

Forum:	Legal Committee (GA6)
Issue:	Establishing a Legal Framework for the Protection of Consumers from Misleading Advertisements and Other Unfair Commercial Practices
Student Officer:	Christoforos Foteinelis
Position:	Chair

PERSONAL INTRODUCTION

Dear delegates,

Welcome to the GA6 Committee! My name is Christoforos Foteinelis, I am a 12th Grade/IB2 student at Pierce – The American College of Greece and this year, I have the honor to serve as the Main Chair of the 12th PSMUN Legal Committee, one of my favorite committees. I will be studying political science next year at New York University and this position will aid me in further understanding how the legal system works and what is our role in it.

I am very happy to see that you have either selected or been placed as a delegate in the GA6 since it is one of the most demanding yet informative and captivating committees. Having been responsible for the GA6 as a Secretariat Member twice, I can proudly say that this committee has offered me so much insight on the legal scene we are experiencing currently and how international or domestic law has been established, put forward and regularly executed in the global community.

This year's PSMUN theme is Pacifism & Injustice, two concepts that are interconnected and vastly rooted in legality and lawfulness. The GA6 serves as an international legal body to ensure that pacifism is achieved on a worldwide level in conjunction with highlighting the need to fight injustice through legal means.

Tensions in the global scene can always be evoked and one way to evoke them is through misleading advertisements and unfair commercial practices. This topic, thus, requires you to understand how the consumerist culture along with the need for advertisement harm the community and how these practices can be reduced and therefore eliminated.

This study guide should offer you a very detailed insight to the topic at hand but should not replace your individual research upon the topic. Please look into the bibliography and further sources so that you can get a more holistic approach on this vast topic. If you have any questions regarding the study guide or generally, do not hesitate to contact me at c.foteinelis@acg.edu !

Best Regards,
Christoforos Foteinelis

TOPIC INTRODUCTION

Advertising can be characterized as an efficient way to communicate a message to its viewers. It can be addressed to everybody including children, teenagers, adults, and the elderly, as it appeals to the specific viewer's sense of desire. Even though desires vary contextually, there is a commonality in that all humans have some, albeit different, desires. This universality is what attracts advertisers in using various media types and methods to ensure that their message is coming across as intended, including TV, radio, and online ads combined with the use of cookies and newsletters.

The term 'advertising' is derived from the Latin word 'advertere' which means 'to turn'; applied in context, it means to turn the attention of someone. The attention of viewers is, therefore, caught through advertisements that especially appeal to their age group or demographic. Henceforth, it is safe to define the word "advertisement" as a way to divert someone's attention toward either an article, a service or an idea.

As already described, advertisements are universally applicable, and their sole focus is to turn the attention of the viewer towards it. They can, therefore, be deemed as powerful tools to catch the public eye into seeing a product or an idea and can, therefore, be misused. As will be discussed further in this study guide, advertisements are a way for deceitful advertisers to promote products that are not as efficient as they appear to be or to promote a certain ideology that affects how the public perceives certain political figures.

When it comes to advertising, Unfair Commercial Practices (UCPs) are essentially the definition of misleading advertisements. A commercial practice is any activity that is associated with the advertising, sale, or distribution of a product to consumers. If such a practice is said to be 'unfair', it means that it is regarded as unsatisfactory in the eyes of the customer based on predetermined criteria. UCPs can, thus, include misleading ads, but also more practical/technical considerations like non-compliance with manufacturing standards or even deceptive pricing.

With the aim of most businesses being profit and the increase in customers, UCPs are often utilized on a global scale, posing extreme dangers as already mentioned above whilst offering unfair business advantages to the enterprises that use them. There has been a multitude of legal attempts to minimize their influence, but they still pose the said threat and, therefore, possible solutions need to be considered to ultimately solve or minimize the effect of this issue.

