

Product Information Deception and Regulation in India

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Information about the essential characteristics of a product is a crucial input for the effective flow of goods and services from the producer to the consumer. Buyers seek information about the available products in order to make their purchase decisions wisely. The competition, as suggested by the economic theory, presupposes that the consumer will have sufficient information, on the basis of which rational decisions will be made. For efficient operation of markets, buyers should be provided with accurate information about the features, quality, price, availability of the products that are offered for sale. In the absence of accurate information no optimal decisions can be taken. Accurate information helps in attaining maximum utility through proper product evaluation and selection.

Source of Information

Information may be provided by the manufacturer or through independent information agencies engaged in the production and dissemination of information. As a result of the inhibited growth of independent information agencies, by and large, information about the products is provided by the persons who produce and sell them. Therefore, information is produced and disseminated to the extent it is compatible with their objective of sales/profits

maximisation. The nature, type and extent of information desired by the consumers is not taken care of. Most of the information supplied to consumers is aimed at giving quick returns to the seller. Buyers, therefore, indulge in the purchase of various products that may not be suitable to their purpose because the information on the basis of which purchase decisions are made is ambiguous, misleading, conflicting, distorted and exaggerated.

The reasons that have contributed towards the deceptive information include : First, in most cases the information is produced and supplied by the manufacturer or seller. Secondly, there are very few independent information agencies engaged in the function of information dissemination. Finally, a large segment of Indian consumers does not seem to be competent enough to evaluate the truth in information.

Various tools that are employed to perform communication function are advertising, personal selling, publicity and sales promotion devices, for example, coupons, gifts. Among the various tools of communication, advertising is the most widely used. The reasons that advertising is allocated the largest part of the communication budget are its pervasiveness, effectiveness and economy. It is 'a most vigorous and ubiquitous means of communication'. In addition to the above sources of information, buyers actively seek information from product packages and labels. Because of the out-burst of supermarkets and self-service departmental stores, consumers confront product packages and labels before salesman. They are, perhaps, the only representatives of manufacturer that carry his message at the sensitive moment when purchase is about to be made. All the information sources are manufacturer based. In order to boost sales, consumers are loaded with the misleading, distorted and exaggerated information that causes buyers often to make wrong purchase decisions.

Regulatory Measures

In Britain, in the field of regulation of deceptive information, breakthrough came from the Trade Description Act, 1968, which converted the traditional doctrine 'caveat emptor' (buyers beware) into 'caveat venditor' (sellers beware). It prescribed three main offences including : False or misleading trade descriptions; and false or misleading indications as to the price of goods. At present, there are more than seventy statutes and statutory instruments affecting advertising. On the contrary in India, till recently advertising remained unregulated and unchecked activity enabling unscrupulous sellers and producers to derive undue advantage from the consumers through deceptive information dissemination. However, the need for its regulation was recognised but the provisions were designed to regulate advertising of certain specified products only.

One of the earliest regulations designed to regulate misleading advertising is the Drugs and Magic Remedies (objectionable Advertisements) Act, 1954. The Act provides for the prohibition of misleading advertisements relating to the drugs which directly or indirectly

give a false impression regarding the true character of the drug or makes false claim for the drug or is otherwise false or misleading in any material particular. The Act further provides for the prohibition of advertisements of magic remedies for the treatment of procurement of miscarriage in women, prevention of conception in women, maintenance or improvement of the capacity of human beings for sexual pleasure, the correction of menstrual disorder in women, and diseases given in the schedule of the Act. In spite of the measures contained in the Act, drugs and magic remedies are promoted and marketed in India. Some of the Delhi-based health centres frequently advertises their drugs for 'health, vigour and vitality'. The provisions of the Act are flouted by numerous health centres mushrooming in the less developed areas which exploit the illiterate, credulous masses through false and misleading advertising. Mere existence of provisions is of little use unless these are properly implemented. The Act thus needs proper enforcement.

Another product-advertising subject to certain regulations is cigarette. The Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975, provides, inter alia, that every label, packet, or advertisement of cigarette shall predominantly and conspicuously bear the statutory warning : "Cigarette Smoking is Injurious to Health". The provisions are followed by cigarette manufacturers by tendering minimum required performance. However, what lacks is the will to abide by the law. The statutory warning, in most cases, is imprinted in cigarette advertisements in such a way that attention is hardly drawn to it. Hence it defeating the very objective of the creation of consciousness about the bad effects of smoking. In most of the cigarette advertisements, the statutory warning is written in small letters with dull colours rendering it invisible, inconspicuous and unattractive.

Nevertheless, the Government of India, on the basis of the recommendations made by the Sachar Committee, 1977, brought about the MRTP (Amendment) Act, 1984 to regulate advertising as an activity directed towards consumers with considerable scope of injury through deception. The amendment provides for the regulation of information deception by way of prohibition of following unfair trade practices : Misleading advertising and false representation whether orally or in writing or by visible representation; publication of any advertisement whether in any newspaper or otherwise for the sale or supply at bargain price, of the goods or services that are not intended to be offered for supply or sale at bargain price; offering of gifts, prizes or other items with the intention of not providing them as offered for creating the impression that something is being offered free of charges when it is fully or partly charged; and conduct of contest, lottery, game of chance or skill, for the purpose of promoting sales.

Inclusion of misleading and unfair advertising in the MRTP Act as unfair trade practice will definitely yield positive results in the control and regulation of information deception. Since the enforcement of the MRTP (Amendment) Act, 1984, in May 1984, in three different cases three companies were restrained to indulge into prize contests and bait advertising (the Colgate-Palmolive (India) Ltd., for the 'Trigard tooth brush contest', Bata India

Ltd. for the 'Bubble gummers contest' and I.T.C. Ltd. for the 'Made for each other contest'). However, in the wake of unorganised Indian consumers, infancy of consumer movement and lack of proper provision enforcement, various companies still deceive, cajole and mislead consumers. For example, two leading television manufacturing companies conflictly claim 'India's largest selling TV' for their brand. Recently, a television manufacturer entered in the market with a slogan 'introducing Toshiba' creating ambiguity with Toshiba of Japan. Most of the Indian television manufacturers in the promotion of their brand emphasize more on the name of foreign company from whom they import some of the components and less on their 'own', creating a false impression of foreign product. Similarly there is no dearth of exaggerated claims. One of the Delhi-based slimming centres miraculously offers to reduce '5 to 10 inches in one hour' of treatment. In another ad-campaign, one of the newly born electric bulbs, tubes and fittings company came out with a statement 'saves upto 40 per cent energy over ordinary chokes' for its product without stating as to what ordinary chokes are ?

Regulations can play a big role in protecting the consumers from dishonest and untruthful advertising and other forms of deception. But the trouble with regulations is that preventive machinery can only be set in motion only when crime has been committed. The solution of the problem does not lie in making stringent regulations and costly enforcement. What can be of great help is the development of business ethics and self-regulation. Voluntary controls are more effective and preventive.