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**MISLEADING ADVERTISEMENTS AND CELEBRITY
ENDORSEMENTS: LEGAL GAPS AND REFORMS**

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ABSTRACT

This paper investigates the regulatory landscape surrounding misleading advertisements and celebrity endorsements in India, with emphasis on Section 21 of the Consumer Protection Act, 2019 (CP Act, 2019). It examines the growing role of influencers in digital marketing, the contributions of self-regulatory bodies such as the Advertising Standards Council of India (ASCI), and the enforcement challenges that persist, particularly on social media platforms. The discussion engages with the ongoing tension between self-regulation and statutory control, while analysing landmark case laws that expose existing legal shortcomings. The study further puts forth recommendations for reform, advocating stronger consumer protection measures. Drawing from statutory frameworks, regulatory guidelines, and judicial rulings, it argues for a balanced regime that ensures accountability while preserving creative freedom in advertising. The paper ultimately highlights the necessity of harsher penalties, robust digital monitoring systems, and more precise guidelines for endorsers to address current regulatory gaps.

INTRODUCTION

In the age of digital media and influencer-driven content, advertising has expanded beyond traditional print and television to dynamic social media campaigns that rely heavily on celebrity endorsements for enhanced visibility. While this transformation has increased consumer engagement, it has also heightened the risks of misleading claims that can deceive the public, resulting in financial losses, health hazards, and diminished trust in the

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marketplace. With its vast consumer base and rapid digital growth, India faces pressing challenges in addressing these concerns.

The Consumer Protection Act, 2019, marks a significant milestone in the evolution of consumer rights in India, replacing the Consumer Protection Act, 1986, to respond to modern realities such as e-commerce and online advertising. Under Section 21 of the 2019 Act, the Central Consumer Protection Authority (CCPA) is vested with the power to investigate and sanction misleading advertisements. The provision extends liability to manufacturers, advertisers, and endorsers, prescribing penalties of up to INR 10 lakh for a first offense and up to INR 50 lakh for repeat violations, in addition to potential bans on endorsements for a period of up to three years.

Celebrity endorsements introduce an added layer of complexity, as influencers and public figures exert significant persuasive influence over consumers. According to an ASCI report, more than 80% of misleading advertisements in 2023–24 originated on digital platforms, often involving influencers who failed to disclose paid collaborations. Weak enforcement mechanisms on social media further aggravate the issue, allowing misleading content to spread rapidly before regulators can intervene. This scenario has fuelled an ongoing debate on whether industry self-regulation, through bodies like ASCI, is sufficient or whether stronger statutory measures are necessary.

This paper seeks to examine these dynamics in detail: the statutory framework under the Consumer Protection Act, 2019, the growing influence of digital endorsers and advertising codes, gaps in enforcement on social media platforms, the tension between self-regulation and legal regulation, relevant judicial precedents, and the need for targeted reforms. By integrating statutory interpretation, judicial analysis, and policy-oriented insights, it aims to enrich the discourse on strengthening consumer protection within India's advertising landscape.

LEGAL FRAMEWORK: SECTION 21 OF THE CP ACT, 2019

The Consumer Protection Act, 2019, introduces stronger safeguards against unfair trade practices, defining misleading advertisements under Section 2(28) as promotions that falsely describe a product, misrepresent its quality or utility, or withhold material information. Section 21 designates the Central Consumer Protection Authority (CCPA) as the primary

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body responsible for addressing such advertisements, empowering it to order discontinuation, modification, or the publication of corrective statements. Significantly, the provision brings endorsers within its ambit, departing from the 1986 Act and acknowledging the considerable influence they hold over consumer choices.

Under Section 21(1), if an advertisement is found prejudicial to consumer interests, the CCPA can issue directions and impose penalties after investigation. Subsection (2) specifies fines: INR 10 lakh for initial violations and INR 50 lakh thereafter, with endorsers facing endorsement prohibitions. This provision aligns with global standards, such as the U.S. Federal Trade Commission's endorsement guidelines, but adapts to India's context by emphasizing due diligence for endorsers. Endorsers are exempt from liability if they exercise due care to verify claims, as per Section 21(5).

