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ETHICS V. GOVERNANCE: A CRITICAL STUDY OF MISLEADING ADVERTISEMENTS AND CONSUMER RIGHTS IN INDIA

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ABSTRACT

The research paper tries to explore intersection of corporate governance, business ethics, and consumer protection in the context of misleading advertisements in India and protection of consumer rights, by also comparing laws in international scenario to understand the best global practices. The research article critically examines the statutory frameworks such Consumer Protection Act, SEBI Regulations, and the RTI Act in safeguarding consumer rights. Through analysing the landmark judicial precedents and case studies, the research article further explores the gap in the framing of law and in the lacunae in the proper implementation. The research article also explains this through the lens of Carroll's CSR Pyramid and Stakeholder Theory to assess the ethical dimensions of governance and how sometimes corporations frequently bypass ethical obligations. The research article concludes that it is important to incorporate ethical standards and following both the letter and spirit of law, to ensure that consumer rights are protected in an evolving economy.

Keywords: *Corporate Governance, Business Ethics, Misleading Advertisements, Consumer Protection Act, Ethical dimensions*

1. INTRODUCTION

In the modern corporate world, businesses operate in a highly competitive environment where advertising plays a crucial role in influencing consumer choices. While corporate governance and business ethics are intended to promote fair practices and transparency, there remains a persistent challenge in ensuring that advertisements are not misleading

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or deceptive. Companies often find themselves navigating the fine line between effective marketing and ethical responsibility, sometimes prioritizing financial gains over consumer rights.

Advertising regulations in India, including the Consumer Protection Act, 2019, the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and the guidelines set by the Advertising Standards Council of India (ASCI), seek to establish a framework that ensures truthfulness and fairness in advertisements. However, gaps in enforcement, evolving digital marketing strategies, and the increasing use of AI-driven content have made it difficult to eliminate misleading claims.

This study delves into the complex relationship between corporate governance, business ethics, and consumer rights, particularly through the lens of the Right to Information (RTI) framework.

It examines landmark case laws, regulatory frameworks, and international best practices to evaluate the effectiveness of existing measures in preventing deceptive advertising. By analysing these aspects, this research aims to highlight the challenges, limitations, and broader implications of misleading advertisements in a governance-driven system.

2. CONCEPTUAL FRAMEWORK

This research paper includes and integrates the Carroll Corporate Social Responsibility (CSR) Pyramid and stakeholder theory. By this way it is emphasized that sole legal compliance is insufficient, with it the ethical behaviour and social responsibility should also be followed. The dual framework approach used in this research paper is to provide a lens through which the ethical and moral dimensions of advertisement regulation can be critically assessed by understanding the nature and spirit of law.

3. RESEARCH METHODOLOGY

This research follows a doctrinal methodology, primarily relying on secondary sources to analyse the intersection of corporate governance, business ethics, and consumer rights in advertising. The study will involve an in-depth examination of statutory laws, judicial precedents, and regulatory frameworks, including the Consumer Protection Act, 2019, the Right to Information Act, 2005, the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and the Advertising Standards Council of India (ASCI) guidelines. Additionally, the research will incorporate government-issued guidelines on

the same subject. It includes comparative analysis of international regulations to compare the framework. The analysis also includes understanding the case studies and case laws to understand through this lens.

4. BUSINESS ETHICS

4.1. Meaning of Business Ethics

Crane defined business ethics as, *"Business ethics is the study of business situations, activities, and decisions where issues of right and wrong are addressed."* According to Baumhart he defines it as, *"The ethics of business is the ethics of responsibility. The businessman must promise that he will not harm knowingly."*[1]

In simpler terms, business ethics refer to the set of moral principles and values that govern the conduct, decision-making, and operations of organizations and their stakeholders. They also constitute what is right and wrong. The key principles of business ethics include honesty, integrity, transparency, and social responsibility. The scope of business ethics goes beyond legal obligations, emphasizing ethical behaviour and the pursuit of what is morally right, even when law may allow for less strict actions. It reflects a commitment to uphold ethical standards in all business practices, fostering trust and accountability.[2]

4.2. Importance of Business Ethics

Business ethics help a company to build a positive reputation, improve the companies' ability to negotiate in a better way, it is important to foster customer loyalty, preventing consumers from seeking alternative options.[3] Therefore, playing a vital role in company's long-term success. Moreover, it also seen that, a growing number of workers are placing greater emphasis on corporate culture when searching for jobs. A recent Qualtrics survey found that 56% of American workers would refuse a job offer from a company if they disagreed with its ethics, and 54% would accept a lower salary to work for a more ethically aligned company.[4]

4.3. Relation of Corporate Governance and Business Ethics

1 Raymond C. Baumhart, Ethics in Business 56 (1968).

2 The Importance of Ethics in Business, London Sch. of Bus. Admin., https://londonsba.org.uk/blog/the-importance-of-ethics-in-business.

3 Why Business Ethics Are Important, Limestone Univ. (Aug. 11, 2021), https://www.limestone.edu/blog/why-business-ethics-are-important.

4 For Employees, *Shared Values Matter More Than Policy Positions,* Qualtrics (June 2, 2022), https://www.qualtrics.com/news/for-employees-shared-values-matter-more-than-policy-positions

There are many definitions of corporate governance, but the definition given by Institute of Company Secretaries of India (ICSI) is considered to be one of the best definitions of corporate governance.

