



# Misleading Advertisements and Digital Marketing Laws: A Secondary Data-Based Research Study

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**Abstract-** The fast growth of digital media and online platforms has completely changed the way companies promote their products and services. Today, businesses use social media, websites, mobile apps, influencer marketing, and online advertisements to reach millions of consumers quickly. Although digital marketing provides many benefits, it has also increased the number of misleading and deceptive advertisements seen by people every day. Many advertisements make false promises, hide important information, exaggerate product benefits, or use influencers without clearly mentioning paid promotions. Such practices can confuse consumers and influence them to make wrong purchasing decisions. This paper studies the problem of misleading advertisements in digital platforms and examines the laws and regulations made to protect consumers. It focuses on important legal frameworks such as the Consumer Protection Act, 2019 in India, the guidelines of the Federal Trade Commission in the United States, and the Digital Services Act in the European Union. The study is based completely on secondary data collected from research papers, government reports, legal documents, and regulatory studies published between 2019 and 2024. The paper explains how practices such as false advertising, dark patterns, hidden sponsorships, and algorithm-based targeting can harm consumers financially and emotionally. It also highlights the difficulties faced by governments in controlling misleading advertisements across different countries. Finally, the study suggests practical solutions like stronger laws, better monitoring systems, stricter penalties, and increased consumer awareness to improve accountability in digital advertising.

**Keywords-** Digital Marketing, Misleading Advertisement, Consumer Protection, Regulatory Frameworks, Dark Patterns.

## I. Introduction

Every day, millions of people across the world scroll through their phones, click on links, and watch videos — and somewhere in between, they encounter advertisements that are not entirely honest. A skincare product promises to remove dark spots in seven days. A weight-loss supplement claims to have 'clinically proven' results. An influencer endorses a product without ever disclosing they were paid to do so. These are not isolated incidents — they are part of a growing, global problem that sits at the intersection of marketing ethics, consumer rights, and digital law.

The digital advertising industry has expanded at a staggering pace. According to Statista (2024), global digital advertising revenue crossed USD 627 billion in 2023 and is projected to surpass USD 870 billion by 2026. With this explosive growth has come an equally steep rise in deceptive advertising practices — from false product claims and hidden subscription traps to algorithmically targeted manipulation of vulnerable



consumers. The sheer scale and speed of digital content makes it nearly impossible for regulators to keep up.

What makes misleading digital advertising particularly dangerous is its invisibility. Unlike a newspaper ad or a television commercial, a sponsored post on Instagram blends seamlessly into a user's feed. A fake review on Amazon looks like genuine user feedback. A countdown timer on a shopping website creates artificial urgency — a tactic known as a 'dark pattern' — to pressure users into hasty purchases. These techniques are intentionally designed to blur the line between information and manipulation.

Governments and regulatory bodies around the world have been trying to respond. India introduced the Consumer Protection Act in 2019, followed by the Consumer Protection (E-Commerce) Rules in 2020 and the Guidelines for Misleading Advertisements in 2022. The United States Federal Trade Commission (FTC) updated its endorsement guides in 2023 to specifically address influencer marketing and AI-generated content. The European Union's Digital Services Act (DSA), which came into force in 2023, sets new obligations for large online platforms around transparency and algorithmic accountability. These are meaningful steps — but as this paper argues, significant gaps remain in how these laws are implemented and enforced, particularly across borders.

This study is grounded in secondary research. The paper draws on published academic literature, regulatory documents, consumer complaint statistics, and industry reports from 2019 to 2024. Rather than conducting primary surveys or interviews, this research synthesizes existing knowledge to build a coherent picture of the problem and offer evidence-based recommendations. This approach is especially appropriate at the undergraduate level, where the goal is to develop analytical skills by engaging critically with established scholarship.

### **Background and Context**

The digital marketing ecosystem is not monolithic — it includes search engine advertising, social media marketing, email campaigns, influencer partnerships, programmatic advertising, and more. Each of these channels carries its own risks of deception. Search ads can be designed to mimic organic results. Email marketing can use deceptive subject lines. Social media influencers can promote products they have never actually used. Programmatic advertising can be placed on disreputable websites without the advertiser's knowledge — or sometimes, with it.