The Supreme Court's ruling in *Indian Medical Association v. Union of India* (2024) marked a significant development in endorser liability. The Court held that celebrities and influencers can be held responsible for misleading advertisements and mandated the submission of self-declaration certificates for all advertisements to ensure adherence to regulatory guidelines [*Indian Medical Association v. Union of India*, Writ Petition (Civil) No. 645 of 2022, Supreme Court of India]. The decision arose from false claims made by Patanjali Ayurved regarding its Ayurvedic products and underscored the obligation of endorsers to exercise due diligence. By directing corrective measures and imposing penalties, the Court reinforced the role of the CCPA in enforcement, while simultaneously exposing delays in tackling the challenges posed by digital advertising.

In addition to the CP Act, several sector-specific legislations regulate advertising, such as the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, which prohibits deceptive health-related claims, and the Food Safety and Standards Act, 2006, which governs food advertisements. The CP Act, however, adopts a broader umbrella framework that centralizes enforcement and mitigates the fragmented approach of earlier regimes.

Yet, notable gaps remain. The Act does not expressly regulate surrogate advertising—where restricted products like alcohol are promoted indirectly—nor does it address algorithmic targeting on social media, creating avenues for misuse. Furthermore, the CCPA's dependence

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on consumer complaints to trigger action constrains its ability to proactively monitor violations, especially within the expansive digital ecosystem.

ROLE OF INFLUENCERS AND ADVERTISING CODES

Influencers, including celebrities and social media figures, have become central to modern advertising, often blurring the distinction between authentic recommendations and paid endorsements. To promote transparency, the ASCI's Guidelines for Influencer Advertising in Digital Media, effective from June 2021, require clear disclosure of material associations—using tags like #Ad or #Sponsored. These disclosures must be prominent, in the same language as the content, and applicable across all formats, including reels, stories, and posts.

For celebrities, ASCI places particular emphasis on due diligence, obligating endorsers to substantiate claims and refrain from making unverified assertions. This principle is reinforced by the CCPA Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, which stipulate that endorsers must possess adequate information or personal experience with the product. Failure to comply may attract penalties under the Consumer Protection Act, 2019.

The judiciary has played a key role in reinforcing endorser accountability. In *Francis v. State of Kerala* (2010), the Kerala High Court held a celebrity responsible for promoting a spurious product, laying the groundwork for principles later codified in the Consumer Protection Act, 2019 [*Francis v. State of Kerala, 2010 (2) KLT 1, Kerala High Court*]. More recently, in *Patanjali Ayurved Ltd. v. Indian Medical Association (2024)*, the Supreme Court found Baba Ramdev guilty of contempt for repeatedly making misleading health claims despite earlier undertakings, underscoring the obligation of endorsers to substantiate the claims they promote [*Patanjali Ayurved Ltd. v. Indian Medical Association, Contempt Petition (Civil) No. 3 of 2024, Supreme Court of India*].

On social media, influencers frequently bypass scrutiny by employing covert endorsements or undisclosed affiliate links, while leveraging platform algorithms to maximize targeted reach. This highlights the necessity of aligning ASCI's codes with statutory requirements and extending accountability to digital platforms as intermediaries under the Information Technology Act, 2000.

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WEAK ENFORCEMENT ON SOCIAL MEDIA

Regulating advertisements on social media poses significant challenges due to the vast scale and cross-border nature of these platforms. With millions of posts generated daily, effective monitoring becomes highly resource-intensive, while the CCPA's complaint-driven mechanism proves insufficient for real-time oversight. Jurisdictional hurdles further complicate enforcement when content originates outside India but is targeted at Indian consumers. Although social media platforms enjoy safe harbor under Section 79 of the IT Act, they risk losing this immunity if they fail to act promptly on misleading content once notified.

Judicial precedents illustrate these enforcement gaps. In *Emami Ltd. v. Hindustan Unilever Ltd (2020)*, the Delhi High Court restrained misleading comparative claims, relying partly on ASCI's preliminary findings, thereby highlighting the importance of swift digital corrective measures [*Emami Ltd. v. Hindustan Unilever Ltd., CS (Comm) 571 of 2019*, Delhi High Court]. Similarly, in *Zydus Wellness Products Ltd. v. Hindustan Unilever Ltd(2021)*, the Bombay High Court addressed surrogate advertising in nutritional claims, penalizing unsubstantiated claims of superiority and underscoring the regulatory challenges posed by subtle digital promotions [*Zydus Wellness Products Ltd. v. Hindustan Unilever Ltd., CS (Comm) 124 of 2020*, Bombay High Court].