The essentials from the definition of is:

a. Best management practices,

b. Compliance of law in true letter and spirit and

c. Adherence to ethical standards for effective management and distribution of wealth &

d. Discharge of social responsibility for sustainable development of all stakeholders

It is crucial for companies to implement structured, well – defined, actionable governance plans that embrace ethical values of integrity, honesty, and transparency to conduct their operations.[5] Every company have many stakeholders such as employees, vendors, shareholders, customers, community and more.

The primary aim of business ethics is to include individuals with the tools needed navigate moral complexities in business, recognizing that ethical considerations are inherent in business decisions and must be carefully assessed before taking action[6], Corporate governance provides the structural framework for managing a company, whereas business ethics acts as the moral guide that informs decision-making within that framework. Therefore, for every decision there should be ethical considerations.

There are two important case studies related to the relationship between Corporate Governance and Business ethics.

Wells Fargo Scandal

First was, this scam that shook the banking sector, the scandal revealed that the bank had been creating unauthorized accounts in customers' names without their knowledge or consent. The bank employees, were trying to meet unattainable sales targets, leading them to open these accounts and enrol customers in financial products without their knowledge.

5 Corporate Governance and Business Ethics, Santa Clara Univ., https://onlinedegrees.scu.edu/media/blog/ethics-in-corporate-governance#:~:text=Corporate%20governance%20rules%20are%20important,company's%20daily%20operations%20and%20management

6 Kaushal Kumar, *Relationship between Business Ethics & Corporate Governance,* The CEO Mag., https://www.theceo.in/blogs/relationship-between-business-ethics-and-corporate-governance.

Before the scandal, Wells Fargo was widely regarded as one of the most successful and respected banks in the United States, known for its customer service and commitment to ethical business practices. But the revelation severely tarnished Wells Fargo's strong reputation, faced significant financial losses, with its stock price and its credibility with both investors and customers significantly compromised. [7]

The bank also faced legal consequences, the bank was levied with the fine of $185 million the Consumer Financial Protection Bureau (CFPB) and the Office of the Comptroller of the Currency (OCC). Other than the fine, several high-ranking executives at the bank also faced criminal charges, in relation to fake accounts scandal, charges included fraud, conspiracy, and providing false information to regulatory authorities, to which further tarnished the company's reputation.[8]

There was a clear intersection of corporate governance and Business ethics in this case, as there were many factors leading to the fraud, an employee stated:

"I knew what I was doing was wrong, but I felt trapped. The pressure to meet sales goals was relentless, and I couldn't afford to lose my job. It was a choice between my own well-being and doing the right thing."

Employees were stuck in a Dilemma, having to choose between securing their own financial stability and maintaining ethical standards, they feared losing their job.

The culture at Wells Fargo, as well prioritized sales performance over ethical conduct, that played a crucial role in the scandal. Employees were incentivized to focus on achieving sales targets over maintaining customer trust, resulting in the creation of fraudulent accounts and unauthorized credit cards. [9]

Therefore, the scandal reflects the ethical lapses on financial institutions and the industry in general, that resulted in serious legal and ethical repercussions.

This case also shows, the importance of Stakeholder theory that emphasizes, businesses should prioritize the interests of all stakeholders, not just shareholders. Ethical corporate governance requires transparency, fairness, and responsibility toward consumers,

7 Brian Tayan, The Wells Fargo Cross-Selling Scandal, Harv. L. Sch. F. on Corp. Governance (Feb. 6, 2019), https://corpgov.law.harvard.edu/2019/02/06/the-wells-fargo-cross-selling-scandal-2.

8 The Wells Fargo Fake Accounts Scandal: A Comprehensive Overview, Learnsignal, https://www.learnsignal.com/blog/wells-fargo-fake-accounts-scandal-overview-2

9 Wells Fargo's Account Fraud Scandal: A Case Study of Ethics, Acad. Flex Fin. Consultants (Mar. 31, 2024), https://academyflex.com/wells-fargos-account-fraud-scandal-a-case-study-in-ethics

employees, and society, ensuring sustainable and trust-driven business practices. When companies prioritize short-term profits over stakeholder interests, it often leads to ethical failures, reputational damage, and legal consequences.

4.4. Benefit of Having Ethical Corporate Governance

An ethical company is perceived as trustworthy and reliable by key stakeholders such as customers, suppliers, employees, and the public. This reputation fosters long-term success by driving higher sales and profitability. For instance, in Germany, over 50% of consumers consider social and environmental responsibility as crucial factors in their purchasing decisions. Furthermore, employees value working in an environment, where they can act with integrity, with a clear conscience, seeking fairness and respect. In today's competitive job market candidates are prioritizing companies that promotes social responsibility and sustainability. Therefore, ethical corporate governance, on one hand builds companies' reputation and on other hand attract talented individuals enhancing its employer brand.[10]

a. Benefit To Society

Ethics in corporate governance presently prioritize environmental considerations, recognizing the importance of sustainable practices to safeguard the planet and its limited resources. Companies are encouraged to be environmentally conscious in and adopt sustainable practices throughout their operations, from sourcing to recycling, ensuring long-term sustainability for future generations.

