CHAPTER 10

LEGISLATION
Advertising in its very concept is self-publishing. The advertisement is a matter of public record. It should be mainly aimed at giving information to the public about the matter advertised.

Now, obviously abuses do occur in advertising. Such abuses in India are rampant. Many an advertising product is not up to standard and quality advertised. Moreover the low quality product advertised as a quality and effective product has a very hazardous result/effect and they result from the mis-representations and falsities advertised. The consumers have to be protected from such untruthful and misrepresentative advertisements. As a matter of fact in modern democratic society. It is the duty of the Government to protect each and every consumer, who is a member of the society.

The recent trend developed in India in advertising is comparison of concerned product with two or more products. This gives the consumer varied information about product in respect of quality, effectiveness and durability. But when it gives false and misleading (see appendices A,B,C) information it leads to confusion in the minds of the consumers. False claims about quality, usefulness and effective capacity of products when made in advertisements cause harm to the society and nullify the public faith in all advertisements. So advertiser must avoid statements which are technically false and misleading. The affect the buyers, adversely. Abuses in advertising can obviously have unfortunate effects on consumers, ranging from misspent money on an item that did not live up to the standard expectations and quality and effectively but results in hazardous accidents resulting from the misrepresentation of faulty goods.

Therefore, to check this area of false advertising statutory provisions, rules and regulations are absolutely necessary. In India there are few legislations regarding the advertisements such as Trade and Merchandise Mark Act 1958, Drugs and Magic Remedies (Objectionable advertisement) Act 1954, Drugs and Cosmetics Act 1940, Monopolies and Restrictive Trade Practices Act 1969. The Trade and Merchandise Mark Act does not aim chiefly at protecting consumer. A reading of this legislation will bear out that it is meant only to protect the competitors. The protection of competitors is also necessary but protection of consumer is also necessary because consumer is supreme in
the market. Drugs and Magic Remedies Act mainly deals with the prohibition of advertisement of certain drugs for treatment of certain diseases and disorders. Drugs and Cosmatics Act 1940 has been enacted to bring the pharmaceutical profession under the statutory control of the Central Act. The monopolies and Restrictive Trade Practices Act 1969 is mainly enacted to "provide that the operation of the economic system does not result in the concentration of economic power to the common detriment, for the control of monopolies for the prohibition of monopolistics and restrictive trade practices and for the matter connected there with or incidental there to.

Advertisement should be honest, decent, fair, truthful and not otherwise. However the human nature is such that it wants to make a fast buck and therefore, the intervention of the Government by framing suitable legislation is a must. In United States of America Federal and State Government Bodies regulate advertising by their legislation. In India, Union Government and State Govt. are expected to legislate in this matter to protect and society at large.

The media of advertising are mainly the press, broadcasting, television, printed leaflets and the agents who move from shop to shop and advertise mostly the pharmaceutical & medical products, boards painted and printed and erected at the prominent places in the City or Town or a Village. The legislation should effectively safeguard the consumer against the malpractices used by the above and other media. The Government should not only regulate but also must examine such products as are advertised for their beneficial effect or otherwise on the consumers. J.J. Hospital, Bombay's case decided by Justice Lentine is a very telling example regarding the lack of interest of poisonous drugs or medicines being sold in the market being used in the Govt. Hospitals having extremely adverse effect on the consumers. This is a laxity on the part of the Government and needs to be corrected by the public opinion, public agitation and even the approach of public or the society to the courts of justice. This can happen only if there is a legislation which controls it.

The continuous research and development and application of various organic synthetics and intermediates in the formulation of cosmetics make it necessary to ensure that nothing is used in cosmetics which may have deterious effects on the health of the people. Contact dermatitis is one of the evil effect of using certain cosmetics. Preparations which appear among the most frequent causes of dermatitis are deodorants, pomades and lipsticks and
nail polish. Apart from dermatitis, following the use of certain cosmetics there is also a bigger risk of the cumulative toxicity when (azo) and other synthetic dyes are used in manufacture of lipsticks etc. It appears that while in well organised and equipped units of cosmetics there is a fair amount of control. There are many units dispersed throughout the Country where even elementary precaution for testing raw materials and observing hygienic conditions during manufacture are not taken.

In order to keep check on drugs which are contaminated with foreign matter or which are manufactured, packed or held under insanitary conditions whereby they may have been contaminated or may render injuries to health and for that purpose this act provides certain restrictions and also penalty for the breach of certain conditions.

Thus the Drugs and cosmetic Act 1940 provides certain guidelines for the preparation of certain drugs and cosmetics. It does not provide any guidelines regarding advertisement but Section 29 of the Act prohibits using report of a test or analysis made by Central Drugs laboratory. Researcher would like take to present the section 29 -

“Whoever uses any report of a test or analysis made by Central Drugs laboratory or by the Government analyst or any extent from such report for the purpose of advertising of drugs and cosmetics shall be punishable with fine which may extend to 500 Rupees.”

The Drugs and Magic remedies (Objectionable Advertisements) Act 1954.

In recent years there has been a great increase in the number of objectionable advertisements published in newspapers or Magazines, relating to alleged cures for venereal diseases, sexual disorders or sexual stimulants and alleged cure for diseases and conditions peculiar to woman. These advertisements tends to cause the ignorant and the unawary to resort to self medication with harmful drugs and appliances or to resort to quacks who indulge in such advertisements for treatments which cause great harm. It is necessary in the public interest to put a stop to such undesirable advertisements.

This act mainly deals with the prohibition of advertisement of certain drugs for treatment of certain diseases and which are specified in the act i.e. in Schedule under section 3(d) and 11.
The Potential Losses of the Advertiser

Advertising is a commercial activity. The objective of advertising is to convey information to consumers to increase the probability that they will act or think in a way favorable to the advertiser. The advertiser's objective is to exert influence over the behavior of those exposed to his advertisements. This means that if advertising is to be effective, it will reach out to consumers, touch them, and move them to specific action or belief. In this process, the advertiser risks the opposite response to that which he seeks: the consumer may react against the advertisement.

The order side of the matter is that advertising surrounds the consumer whether he wishes it or not. Since the consumer cannot choose to live without advertising, many argue that any offensive, misleading, or annoying advertising constitutes an unacceptable burden on the consumer. This argument against advertising is as valid in the case of advertising as it is for any of the myriad annoyances and offenses that every civilization visits upon its citizens each day. But if there is an inevitable amount of unpleasant noise or atmospheric pollution in everyone's daily atmosphere, this still cannot provide the businessman with a satisfactory rationalization. For after all, most annoyance and offense from advertisements do not come from a general source (as is the case with most atmospheric and water pollution, for instance.) It is, rather, specific. If a particular advertisement invokes a feeling of resentment, that advertisement is a representative of a particular brand of merchandise or institution and is sponsored by a specific advertiser.