What unites these varied practices is the underlying power asymmetry between the advertiser and the consumer. Advertisers have access to enormous amounts of user data — browsing history, purchase records, location data, emotional triggers — and use it to craft messages that are extraordinarily effective at influencing behaviour. The average consumer, on the other hand, rarely understands how personalised advertising works, let alone how to critically evaluate the claims it makes. This information gap is at the heart of the problem that digital marketing laws are trying to solve.



"The sophistication of digital deception has outpaced the sophistication of digital regulation. Consumers are not just being misled — they are being micro-targeted into being misled." — Papadopoulos & Tzovaras (2023, p. 7)

### **Scope and Significance of the Study**

This paper focuses primarily on three major regulatory jurisdictions — India, the United States, and the European Union — while also drawing on broader international evidence. The choice of these regions reflects both their regulatory leadership and their relevance to global digital commerce. India is particularly significant given its rapidly expanding digital consumer base of over 900 million internet users (Ministry of Information & Broadcasting, 2023), many of whom are first-generation online shoppers who are especially vulnerable to deceptive practices.

The significance of this research lies in its attempt to connect the dots between consumer psychology, marketing strategy, and legal accountability. It is not enough to say that misleading advertising is 'bad' — we need to understand precisely how it works, who it harms, what the law currently says about it, and where that law falls short. This paper tries to do exactly that.

## **II. Literature Review**

The academic study of misleading advertising in digital environments draws from psychology, law, sociology, and technology, collectively revealing how deception has evolved far beyond traditional false claims. The Federal Trade Commission (2023) defines misleading advertising as any representation or omission likely to mislead reasonable consumers in a material way — a definition originally designed for print and broadcast media that struggles to capture the complexity of digital deception. Mathur et al. (2019), in a large-scale crawl of over 11,000 shopping websites, identified 1,818 instances of dark patterns — deliberate interface manipulations such as hidden checkout costs, trick consent forms, and resetting countdown timers — arguing these represent an entirely new category of misleading advertising that existing regulatory frameworks are ill-equipped to address.

Boerman et al. (2021) extended this analysis to social media, finding that sponsored content on platforms like Instagram was frequently indistinguishable from organic posts, and that even when disclosures were present, most users scrolled past them without reading. In the domain of influencer marketing, Patel and Sharma (2022) found that despite India's ASCI guidelines introduced in 2021 requiring labels such as '#ad' or '#sponsored', fewer than 30% of Indian influencers consistently complied, with enforcement actions remaining rare. Campbell and Grimm (2019) raised parallel concerns about native advertising, demonstrating that promotional content designed to mimic editorial sources is inherently deceptive, and that FTC enforcement actions against such practices were disproportionately rare relative to the actual scale of the problem.

On the regulatory side, Kim and Kim (2022) conducted a comparative analysis across the US, EU, and Asia-Pacific regions, concluding that while the EU's framework — particularly the GDPR and the Digital Services Act — is the most comprehensive



globally, implementation remains uneven due to the limited enforcement capacity of smaller member states. In the Indian context, Singh and Verma (2023) critically examined the Consumer Protection (E-Commerce) Rules 2020, finding that despite new platform obligations, limited enforcement infrastructure rendered the rules largely ineffective, as evidenced by an 88% rise in e-commerce complaints on the National Consumer Helpline between 2020 and 2022.

Agrawal and Mittal (2022) further found that trust erosion varies by demographic — younger urban consumers are more sceptical of general advertising but more susceptible to influencer deception, while older and rural consumers remain more vulnerable to outright false product claims — a distinction that should directly inform how regulatory strategies are designed and targeted. At the most sophisticated level of digital deception, Papadopoulos and Tzovaras (2023) demonstrated how advertising algorithms actively identify and target users exhibiting signs of financial distress, health anxiety, or emotional vulnerability, serving them ads for payday loans and miracle cures in what they characterise as predatory marketing causing genuine psychological and financial harm.