Environmental awareness in corporate governance continues to grow, with frameworks like the Sustainability Accounting Standards Board (SASB) and Task Force on Climate-related Financial Disclosures (TCFD) helping companies address climate challenges and promote long-term sustainability while meeting the expectations of investors, regulators, and society.[11]

Further, The Society for Human Resource Management (SHRM) defines fair compensation, it includes paying employees equally for similar roles while considering factors like experience, performance, and tenure. Equitable compensation leads to higher employee satisfaction, improved performance, lower turnover, and better business outcomes. The flexibility offered nowadays, includes work from home and hybrid work, it also comes

10 Moritz Homann, *Business Ethics: Why Ethical Corporate Governance Pays Off*, EQS (Apr. 4, 2023), https://www.eqs.com/compliance-blog/why-ethical-corporate-governance-pays-off

11 Corporate Governance and Business Ethics, Leavey Sch. of Bus. (Jan. 7, 2025), https://onlinedegrees.scu.edu/media/blog/ethics-in-corporate-governance.

under corporate governance part to give equitable compensation, to the employees for their physical and mental well-being.[12]

5. TUSSLE BETWEEN CORPORATE GOVERNANCE AND BUSINESS ETHICS

The benefits of being 'ethical' in corporate governance raises the question that, if being ethical and adhering to business ethics is beneficial for the company, then why does it become challenging to follow ethics in corporate governance?

The answer, is very simple, following business ethics in a corporate governance is difficult, due to various reasons, a heavy emphasis is lead on to achieve results that creates perverse incentives, pushing employees to achieve targets at any cost, even allowing them to follow unethical behaviour.

Mistakes are inevitable, but they are frequently denied or covered up, that makes it harder to confront ethical issues, Unethical behaviour is rationalized as normal, with the mentality of "*everyone does it"* prevailing. There are prevailing Bureaucratic norms also contribute, with phrases like *"this is how things are done here"* that further reduces the scope of thinking ethically.

Additionally, decision-making often occurs in solo, with experts in one area making choices without considering the broader impact on other departments, the environment, or ethical implications, this henceforth encourages lack of any moral responsibility. In business Individualism predominates as everyone has their own agenda. [13]

Though the law, through frameworks like Sarbanes-Oxley, provides guidance on ethical behaviour, ethicists argue that it should be seen as the bare minimum standard for ethics. Following the law and acting ethically are not always the same. While Sarbanes-Oxley and C-198 make it clear that actions like destroying evidence or committing fraud are illegal, they do not address the series of questionable decisions that may lead to such fraudulent behaviour.[14]

12 Lisa Nagele-Piazza, *The Importance of Pay Equity*, SHRM (Feb. 21, 2020), https://www.shrm.org/topics-tools/news/hr-magazine/importance-pay-equity

13 Antonio Argandona, *Why is it hard to be ethical in business*, IESE (July 9 2015), https://blog.iese.edu/ethics/2015/07/09/why-is-it-hard-to-be-ethical-in-business/.

14 Douglas R. McKay, Romy Nitsch & Daniel A Peters, *Corporate governance and Business ethics*, PMID: 26665146.

6. RIGHT TO INFORMATION OF THE CONSUMERS

The implementation of the Right to Information (RTI) Act has made governance processes to the public more accessible that have a wide-ranging impact on consumer protection[15] basically concerning Right to be Informed**.** Right to information is facet of freedom under, *"speech and expression"* under article 19(1)(a).[16] Consumers are often denied vital regarding essential services provided by the government, such as food adulteration, unsafe food, genetically modified products, and misleading advertisements.

Therefore, the right to information of the consumers covers, the right to be informed about the quality, quantity, potency, purity, standards, and price of goods, in order to protect consumers from unfair trade practices. But the lack of exercising their right to information can lead to the consumer exploitation, and because of its unfair trade practices continue.[17]

6.1 Right to Information and Its Relationship with Governance

The essentials of Right to Information Act, 2005 is to promote transparency and accountability, that are essentials of corporate governance. It is the essentials feature of good governance. RTI and governance go hand in hand. In the case of *Union of India v. Association for Democratic Reforms*[18] the hon'ble apex court held that, "*A successful democracy posits an aware citizenry"*. Due to the increased participation and transparency, it allows citizens to hold the companies accountable and also minimize corruption.

The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015[19] mandate listed companies to ensure transparency, timely disclosures, and corporate governance compliance. These regulations enhance investor confidence by requiring companies to disclose financial details, material events, and corporate governance practices in a standardized format.

This strengthens corporate governance, making companies accountable for false advertising claims, misleading consumer information, and unethical business practices.

15 Eleventh Five-year Plan, *Consumer Protection and Competition Policy,* Planning Comm'n of India 247, http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11_v1/11v1_ch11.pdf.

16 People's Union for Civil Liberties v. Union of India, (2004) 2 SCC 476.

17 VG Ranganath, *Consumer Protection and Right to Information,* LawyersClubIndia (Dec. 9 2011), https://www.lawyersclubindia.com/articles/consumer-protection-and-right-to-information-4343.asp.