So, we can conclude that the reduction of deceitful, offensive, or annoying advertising is in the interest of both the consumer who is offended, deceived, or annoyed and the advertiser who pays the cost of those advertisements that annoy, offend, or deceive and thus cause consumer resentment. If the advertiser is to reduce consumer resentment caused by his advertising, he must first know how such resentment may come about.

There are three major ways in which advertisements may cause consumer resentment. A specific advertisement may be perceived as morally wrong in some sense; a specific advertisement may seem to be untruthful in some sense; and advertisements may, because of their collective presence, seem to pollute the consumer's mental environment. Let us examine each of these potential causes of resentment.
Moral Wrongs: Taste in Advertising

There are some things that some consumers believe should not be discussed or aired in public. They believe it is morally wrong to advertise particular kinds of goods or that some means of presentation should not be used. Some consumers find a basis for moral outrage in advertising. Interestingly, as John Habson points out:

The real problem is that what is accepted common practice in private, or on a small scale, can easily be subjected to criticism when shown up in the limelight of mass proportions.

Advertising, Hobson suggests, is subjected to a stricter set of standards of propriety than many consumers set for themselves in their private lives. If this poses an interesting subject of inquiry for the social psychologist, it is no less a problem for the advertising practitioner.

A distinction must be made, of course, between advertising per se and the products that are advertised. Some products (such as liquor) offend some consumers, and advertising for these products also offends those consumers. There is usually nothing specific to the advertisements for such products that causes the offense; almost any advertisement, regardless of what it says or shows, would offend these people because they are offended by the product itself.

This leads to a question of the morality of advertising those products that some consumers find offensive. Democratic societies have not been conspicuously successful in reaching consensus about what products should not be advertised. Certainly, products whose traffic is illegal (murder for hire, marijuana, addicting chemical substances, prostitution) are not advertised in publicly available media, but that is because to advertise is to invite harassment or arrest, not because the advertising per se is illegal.

For other products that cause offense to some, we must ask if criticism of advertising of the product should be directed at the advertiser who pursues his commercial advantage or at the society that has found it impossible, collectively, to prohibit either the pursuit of such commercial advantage or the advertising that reflects it. We won't solve the problem here, nor is anyone else likely to, because the arguments for both sides seem to be irreconcilable. As long as there are products that offend some, their advertisements will also offend. And until society resolves the complaints about the products, the advertising for them is likely to continue.
But some advertisements are considered by some consumers to be in bad taste as advertisements, even though the products they present do not offend these same consumers. This problem is complicated for the advertiser, because there is no consensus as to what constitutes bad taste or grounds for moral outrage. What is good or at least acceptable taste for some is bad or execrable taste for others. And what is bad taste today may very well come to be acceptable two years from now. It is perfectly true that the advertising practitioner should and usually does accept the responsibility for knowing what the general standard of taste is in society at a particular point in time. In accepting this responsibility, he knows that he cannot and will not please all the people all of the time. But he tries his best not to incur the wrath of even an insignificant number of consumers.

Alfred Seaman, president of SSC & B advertising agency suggests this process, as follows:

We ask you to give advertising language the freedom, the naturalness, the elbow room to do this in what has been called the “grammar of gossip” - the day to day language of people, without vulgarities but, also, without the cold hand of the grammarian.

Realize that words are like chameleons, ever-changing, subject to many meanings and shades of meaning.

Recognize that “poeticizing” if different from deceiving, that poeticizing helps to brighten the marketplace and give color to a world which is too often drab.

The advertising practitioner thus believes it is imperative that he exercise the license of contemporary language and usage in communicating with the people. But our society is not homogeneous in any sense. The practitioner must compromise constantly between vivid communication on the one hand and the danger of going beyond whatever elusive consensus exists, unwritten or even unspoken as to what constitutes good taste in America at any given point in time. To be effective, advertising must meet the people on their own terms today, being careful, the while, not to move too quickly on to those terms that the consumers are likely to accept tomorrow. The first aspect of exercising taste in advertising is, therefore, to assess the exact point at which contemporary usage can communicate effectively without moving across the boundary of bad taste as perceived in the minds of sensitive consumers.
But the advertising practitioner also understands that the denominator that advertising strives to reach is a common one, not an elevated one. This is the second aspect of exercising taste in advertising. Advertising is designed to increase the probability that masses of people will behave or believe as the advertiser wishes. Advertising is directed at masses of people; it is not high culture and it cannot be judged in high cultural terms. If one is to communicate in a way that is easily understood by almost everyone, he may slip into what some consider to be vulgarity. And if one finds something in advertising that he considers to be vulgar, it will not be in good taste as he defines it. Lester Telser has this to say on the subject:

The critics of advertising... seem to urge that the business of earning a living be combined with other activities they regard more highly. They deplore the vulgarity, the shrillness, and the selfish appeals in advertising. If we were all philosophers or poets, the content of advertising would change accordingly.

Untruthful Advertising

Consumers resent advertising that they believe to be untruthful or advertising they believe raise expectations that are false or misleading. As Bauer and Greyser have demonstrated, about half of American consumers or at least half of them believe that some advertising is untruthful some of the time, and another thing to determine in what sense specific advertisements are, in fact, untruthful.

The question of truth in advertising operates on at least four separate levels. Before we can reach any kind of conclusion or viewpoint about truth in advertising, each of these levels must be defined and illustrated.

1. **Literal Truth.** The first aspect of truth in advertising is whether or not what is said in particular advertisements is totally true. The question is whether everything in an advertisement is literally true, and nothing in the advertisement is untruthful. One is tempted to say that this is a minimum standard to which all advertisers must be held. And one might also say that each advertiser should satisfy himself as to the truth of each of his claims, before he makes them in advertising rather than later, after he is subjected to challenge.

   It is correct to say that almost all advertisers now do hold to this
minimum standard. And it is standard which has been accepted by the Federal Trade Commission, as David M. Gardner point out:

The Federal Trade Commission has, in general, held that deception exists when an objectively ascertainable material fact is falsely presented, is ambiguous, or is misleading.