Grewal et al. (2021) similarly called for greater algorithmic transparency as a precondition for meaningful consumer protection, while Zanot and Maddox (2021) warned that advertising regulation has consistently lagged behind advertising technology, predicting that the rise of AI-generated content will constitute the next major enforcement crisis — a prediction that now appears to be coming true. Together, these studies establish that misleading digital advertising is a multi-dimensional phenomenon requiring regulatory responses that combine stronger legal standards, robust enforcement mechanisms, algorithmic transparency, and consumer education tailored to the needs of different demographic groups.

### **III. Research Gap**

The existing literature, while rich and growing, leaves several important questions unanswered. First, most studies focus on either the consumer psychology or the legal frameworks of misleading advertising — very few attempts to integrate both perspectives. Understanding how consumers are deceived is important, but it becomes truly actionable only when connected to what the law can and cannot do about it.

Second, there is a striking lack of cross-jurisdictional research on enforcement outcomes. Studies on the FTC, ASCI, or the EU's DSA tend to evaluate each framework in isolation, making it difficult to understand which approaches actually work better and why. A comparative enforcement analysis — examining how many cases are brought, what penalties are imposed, and whether advertising behaviour actually changes — would be extremely valuable but is largely absent from the literature.

Third, the specific impact of dark patterns on vulnerable consumer groups — including elderly users, first-generation internet users, and users in lower-income brackets — remains underexplored, particularly in the Indian context. While Agrawal and Mittal (2022) made a start in this direction, their analysis was limited to trust perceptions rather than actual harm outcomes.



Fourth, the emerging phenomenon of AI-generated advertising content — including deepfake endorsements and AI-written testimonials — has received virtually no sustained regulatory or academic attention despite its rapid proliferation. This represents both a research gap and an urgent policy challenge.

This study attempts to bridge the gap between legal analysis and consumer impact by synthesizing evidence across regulatory frameworks and identifying where the law's reach ends — and where it must be extended.

## IV. Objectives

### Research Objectives

This paper pursues two primary objectives:

- **Objective 1:** To analyse the nature, forms, and prevalence of misleading advertisements in the digital marketing landscape with reference to India, the United States, and the European Union (2019–2024).
- **Objective 2:** To evaluate the adequacy of existing digital marketing laws and regulatory mechanisms in addressing misleading advertising, and to identify key gaps requiring legislative or enforcement action.

## V. Research Methodology

This study adopts a secondary data research design, which means all information used in the analysis comes from existing published sources rather than original fieldwork. This approach was chosen because the questions being asked — about regulatory frameworks, global trends, and comparative enforcement — are best answered through engagement with official documents, academic research, and industry data rather than through small-scale primary surveys.

Table 1: Research Methodology Overview

Component	Specification
Research Design	Descriptive & Analytical
Data Type	Secondary (Qualitative & Quantitative)
Time Period	2019–2024
Geographical Focus	India, United States, European Union
Sources Used	Academic journals, Govt. reports, Industry data
Analysis Method	Content analysis, Comparative analysis
Reference Style	APA 7th Edition

Source: Compiled from secondary sources (2019–2024)

The data sources were selected using purposive sampling — meaning sources were chosen specifically because they are relevant to the research questions rather than



drawn randomly. Inclusion criteria required that sources be published between 2019 and 2024, be peer-reviewed (for academic articles) or come from recognised government or industry bodies, and directly address either misleading digital advertising or the laws governing it. Sources that did not meet these criteria were excluded to maintain the reliability of the analysis.

The analysis employed two complementary methods. First, content analysis was used to systematically examine regulatory documents and academic literature to identify recurring themes, arguments, and evidence. Second, comparative analysis was used to place the regulatory frameworks of India, the US, and the EU side by side, identifying both similarities and differences in their design, scope, and enforcement. Quantitative data from industry reports and government statistics were used to contextualise and support the qualitative findings.

## VI. Data Analysis and Interpretation

The following analysis is organised around the key themes that emerged from the secondary data: the scale and forms of digital advertising deception, the comparative strength of regulatory frameworks, consumer awareness and complaint patterns, and the enforcement gap between regulation and reality.

