to advertise your product is illegal but apparently there is no such law stating it. In many cases many brands only send PR packages but even though reviews products and advertising them by minors must be made illegal. There must be a law made that only majors / 18 years or above can be influencers or can take up any sort of product advertising on social media.

Giveaways/ free gifts:

Every Instagram / youtuber does giveaways in order to get more followers and become more popular but conducting contests as such are prohibited by consumer protection act, 1986. Sec 2(3)(a) states that conducting any contests or lottery or game of skill to promote the business in anyway is prohibited. If technically viewed all of the influencers are promoting themselves by baiting people into free gifts and giveaways.

Disguised ads/ Disguised sponsorships:

Millennials are all about social media , the every other person possessing a smart phone is an social media influencer , the main reason for such a craze is easy money , many influencers earn millions on sponsorships , there are 25 million business profiles on Instagram in USA alone (cooper, 2018). With such an open platform and huge scope for advertisements without actual laws governing them, disguising sponsorships and misleading consumers that the reviews of influencers are genuine is a cakewalk. Many companies request influencers that the sponsorship should not be disclosed. It's not just only making fool of consumers but also fraudulently carrying on business and stealing consumers money the disclosure of sponsorships should made mandatory, in order to curb this kind of malpractices.

Surrogate advertisements:

Surrogate advertising is advertising a product which is banned by law to advertise but which is being advertised in a disguised manner such as alcohol and tobacco. Many of the Hollywood celebrities have their own alcohol brands thanks to their social media following that they can advertise for free without any restrictions. Not only Hollywood celebrities but also many wine, champagne, alcoholic drinks brands are approaching influencers to advertise and market their products which is not just unethical but also unlawful. This is a huge loop hole this must be fixed and made sure that such things don't occur. Social media marketing became a big loop hole in traditional advertising laws, literally every other brand is turning to social media advertising to escape the law.

Conclusion:

Though social media gave a new dawn to humanity, it also gave us the darkest hours, with social media becoming the huge platform with no rules and regulatory bodies, marketing and advertising are a cakewalk to brands which is also allowing them to escape the law and ultimately the person who is at loss is every consumer. To say the least consumers are being robbed by brands from ages but at least there were regulatory bodies to regulate them but now it's just a wild forest with no rules. In order to stop this new social media laws should be made and the following things should be addressed.

- The social media laws must be made and there should be a regulatory body.
- The government should issue guidelines for social media marketing
- Influencers should be made liable along with brands. they should be wholly made responsible for the products and their authenticity.
- Every sponsorship must be disclosed by influencers and brands, there must be transparency
- Every product that is being advertised must have customer reviews
- There shall not be any giveaways or contests
- Every influencer should be above 18 years of age or if minor shall not be allowed to advertise products or take up sponsorships
- There shall be no surrogate advertisements.
- Consumers who were cheated or were subject to unfair trade practices shall be compensated by both influencers and brands.