DEFINITION OF KEY TERMS

Advertisement

Advertisement is the means of communication in which a product, brand or service is promoted to a viewership to attract interest, engagement, and sales. Successful advertisement can be achieved through a variety of means such as social media uploads, commercials, banners and videos.¹

Bandwagon effect

The bandwagon effect is a psychological phenomenon in which people do something primarily because other people are doing it, regardless of their own beliefs, which they may ignore or override.²

Testimonial

Testimonial advertising is an exceptional marketing strategy for showcasing authentic customers' success stories and effectively reaching out to prospective new consumers.³

Bait Advertising

Bait (or bait-and-switch) advertisement offers a captivating but deceitful and misleading appeal to a product, that companies use to enhance the sense of beauty and tastiness of a certain product.⁴

Immediate-Decision effect

The immediate decision effect is a psychological trick utilized by advertisers that primarily aims at evoking the viewer's spontaneous reaction into spending money on something that is either "limited edition" or "discounted for a certain period of time".⁵

Monopoly

A monopoly is a company that has "monopoly power" in the market for a particular good or service, meaning that it has so much power in the market that it's effectively impossible for any competing businesses to enter the market. Furthermore, a monopoly can dictate price changes of a certain good or service as no competitors are

¹ "What is an Advertisement? Why Are They Important?" *The Mobile Measurement Company* | *Adjust*, www.adjust.com/glossary/advertisement/

² "What Is the Bandwagon Effect?" *Investopedia*, 9 May 2010, www.investopedia.com/terms/b/bandwagon-effect.asp.

³ Bojkov, Kate. "5 Best Testimonial Advertising Examples." *EmbedSocial*, 21 Feb. 2022, embedsocial.com/blog/testimonial-advertising-examples/.

⁴ "Bait Advertising: Universal Marketing Dictionary." *Common Language Marketing Dictionary*, 28 Aug. 2018, marketing-dictionary.org/b/bait-advertising/.

⁵ "Quick Decision Making | The Resolve Blog." *Helping You Master the Art of Decision Making*, 22 Dec. 2022, www.resolve.blog/articles/quick-decision-making.

allowed to enter the contextual market and substitute goods and services are thus limited.⁶

Multinational Corporation (MNC)

A multinational corporation (MNC) is a company that has business operations in at least one country other than its home country. It is also said to generate at least 25% of its revenue outside of its home country.⁷

Professional Diligence

Professional diligence is defined as the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers which is of equal measure with either honest market practice in the trader's field of activity, or the general principle of good faith in the trader's field of activity. Professional Diligence is the exact opposite of the behavior of advertisers that seek to fraudulent ads.⁸

Unfair Commercial Practices (UCPs)

Advertisements that are likely to materially distort the purchasing behavior of the average consumer.⁹

BACKGROUND INFORMATION

Differences between Misleading Advertisements and UCPs

In order to be able to fully comprehend this topic, the key differences between Misleading Advertisements and Unfair Commercial Practices (UCPs) must be kept in mind.

Unfair Commercial Practices (UCPs)

Unfair Commercial Practices can be described as those practices that are contradictory to professional diligence standards and are also likely to significantly alter the purchase behavior of the ordinary customer. A company making use of UCPs breaches professional diligence, failing to live up to the appropriate attention and expertise that a financial service provider would be lawfully anticipated to exhibit towards a consumer in accordance with honest market practices and good faith.

⁶ "What Is a Monopoly?" *The Balance*, 3 July 2007, www.thebalancemoney.com/monopoly-4-reasons-it-s-bad-and-its-history-3305945.

⁷ "Multinational Corporation: Definition, How It Works, Four Types." *Investopedia*, 24 Nov. 2003, www.investopedia.com/terms/m/multinationalcorporation.asp.

⁸ "Professional Diligence Definition | Legal Glossary | LexisNexis." *LexisNexis | Legal and Professional Solutions and Products*, www.lexisnexis.co.uk/legal/glossary/professional-diligence.

⁹ "L32011." *EUR-Lex — Access to European Union Law — Choose Your Language*, eur-lex.europa.eu/EN/legal-content/summary/unfair-commercial-practices.html

Misleading Advertisements

An advertisement is considered misleading under consumer law if it contains false or deceptive information, or if critical information is excluded or purposefully withheld, preventing consumers from making informed decisions. Producers, distributors, and retailers are all culpable of misleading and deceptive advertising, which can include false material in advertisements, catalogs, websites, and social media, among others.

As can be deduced by the description of the key features of misleading advertisements and UCPs respectively, put simply, the former is an extension of the latter. Enterprises making use of UCPs employ misleading advertising strategies to achieve their objectives.