2. True, Yet Deceptive. It is quite possible for an advertisement to be literally true, and yet deceptive, at least to some people. For example, many advertised analgesic products contain not only aspirin but other chemical ingredients. These products make advertising claims that are based upon the ingredients they contain in addition to aspirin. Although such extra ingredients have not been shown to improve the analgesic (pain-killing) properties of such products in controlled clinical studies, and although the medical community routinely dismisses the effectiveness of such extra ingredients in killing pain, they are presented in advertising in such a way as to suggest, in the opinion of many, that the products containing the extra ingredients are stronger, faster, or more effective in relieving pain than in plain aspirin.

3. Exaggeration and Puffery. Exaggeration and puffery come from the realm of adjectives and metaphors. Any simple statement of fact can be embellished and made more attractive and persuasive. In a sense, the art of advertising is to find a way with words and images to make the commonplace or straightforward product, company, or idea seem more attractive and desirable. Adjectives and metaphors are not limited in use of advertising. It is not at all uncommon for any presentation of information to be embellished with the interest of the presenter. Adam may well have been the first to discover this fact, but certainly he has not been the last.

The historian Daniel Boorstin suggests a broader setting for a consideration of hyperbole in American culture:

We find that in our nation of consumption communities and emphasis on GNP and growth rates, advertising has become the heart of the folk culture and even its very prototype. As we have seen, American advertising shows many characteristics of the folk culture of other societies: repetition, a plain style, hyperbole and tall talk, folk verse
and folk music. Folk culture tends to thrive in a limbo between fact and fantasy, and it tends to be ubiquitous.

Probably the only limits that can realistically be put upon hyperbole is that it cannot be untruthful and it must be in good taste. A cigar can promise "one beautiful smoking experience", even if it can promise nothing more. Setting aside the question of cigar advertising on product morality grounds, this seems the perfect metaphor for a cigar. Whatever a "beautiful smoking experience" may be for you, you are promised it in this cigar.

4. The Whole Truth. The final aspect of truth in advertising is the question of whether the advertiser should be expected to tell the whole truth, or whether he should only, realistically, be expected to put his best foot forward. The issue that is involved here is not quite so easy and clear-cut as those previously discussed. Many believe that advertising should be essentially informative and that it should not take the step into persuasiveness. To be informative is to tell the whole story about a product, everything about it that the rational consumer needs to know in order to make a fully informed and rational purchase decision. (And to be informative is to tell the whole story without embellishment, hyperbole, or puffery). Most everyone will concede that advertising as we now know it is unlikely to take this literal course.

It is impractical in the sense that the basis of choice and decision in purchase varies widely from one consumer to the next. What is important or relevant to one consumer about a product is irrelevant or unimportant to the next. Advertisements cannot contain, realistically, all of the information that every consumer could conceivably want to know to make a completely informed decision.

It is also impractical in the sense that individual consumers have shown little interest in reviewing complete information for most of the commonplace purchases that they make day in and day out. Also, it is impractical to expect that a businessman will gratuitously disclose information in advertising he pays for that is inimical to the sale of his product. Walter Weir suggests the issues that are involved:

*The end purpose of advertising, its principal reason for being, is the conversion of the reader. It is because of this that advertising almost*
always appears as a one-sided presentation—the virtues of the product are emphasized; its faults, if any, are (like the uncle who was hanged as a horse thief) never mentioned.

Persuasiveness is the essence of modern advertising. But if one says that advertising is inherently persuasive and that it tends to be successful to the extent that it is persuasive, one must not overlook several other considerations:

1. The consumer exercises ultimate control. He has a battery of defenses that he can and does use to protect himself from being persuaded. The consumer’s means of protection will be discussed later in the chapter.

2. The businessman is not irresponsible. He cannot afford the economic loss that will ensue if his advertising (and the product it represents) is rejected because of excessive or offensive persuasiveness. The businessman’s sense of responsibility will also be discussed later in this chapter.

3. Finally, society will act against that advertising that is antisocial in some objective sense. For example, cigarette advertising is no longer permitted in the broadcast media. And cigarette advertising in the print media is required to warn the consumer that “the Surgeon General has determined that cigarette smoking is dangerous to your health.” The regulation of advertising will be considered in subsequent chapters.

So the persuasiveness of advertising is a persuasiveness that must be considered in context. Much of the criticism of persuasiveness advertising is criticism that is absolute and devoid of context. Theodore Levitt has emphasized the importance of context, by comparing advertising with art:

Commerce, it can be said without apology, takes essentially the same liberties with reality and literalness as the artist, except that commerce calls its creations advertising, or industrial design, or packaging. As with art, the purpose is to influence the audience by creating illusions, symbols and implications that promise more than pure functionally.

The third way in which advertising may lead to consumer resentment is as a result of its pervasiveness. The issue here is not the content of individual advertisements as such. Rather, resentment stems from the intrusiveness of the totality of advertising.
This source of consumer resentment is based on the notion that there is simply too much advertising. From the fact that advertising is all around us comes the assertion that it pollutes our mental environment, just as noxious emanations from manufacturing plants may pollute our physical environment.

It is one thing to point out that no one knows how much advertising is too much and that no one need attend it if he or she chooses not. It is a totally different matter to walk away from the rather substantial evidence presented by Bauer and Greyser that it is the sheer bulk of advertising, rather than its role as a selling instrument, that causes overall consumer resentment toward advertising. As they put it:

*It seems that the reasons offered for not liking advertising, the notion that it may be an environmental pollutant is suggested far more often than the idea that it may sometimes act as a malevolent economic instrument.*

It is interesting to note that there has been almost no serious discussion of reducing the total volume of advertising. To be sure, the broadcasters, through their trade association, the National Association of Broadcasters, impose limits upon the amount of time they permit themselves to devote to commercial messages in specific parts of the broadcast day. And many, if not all, publication editors carefully regulate the portion of editorial matter they publish relative to the volume of advertising matter that appears in their magazines and newspapers. And the volume and location of outdoor billboards has been legislated by localities, states, and in some instances by the federal government.

**Consumer Defenses Against Advertising**

Before examining exactly what a consumer can do about the assault of advertising, it is necessary to consider alternative conceptions of the relation of consumers to advertising. This is important, because totally different points of view can develop, depending upon the starting point of the observer, about consumers and advertising. There seem to be three commonly held notions about the relation of consumers and advertising.