18 Union of India v. Ass'n for Democratic Reforms, (2002) 5 SCC 294.

19 Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

6.2 Law on Advertisements in India

There is no doubt that laws have provided advertisements to be fair, truthful, respecting rights of the people and maintaining ethical standards. There are different laws in India regulating advertisements. Consumer Protection Act, 2019 defines "misleading advertisements" as an advertisement that:

> *"(i) Falsely describes a product or service,*
>
> *(ii) Gives false guarantees, mislead consumers about its nature, substance, quantity or quality*
>
> *(iii) Deliberately conceals important information,*
>
> *(iv) Conveys an express or implied representation, which if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice."*

The central Consumer Protection Authority was set up to regulate matters relating to misleading advertisements.[20]

Furthermore, ASCI is also a self-regulatory council that was established to uphold the integrity and credibility of advertisements in India. It outlines principles for ethical advertisements in India, constituting Truthful & Honesty, Decency & Public Sensitivity, non – exploitation and fair competition.[21]

There are different laws that also ensure that advertisements follow ethical standards, such as *Durga and Magic Remedies (Objectionable Advertisements) Act, 1954*, that regulates advertisement of drugs and magic remedies with Sections 3, 4, and 5 specifically prohibiting advertisements that claim magical properties or unproven benefits. Section 53 of Food Safety and Standards Act, 2006, imposes penalties for fraudulent or misleading advertisements concerning food quality, descriptions, and other related aspects.

To tackle the unending problem of misleading advertisements, Ministry of consumer Affairs and Public Distribution issues Guidelines for, Prevention of Misleading Advertisements, 2022 (Guidelines). These guidelines establish a comprehensive framework to safeguard

20 Consumer Protection Act, § 10.

21 Vikrant Rana & Apalka Bareja, *Misleading Ads: Everything You Need to Know*, Live Law (Aug. 14, 2024), https://www.livelaw.in/law-firms/law-firm-articles-/misleading-ads-advertising-regulation-act-ministry-of-information-and-broadcasting-consumer-protection-act-tata-motors-ss-rana-co-266693?fromIpLogin=32748.573365389522.

consumers from deceptive advertisements, regardless of their form, format, or medium. These guidelines are applicable to manufacturers, service providers, traders, advertising agencies, and endorsers, including celebrities and influencers, promoting products and services.[22]

7. EVOLUTION OF NEW TRENDS AND THE CONSUMER LAW

The digital industry has seen rise of dark patterns, basically the practices such as confirm sharing (creating a sense of shame to push users toward a purchase), bait and switch (promoting one outcome but deceptively delivering another). The strategies manipulate users into actions they did not intend or desire.

Hence, for regulating Dark Pattern practices, notification of *Guidelines for Prevention and Regulation of Dark Patterns 2023*, was brought forward. In the annexure of the guidelines there is an exhaustive list of dark patterns, for example advertisements containing *false urgency* such as Only 4 rooms left! 50 looking at this already, bait and switch, happens, when, displaying one thing but delivering another! for example, when a product is shown at discounted price, but is marked unavailable when you visit the product, but there are alternatives but at higher prices.[23]

There was another guideline issues called, *Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claim 2024*, also called Greenwashing Guidelines, these guidelines were issued to hold manufacturers, service providers, traders, advertisers, and endorsers of goods and services accountable for misleading environmental claims. Environmental claims such as those who suggest environmentally friendly attributes, aimed to convey a sense of environmental responsibility.[24]

The guidelines set clear standards for advertisers, requiring them to substantiate their claims with verifiable evidence and ensure transparency by disclosing essential information within the advertisement itself or through URLs and QR codes. For example, specific claims, such as *"non – toxic"* or *"100% natural"* etc., should be supported by credible certification.

22 Prevention of Misleading Advertisements Guidelines, 2022.

23 Aarushi Jain & Pooja Kapadia, *Dark Side of Advertising: Decoding Dark Patterns for platforms and Endorsers*, Cyril Amarchand Mangaldas (Jan. 9 2024).

24 Bose Varghese, Pooja Kapadia & Chelsea Sawlani, *Genuinely Green? Tightening the Noose on Environmental Claims in Advertising,* SCC Times (Nov. 25, 2025), https://www.scconline.com/blog/post/2024/11/25/genuinely-green-tightening-noose-on-environmental-claims-in-advertising-experts-corner (last visited Feb. 4, 2025).

There are several advisories issued in relation to advertisements, for instance, CCPA issued advisory to celebrities/influences against promoting advertisements such as manufacturers, advertisers, publishers, intermediaries, and social media platforms—against promoting such advertisements.

After, the Ministry of Information and Broadcasting (MIB) released a similar advisory directed at endorsers, influencers, social media intermediaries, and online advertising platforms, instructing them to refrain from advertising illegal betting and gambling platforms.[25]

These advisories were issued at right time, when a report by the Advertising Standards Council of India (ASCI) revealed that between April 2023 and March 2024, the illegal betting and gambling sector accounted for the second-highest number of violative advertisements.[26]

Moreover, CCPA has been actively addressing misleading advertising practices in the coaching sector. In November 2024, it issued the *Guidelines for Prevention of Misleading Advertisements in the Coaching Sector, 2024* ("Coaching Guidelines"). These guidelines apply to all forms of advertisements by individuals or entities engaged in coaching, including academic support, education, guidance, instruction, study programs, or tuition. However, they do not cover activities such as counselling, sports, dance, theatre, or other creative fields.