Falsely claiming product and service information

Through misleading advertisements, advertisers make up ways to promote their product that can be firstly unlawful and secondly pose an entrepreneurial advantage to the said enterprise. Initially, one section of falsely claiming product and service information concerns accreditation. Companies may use fake credentials such as quality marks and sustainability symbols to promote the positive side of the company. If these fake credentials are used in edible products, like a certification that this food is halal or kosher, does not include gluten etc., it may prove detrimental to whoever consumes it.

Moreover, another aspect of fake claims includes pricing information such as invitations to buy products that are “limited edition” when, in fact, they aren’t to initiate the immediate-decision effect and urge the customer to buy a product. Discount scams are also used in pricing products. The company may claim the initial product price was very high and is now very low (possibly for a limited time) to force a customer to buy it as soon as they see it. Furthermore, a way to promote a certain product falsely is through using testimonials that were either forced or made up to appeal to the viewer’s sense of sympathy as well as the bandwagon effect. Lastly, when promoting a certain type of product or service, there are instances where the actual product is not at all the same as the one advertised in a commercial. This is called bait advertising and companies use it to enhance the sense of beauty and tastiness of a certain product.



Figure 1: Infographic depicting the difference between advertorial food products and actual food products by major multinational corporations. These advertisements were put forward in the US before any major legislation prohibiting “bait advertising” was implemented

Memorability & Effective Targeting as qualities of efficient advertisements

Advertisers that aim at passing a misleading ad across utilize certain qualities that make the ad memorable and effective in convincing the viewer to spend on it. Recognizing how an advertisement is constructed and the primary aims companies have will aid in the protection of the contextual customer from UCPs and legislative bodies to put forward a legal framework, as will be discussed below.

One quality that advertisers use to appeal to the customer is memorability; the goal is to make it easy for a product to become memorable for the contextual viewer. The sole purpose of the ad is to fully integrate the product into the viewer’s thoughts and strengthen this integration with each repeated ad seen.

In addition, a crucial part of advertising is knowing or figuring out what the target audience is and how to appeal to it, also known as “effective targeting”. With narrowing down what the target social groups are, the contextual advertiser may choose which means they need to use (e.g., TV, radio, other venues) to appeal to the audience faster along with considering the ages of the audience and their economic status. For example, if a misleading advertisement is aimed at children, the advertiser may use certain TV hours when children will be done with homework to appeal to a larger range.

The memorability technique and effective targeting constitute the hallmark rules of advertising and, thus, it is imperative to know that these two ways are being taken advantage of by misleading companies to sell or cause harm. By determining the target audience of an advertisement and by knowing the harm an advertiser may want to impose on them, advertisers have the power to alter the mindset of the audience and manipulate their financial status.

Figure 2: Infographic displaying how advertisers determine which their target audience is and what is the best way to appeal to them to sell a product

Issues of Misleading Advertisement & UCPs



False and misleading advertising has certain negative effects on both the customer, who is the primary focus of this study guide, and the relevant company. These two pillars are interconnected by the fact that UCPs pose a threat to the reputation and overall image of a company as well as the financial, social, and mental state of the contextual customer.

Effect on the company

Misleading Advertising and UCPs are both helpful but also harmful to a company's image and status within society in ways that will be described further below.

When it comes to the positive aspect of the issue, it is evident that the pros outweigh the cons: the main advantage the company gets through these practices is an overall increase in sales and revenue so that more aid can be put towards its expansion. Moreover, the portrayal of products in a misleading way as already described above promotes an especially profitable image of the contextual company as all the customers that have not bought the good or had the service will not be able to discredit it. The increase in revenue and the enhancement of the positive side of the company are the key goals each enterprise has when using misleading advertisements and UCPs.

Firstly, seeing as advertisement is, on a regular basis, checked by governmental bodies, a company may receive a Cease-and-Desist order by the government that forces it to completely remove the ad from all means of commercialization and, before sanctions are imposed, implement disclaimers in online practices mentioning that this company has been accused by false information spread or deceptive practices.

Moreover, another effect on the company is severe financial loss either through governmental and criminal fines or through the money already dedicated to creating the mentioned ad. If the contextual ad is taken down by the governmental or streaming body, the company loses a significant amount of money from the deposits it took to develop the ad and broadcast it. In the possibility that a lawsuit is in place by a customer when their protection has been violated, the company ought to pay additional charges, thus, causing extreme financial loss. A case study relating to this instant is the case of Activia Yogurt[®] which was accused by the Federal Trade Commission (FTC) of the US of misleading customers into believing that Activia included a large percentage of probiotics when, in fact, this was a lie.¹⁰ Dannon, the company that produces Activia, was sued in 2010 and lost a substantial part of their financial reserves.