**The Defenseless Consumer**

The first view holds that the consumer is defenseless before the onslaught of advertising and is in a sense oblivious to its effects upon him. In
In this conception, advertising is seen as a kind of mysterious force that works upon consumers without their knowing about it. It is as if the consumer were like those rats that psychologists run in the experimental maze, and the advertiser were the experimenter looking always for new ways for the consumers to expend more energy in the advertiser’s behalf. This is the idea of the manipulated consumer, who has been left to the mercy of the advertiser. Note the implication of this view: if the consumer is unaware that he is being manipulated by advertising, it is unlikely that he will do much to defend himself against it.

The Self-Protective Consumer

The third view holds that the consumer is perfectly aware of advertising and perfectly aware of the advertiser’s intent. In this view, the consumer is much more likely to do something to protect himself from advertising than to follow any other course.

Unlike the “defenseless” consumer, he is totally aware that advertisers are trying to persuade him to their ends, and he does everything in his power to pursue his own ends, unless they are consistent with those of the advertiser. If the two sets of ends are consistent, all to the good, but this, in the third view, is the choice of the consumer, not the advertiser.

Francesco Nicosia makes the active role of the consumer, as held under the self-protective consumer view, explicit:

*Research tells us that man, when acting as a consumer, knows only his own reality. Thus, some subjects will consider “objective” information completely irrelevant; others will manipulate such information through known psychological processes until they find some meaning that fits their initial predispositions. And so on with a large number of psychologically healthy processes that will always reduce any “objective” reality to meaningful subjective reality.*

Specific Consumer Defenses Against Advertising

1. **Pays No Attention.** In the first instance, the consumer may simply ignore advertising. It is hard to distinguish, based on what we know about perception and perceptual defenses, just how much advertising he scans subsconsciously and rejects. In any event, it is obvious that a great many advertisements simply do not get through to the consumer. Bauer/Greyser
data given in Chapter 20 (pg. 519) suggest the broad outline of this process, even if the exact mechanisms involved are not clearly revealed by their work.

2. **Critically Appraises Some Advertising.** At the end of the perceptual screening process, the consumer may suddenly find himself confronted with an advertisement. At this stage, an appropriate metaphor is no doubt the click on the Bauer/Greyser hand counter. Even if this does not reflect exactly the mechanism at work, it does suggest a confrontation, abrupt, yet real, between consumers and advertisements. Some sort of conscious or subconscious appraisal of the message contained in the advertisement. This appraisal is the second level of consumer defense against advertising.

3. **Rejection for Cause.** At this point, some advertisements are simply rejected for cause: they are, on appraisal, already familiar, irrelevant, trivial, or unrelated to the needs of the consumer, or absurd, annoying, or offensive. To continue with the metaphor supplied by the Bauer/Greyser work, it is all the advertisements that evoked a counter response and were unclassifiable plus come classified. Among those classified, those called those called offensive or annoying may well have been rejected for cause, as were some others that were thought merely entertaining or perhaps redundantly informative.

4. **Exercises the Final and Decisive Judgement.** In the end, the consumer changes his thought pattern or behavior as a result those (few) advertisements that remain with him. He now accumulates experience that permits him to evaluate his altered actions as well, as perhaps, as the advertising that contributed to the alteration. If he believes that the advertising has deceived him or misled him, he stops buying the product or patronizing the company, and tells his friends about his experiences.

As Frederic Webster suggests, this whole process seems to be permeated with a healthy consumer skepticism:

> Fortunately, there is evidence that the majority of persons view marketing communications with an appropriate amount of caution—not negatively, but to be taken "with a grain of salt." A preponderance of consumers have learned that sellers are biased when talking about
their product (as are grandmothers, priests, lawyers and most other humans) "Puffery", a normal amount of boasting, is expected, and there is an appropriate degree of discounting in the reaction of the greatest number to advertising, salesmanship, publicity, and other forms of marketing communication.

The first thing that must be understood about the relation of businessmen to advertising is that businessmen are not a breed apart; they live in the same world as consumers. In fact, Stephen A. Greyser and Bonnie Reece have found that businessmen have many of the same attitudes toward advertising that are held by consumers. This should not surprise anyone because the businessmen is a consumer too. But it is clear that in his role as a businessman he will view advertising as a business tool and as a means to the end of achieving and maintaining a profitable level of sales.

It is possible to discern four specific motivations for the businessman as he guides his advertising program:

1. **The Motivation of Civic Responsibility**. The businessman lives in a social environment. His peers and neighbors know what he does and what company he works for. If his responsibility within the company is in any way connected either with general management or with advertising management, this fact will enter into and color his relations with other citizens. Many businessmen want to be respected for that part of their works that are in the public domain. A businessman is sensitive to implied or real criticism of his firm’s advertising because, in the social situation, it is a reflection on him. He does not want to be known as the man who is responsible for running commercials in the early evening news for hemorrhoid remedies if the program is viewed in many homes during dinner, because such commercials in this context offend many people. And even if the businessman can live with such discomfort, he may find that his wife and children cannot, and that he is under pressure from them to reform the ways of his company’s advertising.

2. **The Motivation of Abiding by the Law**. Almost all the businessmen one is every likely to meet are fundamentally law abiding. The criminal use of advertising must, of course, be promptly subjected to the processes of criminal law. But most businessmen are motivated to abide by the applicable law in the formulation of advertising campaigns. David
Ogilvy catches the spirit of this motivation:

**Is advertising a pack of lies? No longer. Fear of becoming embroiled with the Federal Trade Commission, which tries its cases in the newspapers, is now so great that one of our clients recently warned me that if any of our commercials were ever cited by the FTC for dishonesty, he would immediately move his account to another agency.**

The lawyer at General Foods actually required that our copywriters prove that Open-Bit Barbecue Sauce has an “old-fashioned flavor” before he would allow us to make this innocuous claim in advertisements. The consumer is better protected than she knows.

So the businessman may be motivated to be law-abiding and still have a difficult time. Of course, there are businessmen who, if law-abiding, have no special desire to protect themselves from every eventuality that the legal system may hold for them. Some may seek their own advantage in a legal atmosphere filled with ambiguity, shifting and uncertain enforcement policy, and emerging philosophies of what constitutes deceptive advertising. There is certainly a large enough gray area in the law to ensnare both the advertiser who aspires to no trouble with regulatory bodies, and the advertiser who is content to play it a little fast and loose.