Misleading claims such as course details, duration, faculty credentials, fees, etc, the number of selections, exam rankings, or success rates etc.[27]

Several other regulators are also aligning with this approach, and keep eye on mis – advertising practices

For instance, in the insurance sector, the Insurance Regulatory and Development Authority of India (IRDAI) has been taking steps to regulate advertising. In March 2024, it introduced the *IRDAI (Protection of Policyholders' Interests and Allied Matters of Insurers) Regulations, 2024* ("Insurance Regulations"), which outline advertising norms that insurers must follow. Among other requirements, the regulations mandate insurers to establish a board-approved

25 Aarushi Jain & Pooja Kapadia, *Dark Side of Advertising: Decoding Dark Patterns for Platforms and Endorsers*, Cyril Amarchand Mangaldas (Jan. 9, 2024), https://corporate.cyrilamarchandblogs.com/2024/01/dark-side-of-advertising-decoding-dark-patterns-for-platforms-and-endorsers (last visited Feb. 5, 2025).

26 Annual Complaints Report, 2023–2024, Advert. Standards Council of India.

27 Coaching Guidelines, cl. 3.

advertising policy and internally approve each advertisement before its release.[28]

Similarly, the Securities and Exchange Board of India (SEBI) has been proactive in regulating unregistered 'finfluencers.'[29] In July 2024, SEBI issued guidelines restricting SEBI-regulated entities from engaging in any form of association, transaction, or financial dealings with unregistered finfluencers. Under these guidelines, SEBI-regulated entities may collaborate with finfluencers only in 2 conditions:

a. they are solely focused on investor education and do not provide financial advice; and

b. the engagement takes place through a designated digital platform with mechanisms to prevent and address instances where unregistered finfluencers attempt to offer financial advice.[30]

The regulatory framework in India demonstrates that there is a robust intent but there are enforcement gaps and the lack of oversight that limits the real and the practical approach.

8. IDEAL SITUATION THAT SHOULD BE FOLLOWED

An ideal advertising industry would be one where corporate governance ensures that ethical principles are embedded in every stage of advertising, from content creation to dissemination. Companies should strictly follow legal frameworks such as consumer protection laws, data privacy regulations, and advertising standards, ensuring that no misleading, deceptive, or harmful content reaches the public. In an ideal scenario, companies would be required to include disclaimers with clear, legible font size and duration in television commercials, ensuring consumers can read and understand the fine print.

Similarly, in digital advertising, platforms should mandate easily accessible disclosure labels for sponsored content and AI-generated promotions, preventing the audience from mistaking paid endorsements for organic opinions. Transparency in decision-making, accountability for false claims, and fair competition would be at the core of corporate policies. Robust corporate governance structures that prioritize ethical considerations,

28 IRDAI (Protection of Policyholders' Interests and Allied Matters of Insurers) Regulations, ch. 2 (2024).

29 SEBI (Investment Advisers) Regulations, 2013.

30 *Consultation Paper on Association of SEBI Regulated Entities with Unregistered Finfluencers,* SEC. & EXCH. BD. OF INDIA (Aug. 25, 2023), https://www.sebi.gov.in/reports-and-statistics/reports/aug-2023/consultation-paper-on-association-of-sebi-registered-intermediaries-with-unregistered-finfluencers_75150.html.

preventing the "results-at-any-cost" mentality. For example, rather than incentivizing unattainable sales targets that drive unethical behaviour, as seen in the Wells Fargo scandal, companies should integrate ethical metrics into performance reviews.

9. ACTIONS BY REGULATORY AUTHORITIES FOR PROTECTION

Horlicks, a widely recognized beverage with a strong presence in South Asian households, has significantly expanded its product range and market share over the past two decades. Despite its popularity, the brand has faced scrutiny over misleading advertising claims. In October 2016, the Advertising Standards Council of India (ASCI) took action against Horlicks for exaggerated marketing, including a campaign that claimed it contained more immunity-boosting nutrients than its competitors. Similarly, Horlicks Growth Plus was marketed as promoting "natural" bone growth, a claim ASCI dismissed as unsubstantiated and misleading, given that the product itself was artificially formulated.

This was not the first instance of Horlicks being called out for deceptive advertising. In 2008, an advertisement aired on a Nepali TV channel in the UK, claiming that consuming Horlicks would make individuals "taller, stronger, and sharper." The British Advertising Standards Authority (ASA) found these claims to be unsupported by scientific evidence and in violation of the UK's strict advertising regulations. While such claims may have been permissible in other regions, they failed to meet the UK's rigorous standards for truthfulness in advertising.