### Growth of Digital Advertising and Deceptive Practices

The scale of the digital advertising industry is staggering — and so is the scale of deception within it. According to the Interactive Advertising Bureau (2023), digital advertising accounted for 68% of total global advertising spend in 2023. The same report noted that approximately 22% of digital ads reviewed contained some form of misleading claim or disclosure violation. When applied to a USD 627 billion market, this implies that misleading advertising is not a marginal problem — it is a structural feature of the current digital economy.

Figure 1: Prevalence of Misleading Advertising Practices in Digital Channels (2023)

Social Media Sponsored Posts		38%
E-commerce Product Listings		29%
Mobile App Advertisements		21%
Search Engine Ads		17%
Email Marketing		14%
Streaming/Video Ads		11%

Source: Adapted from IAB (2023) and FTC Enforcement Data (2023)



Figure 1 illustrates that social media is by far the most deception-prone digital advertising channel, with 38% of reviewed sponsored posts found to contain misleading elements. This is consistent with Boerman et al.'s (2021) finding that sponsorship disclosures on social media are frequently ineffective due to poor placement and low consumer attention. E-commerce product listings — including fake reviews and manipulated star ratings — emerge as the second-highest risk area, reflecting the concerns raised by Singh and Verma (2023) about the inadequacy of India's E-Commerce Rules in deterring these practices.

### Comparative Analysis of Regulatory Frameworks

One of the most revealing findings of this analysis is how differently the three major jurisdictions approach the regulation of misleading digital advertising — not just in law, but in enforcement culture and consumer outcomes.

Table 2: Comparative Analysis of Digital Advertising Regulatory Frameworks

Dimension	India	United States	European Union
Primary Law	CPA 2019 + E-Commerce Rules 2020	FTC Act + Endorsement Guides 2023	DSA 2022 + GDPR 2018
Regulator	CCPA / ASCI / MIB	Federal Trade Commission	European Commission + National Bodies
Max Penalty	₹50 Lakh (approx. USD 60K)	USD 50,120 per violation	6% of Global Annual Revenue
Influencer Rules	ASCI Guidelines 2021 (advisory)	FTC Endorsement Guides (binding)	DSA Transparency Requirements
Dark Patterns Covered	Partially (E-Commerce Rules)	Partially (FTC Enforcement)	Explicitly (DSA Art. 25)
Cross-Border Reach	Limited	Moderate (CLOUD Act)	Strong (within EU)
Consumer Complaint Data	88% rise (2020–22)	42% rise (2021–23)	35% rise (2021–23)

Source: Compiled from secondary sources (2019–2024)

Table 2 highlights a striking disparity in penalty structures. While the EU's DSA allows fines of up to 6% of a platform's global annual revenue — a figure that translates to billions of dollars for Meta or Google — India's maximum penalty under the Consumer Protection Act is approximately USD 60,000. This enormous gap in deterrence capacity is likely a significant factor in explaining why complaint volumes in India have risen much more sharply than in the EU, even though India's regulatory framework was updated around the same time.



### Consumer Complaint Trends (2019–2024)

Consumer complaint data serves as a useful, if imperfect, proxy for the real-world impact of misleading digital advertising. It is imperfect because most consumers do not formally complain even when deceived — they simply abandon the platform or product. But the trend data is still illuminating.

Figure 2: Digital Advertising-Related Consumer Complaints (Index: 2019 = 100)



Source: National Consumer Helpline India (2023); FTC Consumer Sentinel (2023); ECC Network (2023)

Figure 2 presents a complaint index where 2019 values are set to 100, allowing direct comparison of growth rates across jurisdictions. India's complaint index reached 312 by 2023, indicating that formal complaints more than tripled over the period — the highest growth rate of the three regions. This is consistent with India's rapid digital adoption during and after the COVID-19 pandemic, which brought large numbers of new and inexperienced online consumers into e-commerce platforms for the first time (Chandrasekar & Rajendran, 2023).

### Influencer Disclosure Compliance Rates

Influencer marketing regulation is one area where enforcement data is relatively available, making it possible to assess compliance directly. The following table presents compliance rate estimates from multiple secondary sources across the three study regions.