3. **The Motivation of Avoiding Economic Loss.** One thing that almost no advertiser wants to do is to deceive, offend, or mislead a consumer to the point that the consumer stops buying his product and starts badmounting it to his friends. Copywriter Rosser Reeves suggests the issue in the following:

*Industry czars cannot police the deceptive differential. It calls for the wisdom of Solomon and the powers of a court. However, there are 180,000,000 consumers who can and who do police it right at the checkout counter. Such campaigns quickly yield to a fatal inner flaw, lead the public to expect something that the product does not deliver, and vanish into limbo.*

The businessman doesn’t want his advertising to cause consumers to stop buying his product. One test of the lack of advertising deception, offense, or untruthfulness for any advertised product is that product’s continued sales vitality. The businessman does not want to take a chance on losing sales because
his advertising is in any way deceptive, misleading, or offensive. This then acts as a powerful de facto motivation of the businessman to put no more than his best legitimate and tasteful foot forward in advertising.

4. The Motivation of Maximum Profit. If the businessman wants to be a good citizen, abide by the law, and avoid economic loss, he is still strongly motivated to achieve maximum profits. It is often argued that this ultimate motivation is decisive in determining whether to expose advertising that may be deceptive or misleading. The point of view that underlies this argument is that any deceptive/misleading advertisement will cause more sales than any advertisement that is not. The assumption is that the businessman is highly motivated to put a most favorable face on his product, because the more favorably he speaks about it, the more likely is the consumer to buy it, or at least to be influenced toward it by the advertising.

It is at this point that the businessman must face up to the issue of deceit and untruthfulness. It is when the balance between the possibility of deceit/untruthfulness, often remote, and the maximization of profits is in question that the businessman faces his hardest choice. He can compromise in one direction or the other. The issue is put into perspective by Walter C. Taplin:

*It is on the margins of advertising that the difficult moral problems occur. The fraudulent claim and the harmful product are easier to detect than the price of persuasion, in good faith, which nevertheless oversteps the ethical boundary. No court of tribunal is likely to decide these marginal cases more effectively than a little heart-searching by the advertising himself.*

Advertising's non contributions to society

The preceding examination of the instrusions of advertising leads to the following general conclusions:

1. The consumer is far from innocent and defenseless when it comes to advertising. He recognizes advertising for what it is and has a variety of defense mechanisms that he routinely employs in his confrontations with advertising.

2. The businessman is increasingly sensitive to the potential of advertising to deceive offend and is more and more inclined to restrain his
advertising so that the chance of deception or offense is more and more limited.

3. The government is increasingly involved in the regulation of advertising and imposes an increasing restraint upon those advertisers who have not always limited their advertising in the past.

It is certain that some advertisements do deceive and mislead some consumers. It is also certain that some consumers are annoyed and offended by some advertisements. The Bauer/Greyer measurements, carefully designed to give the consumer every opportunity to register annoyance and offense, suggest that the levels are not high.

In a market enterprise type of economy, some of this deception, annoyance, and offense reflects the inevitable friction between buyers and sellers, which is, in this circumstances, focused on advertising. But the fact remains that there is some deception, some annoyance, and some offense caused by advertising itself. If these residual impositions on consumers are inevitable, and they may very well be, then we must ask what other consumer benefits, if any, advertising provides to balance off against its intrusions.

It is clear that consumers do “get something” in return for whatever indignities are visited upon them by advertising. And in the absence of advertising support of the media, assuming, as Heiskell suggests, that consumers will not pay the media bill that advertising revenues now pick up, one can only assume that the media would seek and find financial support, as they do in other countries, from the government or from special interest groups such as political parties. It is far beyond the scope of this work to delve into the social effects, actual or potential, of media that are supported by sources other than advertising revenues. At present the media in the market enterprise system are independent of all support except commercial support. And competition between advertisers in itself tends to keep the media from reflecting disproportionately the views or interests of individual advertisers. There are too many advertiser interests for any single advertiser to enforce much editorial control on any individual medium.

When one talks and thinks, therefore, of the intrusions and deceits of advertising, he would do well to weigh them against the potential costs, both real and political, of an information/entertainment system that did not depend upon commercial advertising for its support.
Trade and Merchandise Mark Act 1958

This Trade and Merchandise mark Act 1958 is consolidation of old Indian Merchandise mark Act 1889 and Trade Mark Act 1940 and criminal laws relating to trade marks and trade description which is contained in chapter 18 of Indian Penal Code.

In general this act provides for the registration and better protection of Trade Marks and for prevention of use of fraudulent marks on Merchandise. This act provides protection to the manufacturer from the competitors.


This act provides that the operation of the economic system does not result in the concentration of economic power to the common detriment, for the control of monopolies for the prohibition of monopolistic and restrictive trade practices and for matter connected there with or incidental there too. This act controls the monopolistic trade practice and restrictive trade practices.

Sale of Goods Act, 1930

Section 16 of the sale of goods Act deals with the implied conditions as to the quality or fitness of goods. This section impliedly controls and advertising.

Subject to the provisions of this act (Sales of Goods Act) and of any other law for the time being in force there is no implied warranty or conditions as to the quality or fitness for any particular purpose of goods supplied under the contract of sale excepts as follows -

(1) Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller’s skill or judgement and goods are of a description which it is in the course of seller’s business to supply whether he is the manufacturer or producer or not there is an implied condition that the goods shall be reasonably fit for such purpose.

Provided that, in the case of a contract of sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose.

(2) Where goods are bought by description from a seller who deals in goods of that description whether he is a manufacturer or producer or not there
is an implied condition that the goods shall be of merchantable quality.

Provided that if buyer examined the goods there shall no implied condition as regard defect which on such examination ought to have revealed.

(3) An implied warranty or condition as to the quality of fitness for a particular purpose may be annexed by the usage of trade.

(4) An express warranty or condition does not negative a condition or warranty or condition implied by this Act unless inconsistent there with.

In brief the section states that the goods shall be reasonably fit for such purpose.

2. TO STUDY THE PRESENT OR CURRENT TRENDS IN ADVERTISING

The current trend in advertising in India is comparison directly or indirectly of one product with another similar products, endorsement advertising i.e. famous personality such as Cinema idol, cricket player or person from any other field, by using his signature or name or photograph, advertising product or services is being done.

Secondly Bait and Switch advertising- In this type of advertising advertiser by an advertisement induces the customers to come to the shop, and when customers reach the shop customers find that the product which has been advertised is not available for sale but same product is available for some more price than the price advertised and generally customers are induced to buy the goods for more price than the price advertised (specified in the advertisement).