In response to the controversy, a spokesperson from GSK Consumer Healthcare India, the parent company of Horlicks, clarified that the advertisement had aired without the company's authorization and was not intended for the UK audience, as the product was not sold in that market. This explanation was acknowledged by the ASA, but the incident underscored the need for greater oversight and regulatory compliance in Horlicks' global advertising strategy.[31]

Further, though consumers have a right to accurate information about the products they purchase. It was alleged on Bournvita[32], by an Instagram reel that it had significant amounts of sugar, cocoa solids, and a caramel colouring agent that was dangerous and can lead to

31 Veeksha Dechamma, *Top 4 Recent Misleading Advertising Scandals from India*, Jump Start (Mar. 27, 2024)

32 *The Bournvita Controversy: Losing the Health Drink Tag*, Legal 500, https://www.legal500.com/developments/thought-leadership/the-bournvita-controversy-losing-the-health-drink-tag

cancer. After the controversy Bournvita, clarified that it contains 7.5 grams of added sugar per serving, that is less amount of intake as recommended intake for the children.[33] In the response, The National Commission for Protection of Child Rights (NCPCR) served a notice to Mondelez India, requesting the company to review or withdraw any "misleading" advertisements, packaging, and labels.[34]

Similarly, in January 2022, the Central Consumer Protection Authority (CCPA) took action against GSK Consumer Healthcare, the parent company of Sensodyne, for making misleading advertising claims. The brand's advertisements featured endorsements from foreign dentists and claimed that the toothpaste provided relief from sensitivity within 60 seconds. Additionally, the CCPA questioned its assertion of being the "world's No. 1 sensitivity toothpaste," noting that this claim was primarily based on surveys conducted among Indian dentists, without a broader global evaluation.

Following the investigation, GSK was fined INR 10 lakh (approximately USD 12,000), and the CCPA directed the company to discontinue all Sensodyne advertisements in India. In compliance with the order, Sensodyne subsequently removed or modified its advertisements to align with regulatory standards.[35]

10. JUDICIAL PROTECTION TO RIGHT TO INFORMATION AND SAFEGUARD WHEN IT IS TAMPERED WITH

Though there are comprehensive laws on advertisements and are developing with the growing industry. But it is seen that many a times letter of the law is followed but the spirit of the law is not followed, for instance the advertisements think the laws and its rules as a checklist, and fulfil them all, but fall short of knowing the intention behind that law. They sometimes exploit the loopholes in the law, to create advertisements that technically comply with regulations but violate the spirit by being misleading or deceptive or not disclosing the proper information.

33 *What Led Bournvita to Lose Its Health Drink Tag? All You Need to Know*, Mint (Apr. 13, 2024), https://www.livemint.com/news/india/what-led-cadbury-bournvita-lose-its-health-drink-tag-all-you-need-to-know-mondelez-added-sugar-ncpcr-revant-himatsingka-11713015106902.html.

34 *How Sugar Turned Bitter for Bournvita*, Econ. Times (Apr. 26, 2023), https://economictimes.indiatimes.com/industry/cons-products/food/how-sugar-turned-bitter-for-bournvita/articleshow/99794137.cms

35 Timsy Jaipuria, *Sensodyne Ads Were 'Misleading' and So GSK Will Pay a Penalty*, CNBC-TV18 (June 1, 2022),https://www.cnbctv18.com/retail/sensodyne-ads-were-misleading-and-so-gsk-will-pay-a-penalty-13836702.htm.

Although, there are numerous laws for regulating advertisements, the number of misleading claims has started reducing, but then also there are numerous cases related to it, for instance, the *Patanjali*[36] case, the company faced allegations of making unsubstantiated claims about the benefits of its products. During the COVID-19 pandemic, Patanjali claimed that its medicine "Coronil" was an effective cure for COVID-19 and had received certification and approval from the World Health Organization (WHO).

However, the WHO later denied these claims and criticized the misinformation. This situation emphasized the importance of accuracy and transparency in advertising, as false claims can mislead consumers and can harm the company's reputation. Therefore, the hon'ble apex court ordered the implementation of a comprehensive mechanism to ensure accountability for advertisers and advertising agencies, making it mandatory to file a self-declaration certificate for every advertisement.

In the case of *Franis Vadakkan v. The Proprietor, A-One Medical & Ors*[37], complaint was heard by The Kerala District Commission ('Commission') against a company that produced a hair growth cream, that claimed the cream would triple hair length within six weeks. The complainant influenced by this advertisement, purchased two bottles of the lotion from A-One Medical and used it for seven weeks but saw no improvement in hair growth. Therefore, he filed a claim with the Commission, seeking Rs. 5,00,000 in compensation for financial loss, suffering, and emotional distress.

The Commission reviewed the complaint and found that the petitioner had relied on the advertisement and used the cream as instructed, and yet he did not achieve the promised results. As a result, the Commission ordered the company to compensate the complainant for the deficiency in service.

In the case of *Tata Motors v. Pradipta Kundu*[38] Tata Motors faced accusations by the complainant of falsely advertising that the TATA Indigo CS car would deliver a mileage of 25 km/l, promoting it as fuel-efficient. The complainant relied on the claim and purchased the car, but subsequent tests revealed the mileage was lower than what was advertisement. The West Bengal State Consumer Dispute Redressal Commission concluded that the complainant had been misled and confirmed the car's mileage was below 25 km/l. The commission ordered Tata Motors to pay Rs. 3.5 lakh as damages, the decision was also upheld by the National Consumer Dispute Redressal Commission.