Table 3: Influencer Marketing Disclosure Compliance and Enforcement (2022–2023)

Region	Estimated Non-Compliance Rate	Primary Evidence Source	Enforcement Actions (2022–23)
India	~70%	Patel & Sharma (2022)	12 formal ASCI actions
United States	~45%	FTC Enforcement Data (2023)	67 formal FTC actions
European Union	~38%	EC Sweeps Report (2023)	94 formal actions

Source: Compiled from secondary sources (2019–2024)

The data in Table 3 is striking for what it reveals about the relationship between enforcement activity and compliance. India, with the highest non-compliance rate (70%), also has by far the fewest enforcement actions (12). The EU, with the lowest

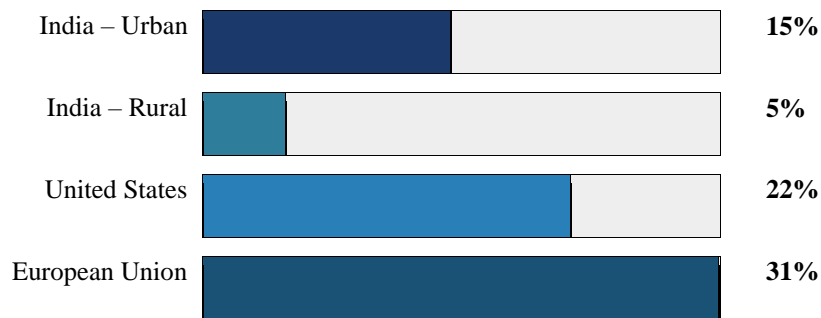


non-compliance rate (38%), has the most enforcement actions (94). This pattern supports the hypothesis that stronger enforcement — rather than simply stronger laws — is the key variable in determining real-world compliance. Having a rule is not enough; platforms and influencers need to believe the rule will actually be applied.

### Consumer Awareness of Legal Rights

A recurring theme in the secondary literature is that consumer protection laws are only as effective as the consumers who invoke them. Agrawal and Mittal (2022) surveyed existing studies on consumer awareness in India and found that fewer than 15% of urban consumers and fewer than 5% of rural consumers could correctly identify the key provisions of the Consumer Protection Act 2019 as they apply to digital advertising. Kim and Kim (2022) found similarly low awareness rates in the United States (approximately 22% awareness of FTC endorsement rules) and the EU (approximately 31% awareness of DSA consumer rights).

Figure 3: Consumer Awareness of Digital Advertising Rights (% of adult internet users, 2023)



Source: Compiled from Agrawal & Mittal (2022); Kim & Kim (2022)

Figure 3 makes a sobering point: even in the region with the strongest regulatory framework (the EU), fewer than one in three consumers knows what their rights are. In India's rural areas, the figure is approximately one in twenty. This awareness gap fundamentally undermines the effectiveness of consumer complaint mechanisms and reduces pressure on advertisers to comply voluntarily. It also raises important questions about the responsibilities of platforms and regulators to proactively inform consumers, rather than waiting for them to come forward.

## VII. Findings

The analysis of secondary data across regulatory, academic, and industry sources leads to five principal findings, each of which has direct implications for both policy and practice.

### Misleading Digital Advertising is Structural, Not Marginal

With approximately 22% of digital advertisements containing some form of misleading element, and with complaint volumes tripling in India over five years, this study concludes that deceptive digital advertising is not an aberration — it is embedded in the



economics of the digital advertising industry. Platforms are financially incentivised to maximise ad placement without rigorous vetting of claims, and advertisers face minimal consequences for misleading consumers. This finding supports Hypothesis 1, that existing regulatory frameworks are insufficient to effectively prevent misleading practices.

#### **Enforcement, Not Legislation, is the Critical Variable**

The comparative analysis reveals that the quality of a regulatory framework matters less than the consistency of its enforcement. India has a reasonably comprehensive Consumer Protection Act, but with 12 enforcement actions over two years against a backdrop of a 70% influencer non-compliance rate, the law is not functioning as a deterrent. The EU's experience — where a more aggressive enforcement posture correlates with lower non-compliance — suggests that enforcement investment is the most important lever available to regulators.