3. TO STUDY SOME UNTRUE MISLEADING ADVERTISEMENTS

The researcher has collected some advertisements which in its vary nature are untrue and misleading.

4. TO STUDY THE AMERICAN LEGISLATION RELATING TO ADVERTISING

In America there are various legislations relating to advertising such as -


(2) Trade Regulation Rule

(1) **Federal Trade Commission Act.**


(2) **Trade Regulation Rule -**

The Federal Trade Commission seemed to overstep its bounds in the area of television advertising to children, risking its very existence over the controversial issue. The Trade Regulation Rule provides three regulations. Those are -

(i) All advertising to children under eight years of age is banned.

(ii) All advertising of sugar products likely to cause tooth decay in children under twelve years of age is also banned.

(iii) Dental health and nutritional advertisements paid for by the food industry are required.

(3) **Wheeler Lea Act -**

By the passing of this Act, Federal Trade Commission Act was amended substantially.

By this Act definition of ‘false advertising’ is widened.

**False Advertising -** The term false advertising means an advertisement other than labelling which is misleading in a material respect and in determining whether any advertisement (among other things) not only representation made or suggested by statement, word, design, device, sound, or any combination thereof but also the extent to which the advertisement fails to reveal or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the condition prescribed in the said advertisement or under such conditions as are customary or usual.

Advertising is an art of bringing to the greatest number of people actual knowledge concerning useful products and things required in ordinary life of entire society. Much has changed in this world of advertising. Publicity of Industrial and commercial advertising not only aims of informing and educating the broad masses about products advertised but also serves as a medium of instruction, entertainment, and motivation are implicit in it. Though advertising
standards are still very rudimentary, however, there is no end to creative ingenuity and innovativeness that accompany is an art. However in modern days this art is closely knit with science of advertising.

In highly competitive market various strategies are brought forth such strategies are understandable but when they lead to disinformation, misleading the public and capitalising on public gullibility intuitions behind use of such strategies come in question. Dishonest advertising in the long run does not mean effective advertising but rebounds so also clever advertising does not necessarily mean intelligent and good advertising.

Advertising in its very concept is self publishing. The advertisement is a matter of public record. It should be mainly aimed at giving information to the public about the matter advertised.

Now abuses do occur in advertising. Such abuses in India are rampant. Many advertising products are not upto standard and quality as advertised and effective products have very hazardous effect and they result from the misrepresentations and falsities advertised. The consumers have to be protected from such untruthful and misrepresentative advertisements. As a matter of fact in modern democratic society it is the duty of the Government to protect each and every consumer, who is a member of the society.

The recent trend developed in India in advertising is comparison, endorsement, - testimonials and Buit and Switch advertising. The comparative advertising gives the consumer various information about product in respect of quality, effectiveness, durability but when it gives false information, it leads to confusion in the minds of the consumer. False claims about quality, usefulness and effective capacity of product when made in advertisement cause harm to the society and nullify the public faith in all advertisements itself so advertiser must avoid statements which although not technically false and misleading but affect the buyers. Abuses in advertising can obviously have unfortunate effects on consumers ranging from misspent money on an item that did not live upto the standard, expectation, quality and effectivity but results in hazardous accidents resulting from the misrepresentation of faulty goods.

Therefore, to check this area of false advertising statutory provision, Rules, Regulations are absolutely necessary. In India, there are few legislations indirectly related to advertisements. Those are -
Trade and Merchandise Mark Act 1958
Drugs and Magic Remedies (Objectionable advertisement) Act 1954
Drugs and Cosmetic Act 1940
Monopolies and Restrictive Trade Practices Act 1969

The researcher has gone thoroughly through this act and came to the conclusion that they are not directly controlling the advertising.

1) Drugs and Cosmetic Act 1940 -

The continuous research and development and application of various organic synthetics and intermediates in the formulation of cosmetics make it necessary to ensure that nothing is used in cosmetics which may have deterosis effects on the health of the people. Contact dermatitis is one of the evil effects of using certain cosmetics. Preparation which appear to be amongst the most frequent causes of dermatities are deodorants, pomades and lipsticks and nail polish. Apart from dermatities following the use of certain cosmetics there is also a bigger risk of the cumulative toxicity due to azo and other synthetic dyes used in manufacture of lipsticks etc. It appears that while in well organised and equipped units of cosmetics there is a fair amount of control, there are many units dispersed throughout the length and breath of our Country where even elementary precaution for testing raw materials and observing hygienic conditions during manufacture are not taken.

In order to keep check on drugs which are contaminated with foreign matter or which are manufactured, packed or held under insanitary conditions whereby they may have been contaminated or may render injuries to health and for that purpose this act provides certain restrictions and also penalty for the breach or certain conditions.

Thus Drugs and cosmetics Act 1940 provides certain guidelines for the preparation of certain drugs and cosmetics. It does not provide any guidelines regarding advertisements, but section 29 of the said Act prohibits using of report of test or analysis made by the Central drugs laboratory for the purpose of advertising. The Section speaks as under -

"Whoever uses any report of test or analysis by Central drug laboratory or by the Government analyst or any extent from such report for the purpose of advertising of drugs and cosmetics shall be punishable with fine which may extent to 500 rupees."

245
The researcher found that Drugs and Cosmetics Act 1940 has been enacted to bring the pharmaceutical profession under the statutory control of Central act.

Drugs and Magic Remedies (Objectionable Advertisements) Act 1954

In recent years there has been a great number of objectionable advertisements published in newspaper or magazines or shown on television relating to alleged cures for venereal diseases, sexual stimulants and alleged cure for diseases and conditions peculiar to woman. These advertisements tend to cause the important and the unwary to resort to self medication with harmful drugs and appliances or to resort to quacks who indulge in such advertisements for treatments which cause great harm. It is necessary in the public interest to put a stop of such undesirable advertisement of certain drugs for the treatment of certain diseases and disorders which are specified in the act i.e. in Schedule under section 3(d) and 14 as under -