36 Indian Medical Association v. Union of India, W.P. No. 645/2022 (SC).

37 Franis Vadakkan v. The Proprietor, A-One Med. & Ors., C.C. No. 345 of 2012 (Consumer Forum).

38 Tata Motors v. Pradipta Kundu, Rev. Pet. No. 2133 of 2015 (NCDRC).

11. INTERPLAY BETWEEN BUSINESS ETHICS AND CORPORATE GOVERNANCE THROUGH LENS OF CARROLL'S PYRAMID

The Carroll's model mandates, the first three pillars to reach the philanthropic aspect of the pyramid. The legal responsibility mandates following the mandatory compliance with laws, regulations like India's Consumer Protection Act (2019) and the RTI Act (2005), which enforce transparency in advertising and product disclosures.

On the other hand, ethical responsibility moves a step further with legal responsibility, hence demanding not just following what is legal but also what is 'just and right'. This demands more responsibility even if the legal responsibility does not ask for it. It helps to prioritise long term relationships. For instance, incentivizing sales targets without ethical safeguards can lead to unethical practices like withholding critical information (e.g., hidden fees or environmental impacts), violating consumer trust despite legal compliance.[39]

Therefore, when businesses focus solely on law without considering what's truly ethical, they can still end up misleading customers in various ways. This gap undermines the intended progression of the model, as skipping ethical responsibility creates a weak foundation for genuine philanthropic efforts. Even if a company reaches the philanthropic level, its contributions may be performative rather than reflective of true corporate social responsibility.

12. INTERNATIONAL PERSPECTIVE IN ADVERTISING LAWS

12.1 United States

Though both India and US has laws to protect consumers but, US laws have a wider scope than Indian law, for instance Consumer Protection Act, 2019 follows, more of a targeted and specific approach, whereas US, FTC Act's Section 5[40] is very broad, prohibiting "unfair or deceptive acts or practices." The FTC can take action even if an advertiser complies with industry guidelines. The FTC has been active in addressing issues like dark patterns and deceptive endorsements in the digital space, often using its broad authority under Section 5. India has been proactive in issuing specific guidelines for dark patterns and greenwashing. This shows a willingness to adapt the regulatory framework to address new challenges.

39 PhD. C. Seymur M. Guliyev, *Carroll's Pyramid of Corporate Social Responsibility* (Sept. 5, 2014) (unpublished Master's thesis, Univ. of Stirling, Mgmt. Dep't) (on file with author).

40 Federal Trade Commission Act, 15 U.S.C. § 45 (1914).

FTC has strict digital marketing laws, requiring influencers and advertisers to clearly disclose paid partnerships. In India, there are no mandatory rules for influencers to disclose sponsored content clearly, though according to ASCI guidelines, self-declaration system, is mandatory for the advertisers and ad agencies, they have to give adherence to two key sets of guidelines**:**

a. Rule 7 of the Cable Television Networks Rules: This regulation ensures advertisements are respectful towards national symbols, figures, and religions. It also prohibits content that incites violence, promotes hatred, or discriminates against any group.

b. Norms of the Journalistic Code of Conduct of the Press Council of India*:* These norms apply to print and digital advertisements, upholding principles of truthfulness, objectivity, and ethical conduct. This essentially means advertisements should avoid misleading claims, hidden conditions, and exploitative tactics.

But these regulations did not explicitly mention anywhere about disclosing paid partnership. Though advertisers sometimes used terms like "advertisement," "sponsored," "paid partnership," are commonly used to indicate paid content.

12.2 United Kingdom

Some laws in UK, are somewhat similar to laws in India. But UK, ASA provides prohibits misleading ads targeting children, including junk food, gambling, and misleading financial products. According to the ASA, advertisements targeting or prominently featuring children must not include content that could cause them physical, mental, or moral harm.

In that view in 2022, Section 8 of CCPA guidelines issued by the ASCI, addresses advertisements directed at children.[41] The guidelines included unsafe Behaviour, exaggeration of products, physical and mental well-being, cost, content, health claims and junk food restrictions.

The only difference between UK an Indian laws is, that U.K. laws clearly define harmful advertisements involving children, prohibiting depictions of them entering unknown places, interacting with strangers, wandering alone in public, or engaging in hazardous activities, unless necessary for safety awareness. Additionally, U.K. regulations reinforce

41 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022.

parental authority—Section 5.2.4[42] mandates parental consent for purchasing expensive products, while Section 5.4.1[43] strictly prohibits advertisements from undermining parental authority.[44]

Table 1. Major Difference Between Indian, US And UK Law

NATURE	INDIA	UNITED STATES	UNITED KINGDOM
Disclosure of Paid Partnership	Voluntary under ASCI guidelines, no legal mandate as such.	It is legally required. The influencers must clearly and conspicuously disclose any material connection .	Mandatory disclosure under CAP/BCAP. It also requires labelling and forced platform accountability .
ChildDirected Advertising	ASCI guidelines (2022) cover some aspects but no explicit prohibitions on child-risk content.	FTC oversight on deceptive child marketing, but without detailed content restrictions	Explicit bans on hazardous or exploitative content, pester power, undermining parental authority, and consent for purchase prompts .
PreClearance of Ads	No mandatory pre-screening of any categories. (Only for specific situations)	No broad pre-clearance system.	Some categories (e.g., alcohol, HFSS, gambling) are pre-cleared or strongly regulated under CAP/ BCAP .