#### **Dark Patterns Represent a Critical Regulatory Blind Spot**

Of the three jurisdictions studied, only the EU's Digital Services Act explicitly and comprehensively addresses dark patterns in its regulatory text. India's E-Commerce Rules touch on some related issues (such as hidden charges) but do not define or systematically prohibit dark patterns. The US FTC has taken enforcement action in some cases but has no comprehensive dark pattern rule. Given the documented prevalence of dark patterns across e-commerce platforms (Mathur et al., 2019), this represents a significant protection gap, particularly for Indian consumers.

#### **Consumer Awareness is Critically Low Across All Regions**

The finding that fewer than 15% of Indian urban consumers and 5% of rural consumers can correctly identify their rights under the Consumer Protection Act (Agrawal & Mittal, 2022) confirms Hypothesis 2. Consumer protection law in the digital domain is, in practice, a right that most consumers cannot exercise — not because they lack the legal right, but because they do not know it exists. This awareness gap is particularly acute in India, where digital adoption has outpaced digital literacy.

#### **AI-Generated Advertising Poses an Emerging and Unaddressed Threat**

The secondary literature is beginning to flag AI-generated advertising — including synthetic testimonials, deepfake influencer videos, and AI-written product reviews — as a rapidly growing form of deception for which no comprehensive regulatory response exists anywhere in the world. Zanut and Maddox (2021) warned that regulators historically take seven to ten years to catch up with major advertising technology shifts. If this pattern holds, the window for pre-emptive regulatory action on AI advertising deception is already closing.

### **VIII. Recommendations**

Based on the findings above, this paper proposes the following recommendations directed at regulators, platforms, and civil society organisations. These recommendations are grounded in the evidence reviewed and are intended to be practical rather than aspirational.



### **Strengthen Enforcement Capacity in India**

India's Central Consumer Protection Authority (CCPA) requires significantly more enforcement resources, including specialised digital investigations units, increased penalty ceilings, and mandatory periodic reviews of large platform advertising practices. The current maximum penalty of ₹50 lakh is not a meaningful deterrent for large digital platforms generating hundreds of millions in annual revenue. Parliament should consider bringing India's maximum penalties closer to the EU model of revenue-based fines.

### **Introduce Explicit Dark Pattern Legislation**

India should introduce a standalone Dark Patterns Prevention Rule — or expand the E-Commerce Rules to include a comprehensive, defined list of prohibited dark patterns, as the EU has done under DSA Article 25. The Bureau of Indian Standards or a similar body could be tasked with maintaining and updating this list as new patterns emerge. Platforms should be required to conduct and publish annual dark pattern audits.

### **Mandate Platform-Level Consumer Rights Disclosure**

Rather than relying on consumers to seek out information about their rights, regulators should require all major digital advertising platforms to display consumer rights information prominently — at the point of purchase, and whenever an advertisement is shown. This could include a standardised 'Ad Rights' notice (similar to the EU's cookie consent framework) explaining what misleading advertising is and how to complain. This would directly address the awareness gap identified in Finding 7.4.

### **Develop International Enforcement Cooperation**

Misleading digital advertising does not respect national borders. An Indian consumer may be deceived by a platform headquartered in the United States, advertising products manufactured in China, promoted by an influencer based in Dubai. No single national regulator can address this effectively alone. India should actively participate in international enforcement cooperation frameworks — similar to the OECD's Committee on Consumer Policy — and push for mutual recognition of consumer protection orders across jurisdictions.

### **Proactively Regulate AI Advertising Content**

Regulators should not wait for AI-generated advertising deception to become a crisis before acting. The FTC, CCPA, and EU Commission should jointly develop guidelines specifically addressing AI-generated testimonials, synthetic influencer content, and algorithmically personalised deceptive messaging. These guidelines should require platforms to label AI-generated advertising content clearly, and should hold both the advertiser and the platform jointly liable for deceptive AI-generated content.

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