Name of diseases, disorder, condition -

1) Appendicitis
2) Arteriosclerosis
3) Blindness
4) Blood Poisoning
5) Bright’s disease
6) Cancer
7) Cataract
8) Deafness
9) Diabetes
10) Diseases and disorders of the brain
11) Diseases and disorder of the optical system
12) Diseases and disorder of uterus
13) Disorder or menstrual flow
14) Disorder of the nervous system
15) Disorder of prostatic gland
16) Dropsy
17) Epilepsy
18) Female diseases in general
19) Fevers in general
20) Fits
21) Form of structure of female bust
22) Gall stone, Bladder stone, Kidney stone
23) Gangrene
24) Glaucoma
25) Goitre
26) Heart diseases
27) High or low blood pressure
28) Hydrocele
29) Hysteria
30) Infantile paralysis
31) Insanity
32) Leprosy
33) Leucoderma
34) Lock jaw
35) Lock motor ataxia
36) Lupus
37) Nervous debility
38) Obesity
39) Paralysis
40) Plague
41) Pleurisy
42) Pneumonia
43) Rheumatism
44) Ruptures
45) Sexual importance
46) Small Pox
47) Stature of person
Trade and Merchandise Marks Act 1958

With the increase in trade and commerce since the trade mark Act 1940 was enacted, the need has been felt for revising that statute so as to provide more effective protection of trade marks. It has been represented to the Government that many valuable trade marks in use are denied the benefits of registration on the ground that those marks do not satisfy the test of distinctiveness prescribed under the existing act and that it is necessary to enlarge the field of registrability so as to entitle them to registration. This will also avoid the difficulties now experienced by Indian Merchants in securing registration of these marks in foreign countries where the production certificate of home registration is a condition precedent for obtaining the foreign registration. Again, the working of trade mark act 1940 has emphasised the need of providing better facilities for registration of trade mark by merchants in the distant parts of the country and for combing the trade mark registry and patent office under the common head so as to ensure better co-ordination of administration of different branches of the law relating to Industrial property. The working of that Act has also indicated the necessity for removing the existing uncertainties as to the jurisdiction of the High Court to hear appeals from the registration decision and introducing certain other changes in that act for the purpose of removing ambiguities and for improving the law.

The Criminal Laws relating to trade marks and trade description which contained in chapter 18 of Indian Penal Code and Indian Merchandise Marks Act 1889 respectively were enacted at the time when commercial advertising in this country had not been developed with the increase in both appeal and power of modern advertisement a fresh approach to the matter relating to trade marks and false trade mark description has become necessary. It is
proposed to strengthen the law relating to these matters by enhancing the punishment for offences relating to trade and merchandise marks particularly where offences relating to drugs and articles of food on ground of public interest and public health and by expanding the definition of "trade description" and "false trade description" so as to make punishable the use or application of certain types of false trade description now punishable under the Indian Merchandise Act 1889. It is also proposed to empower the central Government to require that goods notified should indicate on them the name and address of the manufacturer or the person for whom the goods are made.

In view of the extensive amendments necessitated in the trade mark act 1940 and Indian Merchandise Marks Act 1889 it has been thought fit to consolidate the law relating to trade and merchandise marks now found in the trade marks act 1940, Indian Merchandise Marks Act 1889 and Indian Penal Code.

The features of this new act i.e. Trade and Merchandise Marks Act 1958 can be stated as under -

Section 2 of the Act defines various terms such as -

Deceptively similar
false trade description
mark, package
Trade description
Trade Mark

Section 4 and 5 define the authority for the registration of Trade.

Section 9 states requisition for trade mark.

Section 11 and 12 prohibition of registration of certain mark.

Section 18 to 26 procedure for the registration of the Trade Mark.

Section 27 to 35 state the right and effect of registered trade mark under this Act.

Section 56 and 70 state Ratification, correction and alteration in trade mark.
Section 76 to 95 offences, penalties and procedure.

Section 105 Remedy for infringement of right of registered trade mark owner.

Section 106 Relief suit for the infringement

In general this act provides registration and better protection of trade marks and prevention of the use of the fraudulently marks on merchandise.

This act provides protection to the manufacturer from the competitors.

Monopolies and Restrictive Trade Practices Act 1969 -

The main purpose of this act is to provide that the operation of the economic system does not result in the concentration of economic power to the common detriment for the purpose of monopolies, for the prohibition of monopolistic and restrictive trade practices and for matter connected there with or incidental thereto.

Section 2(a) Restrictive Trad Practices. Restrictive trade practices means trade practices which has or may have the effect of preventing, distorting or restricting competition in any manner and in particular -

(i) Which tends to obstruct the flow of capital or resources into the stream of production or

(ii) which tends to bring about manipulation of prices or condition of delivery or to affect the flow of supplies in the market relating to goods or services in such manner as to impose on the consumers unjustified costs or restrictions.

The purpose of this act is to protect the consumer from paying unjustified cost or unjustified restriction for purchase. This act also provide remedy to the consumers also. The basic purpose of this act is to prohibit monopolistic trade practices. Researcher would like to explain the term monopolistic trade practices.

Section 2(i) defines term as under -

"Monopolistic trade practices means a trade practice which has or is likely to have the effect of -

(i) Maintaining prices at an unreasonable level by limiting, reducing or
otherwise controlling the production, supply or distribution of goods of any description.

(ii) Unreasonably preventing or lessening competition in the production, supply of distribution of any goods or in the supply of any service.

(iii) Limiting technical development or capital investment to the common detriment or allowing the quality of any goods produced, supplied or distributed or any service rendered in India to deteriorate.

This act also provides remedy to the customers for the protection of their right i.e. in case of exploitation by producers, manufacturers. The forum established under this act i.e. M.R.T.P. Commission New Delhi investigates the matter and passes necessary order in the interest of customers.

The question before the researcher is whether M.R.T.P. Commission can control advertising? The answer is Yes but to certain extent.

In the following case M.R.T.P. Commission banned the advertising -

The Sheri Louise Clinics introduced a new slimming formula claiming affiliation with companies with abroad. Its slimming centres provided "A health weight loss programme" costing between Rs.3000/- to 5000/- which comprised a simple and food supplement. Their strategy paid off until a magazine alleged that the supplement contained psychotropic drugs like amphetamines which could lead to additions. And the Ahmadabad based consumer Education and Research Centre (CERC) found that the several patients who underwent the slimming course developed serious health complications. On the basis of investigation the M.R.T.P. Commission ruled that the claims made by the Sheri Louise ads were false and advised discontinuance of the use of amphetamines which generated a lot of publicity. Their Bombay clinic has closed down.