13. MAINTAINING ETHICAL STANDARDS WHILE PROTECTING ECONOMIC INTEREST

Ethical advertising plays a pivotal role in shaping *a positive brand image* and fostering consumer trust, both of which are essential for long-term economic success.[45] When

42 UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code), § 5.4.2.

43 Ibid., § 5.4.1.

44 Shrutika Barabde & Archana Balasubramanian, *Advertisements Targeting Children – An Overview of Indian Legal Scenario,* AGAMA, Com. L. Blog (Aug. 10, 2023), https://agamalaw.in/2023/08/10/ advertisements-targeting-children-an-overview-of-indian-legal-scenario (last visited Mar. 10, 2023).

45 Nathan Neely, *Doing the Right Thing: The Importance of Ethical Marketing Practices*, Marketing Insights Wkly. (Feb. 24, 2023).

consumers trust a brand, they are more likely to remain loyal, leading to repeat business and sustained revenue growth.[46] Moreover, ethical marketing campaigns have a lasting impact on *sales and customer retention*, as companies that prioritize honest communication and avoid deceptive practices can enhance customer satisfaction and reduce churn rates, ultimately increasing the average customer lifetime value.

Additionally, maintaining ethical advertising standards helps businesses mitigate legal and reputational risks, protecting them from costly lawsuits and PR crises that could harm financial performance. Beyond legal protection, ethical advertising also strengthens a company's market positioning, distinguishing it from competitors and appealing to ethically conscious consumers, thereby boosting market share and enhancing pricing power.[47] Furthermore, responsible advertising contributes *to economic growth* by stimulating consumer demand, driving job creation, and fostering overall economic development.

14. CONCLUSION

The relationship between corporate governance, business ethics, and consumer protection in advertising reveals a significant gap between regulation and practice. While frameworks like the Consumer Protection Act, SEBI Regulations, and ASCI Guidelines exist to ensure transparency, businesses continue to exploit loopholes and weak enforcement to engage in misleading advertising. The rise of AI-generated endorsements, digital manipulation, and influencer-driven marketing further complicates regulation, making deceptive practices harder to detect and prevent.

This study set out with the hypothesis that strong corporate governance and adherence to business ethics reduce misleading advertisements and enhance consumer trust. However, findings indicate that governance alone is insufficient without stricter enforcement and regulatory oversight. The lack of mandatory pre-clearance, weak monitoring of digital ads, and absence of a public ad transparency database allow misleading advertisements to persist. Thus, the hypothesis is disproved—corporate governance, without proactive regulation and technological intervention, fails to curb deceptive advertising effectively.

Addressing this issue requires not only stronger legal enforcement but also proactive regulatory mechanisms that adapt to the rapidly changing digital marketing landscape.

46 Anton Keller & Dan Mowinski, *What Is Ethical Advertising and Does It Work?*, Nued (Apr. 9, 2024), https://example.com

47 Arup Kumar, *Evaluating the Social, Ethical, and Economic Aspects of Advertising and Promotion* (unpublished manuscript, Dept. of Mgmt. & Bus. Admin., Allah Univ., West Bengal).

Until such comprehensive measures are in place, misleading advertisements will continue to erode consumer trust and challenge the ethical foundation of corporate governance.

15. SUGGESTIONS

In India there no explicit requirements for pre –clearance/pre- approval. India lacks explicit pre-clearance requirements for advertisements. A mandatory pre-screening process for advertisements, especially in sectors like healthcare, finance, and environmental claims, can help prevent misleading advertisements before they reach the public. India can take inputs from, such as Pre-vetting required for all advertisements related to prescription-only medicines (POMs) and high-risk medical devices, from United Kingdom. With respect to same reference, the FTC requires pre-clearance for certain high-risk health and weight-loss advertisements in the United States.

There are no specific regulations as of now to regulate AI based content, there are few initiatives and guidelines for responsible development of AI technologies but no specific laws regarding the same. Hence, there should be specific laws in which, advertisers should explicitly label AI-generated content in ads (e.g., *"This advertisement was created using AI-generated content")*. For AI-powered influencer endorsements, there should be a disclaimer: *"This is a synthetic endorsement and does not involve real human interaction."* The laws can be made similar to laws in European Union in which, The EU AI Act does indeed require transparency when AI is used, Deployers must clearly disclose that content has been artificially created or manipulated by AI systems, unless the use is authorized by law for specific purposes like crime detection.[48]

Many countries, including the United States and the European Union, have introduced public advertising databases where all paid advertisements, especially political, financial, and AI-generated ads, must be registered and disclosed. This system allows regulators, consumers, and watchdog organizations to track advertisements, verify claims, and detect misleading content in real-time.[49] India, can also have a system, where, every digital, TV, and print advertisement must be logged into a central database before being published, and they have to disclose, key details such as, Advertiser identity, Verified claims & scientific backing etc.

48 Tim Hickam, Dr. Sylvia & Ors., *Long Awaited EU AI Act Becomes Law After Publication in the EU's Official Journal*, White & Case (July 16, 2024), https://www.whitecase.com/publications/insight/long-awaited-eu-ai-act-becomes-law

49 Consumer Advertising During The Great Depression: A Resource Guide.