¹⁰ "Dannon Agrees to Drop Exaggerated Health Claims for Activia Yogurt and DanActive Dairy Drink." *Federal Trade Commission*, 28 Feb. 2019, www.ftc.gov/news-events/news/press-releases/2010/12/dannon-agrees-drop-exaggerated-health-claims-activia-yogurt-danactive-dairy-drink.



Figure 3: Ad depicting the false claims made by Dannon in their Activia campaign in 2010 that led to a large financial deficit for the company (Text stating “Clinically Proven with Bifidus Regularis” and “Scientifically proven to help with slow irritation of stomach when consumed daily for two weeks”)

Seeing as financial loss poses a significant effect on the relevant company, this can be interconnected with the broken trust that would be seen by customers who would thus prefer another brand of the same product. With a falling number of customers and dropping demand, increasing financial loss would be exhibited and, thus, the company would start shrinking both financially and socially.

Effect on the consumer

As already mentioned, the sole focus of this study guide is the protection of the consumer from misleading advertisements and, thus, the effect of those should be examined in an attempt to comprehend why a legal framework needs to be established.

Firstly, as stated above, a health concern always plays a major role in the commercial scene, whether it is a real or fraudulent commercial. Seeing as a vast majority of the human population suffers from food-related allergies or digestive inabilities, transparency in the contents and real effects of certain products is necessary. False ads do not offer this transparency and would, thus, be deemed as severe health risks that ultimately affect both the life of the consumer and the producing company at hand.

A part of the human population is children whose minds are especially gullible and are, thus, extremely prone to adopting traits or desiring things straight out of the TV. Professor Gerald Hastings of the University of Stirling¹¹ published a study in 2016 named “Review of Research on the Effects of Food Promotion to Children” and found that there was a significant link between children’s food preferences and the advertising of such foods on TV. Sugary products are more attractive to children and,

¹¹ "Professor Gerard Hastings." *Study in Scotland, UK* | | University of Stirling, www.stir.ac.uk/people/255916.

thus, more unhealthy products are being bought and consumed. Usually, companies such as Kellogg's[®] and Nestle[®] promote these products by highlighting their positive and healthy aspects in a way to urge both parents and children to be fed by these non-nutritious foods as means of false, or rather deceiving, advertising.

Protection of the consumer from such instances is especially important to ensure their healthy state and financial stability, seeing as ads aim at making the consumer spend more and more on the company's products. Seeing as the digital world is at its peak and keeps on attracting more and more individuals, false advertisements and UCPs reach the consumer faster and, therefore, their protection is boycotted.

[Regulatory approaches to ensure the protection of consumers](#)

Although advertising has a beneficial impact, it is important to note that advertising may have enormous manipulative and deceptive power and the potential to harm consumers and the common good. Dishonest and uncontrolled advertising not only raises delivery expenses, resulting in higher selling prices, but it also tempts the consumer to buy something he does not genuinely need. Substantial efforts are being made, frequently with remarkable success, to control and direct the buyer's thoughts and actions and purchasing decisions using knowledge and insight gathered from psychometry and related fields, resulting in many people being impacted and tricked substantially more than they notice in the patterns and routine of their daily lives.

The primary objective of regulating and attempting to control misleading advertisements and the use of UCPs is to prevent the distortion of important information pertaining to either the manufacturing details or the purposes of a product. This takes away its ability of misleading potential buyers, which can be accomplished by subtle inferences, omissions, and deceptive assertions regarding the product's quality, quantity, features, or other attributes, or any service associated with the product in question, such as repair and maintenance.

When it comes to regulatory approaches aiming to protect consumers from misleading advertisements and UCPs, adherence and compliance with advertising regulations to ensure consumer protection is of critical concern to legislators. Reputable worldwide corporations have been known for not adhering to the rules, regulations, and guidelines. However, stricter regulations must be put into place and an effective legal framework must be established, under which every corporation must guarantee that thoroughly defined marketing and advertising rules are implemented and incorporated into its business behavior standards while ensuring that professional diligence standards are upheld.