In the case of Medical Hair Centre which promises a cure for falling hair and baldness at a price of Rs. 3000/-. While Medical Hair Centre claimed that it was a revolutionary treatment from the U.S. A. the M.R.T.P. Commission ruled that their Advertisement must reveal the full facts i.e. limited efficacy, the possibilities of adverse side effect, to those having high blood pressure and cardiac problems and that of a gradually diminishing maintenance programme may be needed for a long time after the treatment. The treatment also involves the external application of a Cemical, Minoxidil to the scalp, whose properties
in adding hair growth are internationally known and the drug is now available here as a schedule drugs on prescription of a medical practitioner. Medical Hair Clinic however had advertised it as a “Medical Break through” and people made a beeline for this treatment, with tragic comic result at times. Young girl who was undergoing this treatment had hair growth on her face.

The M.R.T.P. Commission banned the advertisement under the drugs and magic remedies act.

But there are some other false misrepresenting advertisements which have not been banned by the M.R.T.P. Commission.

And hence for preventing such false misrepresented advertisements advertising legislation is necessary.

For generations, advertising was controlled under the common law practice of caveat emptor a latin expression meaning “let the buyer beware”. This meant that sellers had no responsibility for damages resulting from their advertising claims unless they were either-

(1) Warranted by the advertiser or
(2) Represented fraudulently.

In highly competitive market various and different strategies are brought fourth. Such strategies are understandable, but when they lead to disinformation, misleading the public and capitalising on public gullibility, intentions behind use of such strategies came in question, considering environment in our Country and in America i.e. literacy, education, life style, awareness about the rights of the customers. American customers are more advanced than their Indian counterparts.

This creates a question mark before the researcher, whether the American customers are more awaked about their rights due to the advertising legislation prevailing in their country or whether due to the advertising legislation they become aware about their rights.

Indian customers can be easily deceived by the misleading, misrepresented and false advertisements and hence advertising legislation is must in India to control the advertising.
In America they have "the Advertising code of American Business". This Code was framed according to various laws relating to advertising so as to avoid multiplicity of litigations.

They have also provided a self regulating forum body for the settlement of disputes amongst them relating to copy, massage of advertising and if the dispute is not settled by these bodies then matter is referred to the Government for consideration.

Advertising Code in American Business

I. TRUTH
   Advertising shall tell the truth and shall reveal significant facts, the concealment of which would mislead the public.

II. PONSIBILITY
   Advertising agencies and advertising shall be willing to provide substantiation of claims made.

III. TASTE AND DECENCY
   Advertising shall be free of statements, illustrations or implication which are offensive to good taste or public decency.

IV. DISPERSEMENT
   Advertising shall offer merchandise or service on its merit and refrain from attacking competitors unfairly or disparaging their products services or methods of doing business.

V. BAITING ADVERTISING
   Advertising shall offer only merchandise or service which are readily available for purchase at the advertised price.

VI. GURANTEES AND WARRANTIES
   Advertising of guarantees and warranties shall be explicit. Advertising or any guarantee or warrantee shall clearly and conspicuously disclose its nature and extent. The manner in which the guarantor or warrantor will perform about guarantee or warrantee and identify of guarantor or warrantor.

253
VII. PRICE CLAIMS: Advertising shall avoid price of saving claims which are false or misleading or which do not offer proveable bargains or savings.

VII UNPROVEABLE CLAIMS: Advertising shall avoid the use of exaggerated or unproveable claims.

IX. TESTIMONIALS: Advertising containing testimonials shall be limited to those of competent witnesses who are reflecting a real and honest choice.

This code was announced by the American Advertising Federation, American Association of Advertising Agencies & Association of National Advertiser Council of Better Business Bureaus.

Factors To Be Considered For Proposed Legislation

The researcher proposed that the legislators should enact an act for controlling the advertising and the proposed act should be considered following facts and circumstances -

1. Endorsement and Testimonials
2. Bail and Switch Advertising
3. Guarantee and warranties
4. Unproveable claims
5. Truth
6. Disparagement
7. Advertising of sugared products likely to cause tooth decay in children
8. Obscenity or Nudity in advertising

Endorsement advertising -

Advertisers have used endorsement or testimonials as are integral part of their advertisements. Customers are persuaded to purchase the product because some wellknown personality places his or her stamp of approval on it.

The principles of emulation, association and reassurance are employed.
Sometimes endorsements are abused and customers are mislead. Its claims are untrue, customers may lose faith in credibility of testimonials advertising. Such as advertising of Chyavanprash by Dr. Shreeram Lagoo on television and advertising of Anacin by the same.

At one moment (in advertisement) he says that the secret of his health is Chyavanprash and on next moment he experiences headache. For that he uses Anacin. From the above fact it can be said that the Chyavanprash is not good for health or Dr. Shreeram Lagoo does not use it.

To avoid said confusion the act should provide that -

(a) Endorsers must actually use the product if the advertisement states that they do, and advertiser must have good reason to believe that the endorsers continue to use the product so long as the endorsement is used.

(b) When customers endorsement are used advertisers must either be able to show that the average person can expect comparable performance, “clearly and conspicuously” disclose that performance generally can be expected, or disclose that the endorsement has limited applicability.

(2) Bait and Switch advertising -

This type of (customers) deception is not new in this type of advertising. Seller advertises an exceedingly low price for a consumer items. When the customers goes to the stores he or she hears that -

(i) The item is not in stock.

(ii) It is inferior in quality.

The salesman then attempts to switch the prospective buyers’ interest in another higher priced item or model.

So the proposed act must prevent such type of promotion of products advertisement.

(3) Guarantee and Warrantee :

The act should provide -

Advertising of Guarantees and warrantees shall be explicitly Advertising of any guarantee or warrante shall clearly and conspicuously disclose its nature and extent, the manner in which the guarantor or warrantor will perform and the identity of the guarantor or warrantor.
(4) **Disparagement:**

Advertising shall offer merchandise or services on merits and refrain from attaching competitors unfairly or disparaging their products, services or methods of doing business.

(5) The act should ban the unproving of claims in advertising and exaggerated claim.

(6) **Truth:**

The act should make it clear on the advertisers that advertiser shall tell the truth and shall reveal significant facts. The concealments of any fact which would mislead public should be punishable.

(7) The proposed act should make mandatory to the advertiser that they shall offer merchandise or service on its merit and refrain from attaching competitors unfairly or disparaging their products, services or methods of doing business.

(8) **Obscene or Nudity in Advertising:**

The act should provide that the advertiser should not use nudity or obscene woman exposure. They should use exposure of woman decently.

The act also provide censorship, scrutiny for copy before it appears on media.

(9) The act should provide statutory for the censorship of advertisement and forum for the remedy to the aggrieved advertisers.

(10) The censorship body must consists of a legal adviser, an expert in advertising, Social Worker and a professional experts.