SELF-REGULATION VS LEGAL REGULATION DEBATE

The ongoing debate between self-regulation and legal regulation in Indian advertising revolves around striking a balance between industry autonomy and consumer protection. Self-regulation, spearheaded by ASCI, encourages voluntary compliance, enabling innovation and faster dispute resolution. Its fast-track complaint mechanism allows issues to be addressed within weeks, offering flexibility that formal legal proceedings often lack. Yet, the absence of binding authority and punitive powers diminishes its impact, particularly when dealing with non-members.

In contrast, statutory regulation under the Consumer Protection Act, 2019, and the CCPA ensures enforceability but carries the risk of overreach, which could potentially encroach upon the right to free speech guaranteed under Article 19(1) (a) of the Constitution. In *Indian Medical Association v. Union of India (2024)*, the Supreme Court endorsed a co-regulatory

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framework, integrating ASCI's role with statutory oversight to strengthen effectiveness [*Indian Medical Association v. Union of India, Writ Petition (Civil) No. 645 of 2022*, Supreme Court of India]. This approach mirrors global practices such as the EU's Digital Services Act, which seeks to balance self-regulation with mandatory legal oversight.

Traditionally, India's media regulation has relied heavily on self-regulatory mechanisms, such as the Press Council. However, given the powerful influence of advertising—particularly on vulnerable consumers—a hybrid model has become essential. *The Patanjali case (2024)* revealed the shortcomings of self-regulation, where repeated violations continued unchecked until judicial intervention was sought, highlighting the pressing need for stronger statutory support [*Patanjali Ayurved Ltd. v. Indian Medical Association, Contempt Petition (Civil) No. 3 of 2024*, Supreme Court of India].

REFORMS NEEDED

Bridging the regulatory gaps in misleading advertisements and celebrity endorsements—especially on social media—requires a comprehensive reform strategy. First, the Consumer Protection Act, 2019, should be amended to mandate the use of AI-enabled monitoring tools on digital platforms, allowing real-time detection of deceptive advertisements and reducing reliance on the CCPA's reactive, complaint-based mechanism. Establishing regional digital wings within the CCPA, supported by adequate resources and specialized personnel, would further decentralize and strengthen enforcement capacity. Second, mandatory certification and training programs for influencers and celebrities, aligned with ASCI's Guidelines for Influencer Advertising, should be introduced to ensure endorsers exercise due diligence when verifying product claims. Third, penalties must be proportionate to advertisement revenues to enhance deterrence, while enabling class-action suits would empower consumers to collectively pursue remedies against misleading practices.

A hybrid regulatory framework that grants statutory recognition to ASCI while providing an appellate mechanism through the CCPA could effectively merge the flexibility of self-regulation with the enforceability of legal oversight. This approach aligns with the Supreme Court's observations in *Indian Medical Association v. Union of India (2024)*, where the Court underscored the value of co-regulation for robust supervision [*Indian Medical Association v. Union of India, Writ Petition (Civil) No. 645 of 2022*, Supreme Court of India]. Further,

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extending liability to social media platforms under the Digital Personal Data Protection Act, 2023, would ensure intermediaries are held accountable for hosting undisclosed or misleading advertisements. Complementing these measures, large-scale public awareness campaigns—modelled on global best practices—could help consumers recognize deceptive advertising, while international cooperation, particularly with frameworks like the EU’s Digital Services Act, would promote harmonized standards and strengthen cross-border enforcement.

CONCLUSION

India’s regulatory regime on misleading advertisements and celebrity endorsements, anchored in Section 21 of the Consumer Protection Act, 2019, provides a strong foundation but struggles to keep pace with digital-era challenges. With ASCI reporting that over 80% of misleading ads in 2023–24 originated on social media, enforcement loopholes have become evident. The CCPA’s complaint-driven, reactive model and ASCI’s lack of statutory authority weaken oversight, particularly in influencer-led campaigns. Consumer risks are further intensified by inadequate penalties and the absence of clear regulation on surrogate advertising.

To address these gaps, proposed reforms include deploying AI-based monitoring systems for real-time detection, introducing revenue-linked penalties, and mandating certification programs for influencers and celebrities. A hybrid framework, granting statutory recognition to ASCI with appellate recourse to the CCPA, could balance flexibility with enforceability. Expanding intermediary liability under the Digital Personal Data Protection Act, 2023, alongside public awareness initiatives, would strengthen accountability. Finally, aligning with international best practices, such as the EU’s *Digital Services Act*, can harmonize India’s standards globally. By closing digital loopholes and combining self-regulation with statutory oversight, India can build a transparent, consumer-centric advertising environment that safeguards trust while encouraging creative expression.

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