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

Ireland

Ireland, along with the UK, were one of the first countries to implement legislation limiting the spread of misleading advertisements. Ireland's designated commission named "Competition and Consumer Protection Commission" was established to ensure the protection of consumers in all aspects of consumption. With the signing of the 7th Edition of the Code of Standards for Advertising and Marketing Communications in Ireland,¹² the Advertising Standards Authority for Ireland (ASAI) was established for the sole purpose of supervising advertisements and avoiding the projection of UCPs, funded and supervised by the Irish government.¹³¹⁴ By enforcing purity and objectivity in Consumer reviews in order to determine the quality of a certain enterprise through implementing regulatory standards and performing consistent assessments, ASAI takes on the role of the reviewer to ensure transparency in the advertisements of Irish companies setting an example for the European and international community.

European Union (EU)

The European Union has played a crucial role when it comes to minimizing misleading advertisements and UCPs as far as the legal sector is concerned. The EU and more specifically the European Commission adopted the "Directive concerning unfair business-to-consumer commercial practices"¹⁵ or "Directive 2005/29/EC" back in 2005 to combat the UCPs phenomenon within the union. The key point that the EU put forward was to protect vulnerable groups from being affected by the advertisements such as mentally incapacitated people and young children or the elderly. The EU further aided in narrowing down what is meant by misleading advertisements by specifying that when critical information is omitted that substantially alters the experience a customer may have will be deemed as misleading and will, thus, be taken down and fines will be put forward.

United Kingdom (UK)

The United Kingdom (UK), as one of the leading manufacturers and an MEDC, has already pushed forward legislation to practically protect customers from being scammed within their purchases. The "Consumer Protection from Unfair Trading

¹² "ASAI Code 7th Edition." *ASAI – Advertising Standards Authority for Ireland*, www.asai.ie/asaicode/.

¹³ "About ASAI." *ASAI – Advertising Standards Authority for Ireland*, www.asai.ie/about-us/.

¹⁴ "Misleading Advertising." *CCPC Consumers*, 28 Nov. 2022, www.cpc.ie/consumers/shopping/misleading-advertising/.

¹⁵ "L32011." *EUR-Lex — Access to European Union Law — Choose Your Language*, eur-lex.europa.eu/EN/legal-content/summary/unfair-commercial-practices.html.

Regulations - businesses: OFT979"¹⁶ act, signed in 2008, eliminates business competition when it comes to the unfair advantages a business may have through UCPs as well as aggressive marketing and harassing techniques to sell. Moreover, an attempt to further consolidate consumer protection and ensure the standing of their rights was the Consumer Rights Act of 2015. By amending already existing legislation, the UK parliament specified the quality of the goods to be sold, the process for broadcasting advertisements in digital format when product competition occurs and price reduction in case of previous damages. Overall, the UK government was one of the first ones to identify the issue of UCPs and put forward legislation to combat it. Through a multitude of presentations and detailed leaflets, a raising awareness campaign was also introduced, thus, making this legislation appear to the public eye. Lastly, the UK even introduced a new governmental body called the Office of Fair Trading (OFT) to monitor commerciality and abidance to said legislation. Punishments include six-figure fines and imprisonment.

Ogilvy & Mather

Ogilvy & Mather is a New-York based advertising agency that started in London and is now a multinational corporation. The agency operates on a global basis and is responsible for the advertisement of companies such as Amazon, Coca-Cola, IBM and American Express, thus, making it extremely apparent in the trading and financial sector.¹⁷ The said organization (agency) is included in this section as it has won a multitude of awards for providing the best insight on certain products and services, thus, providing an example for the rest of the advertising agencies when it comes to handling misleading advertisements and UCPs.

United States of America (USA)

The United States of America, having been characterized as a consumerist culture, has seen a lot of instances of fraudulent advertising that has ultimately caused public health risks and general dangers within the community. Under the presidency of Woodrow Wilson in 1914, the US established the Federal Trade Commission (FTC), which is a self-run and independent agency of the United States government whose sole purpose is to ensure consumer safety and abide by the laws set forward by both the legislative branch of the government and the Food and Drug Administration body (FDA). The FTC's statute was altered in the late 1990s under President Bill Clinton to become relevant to the consumerist culture of the new millennium. It is responsible

¹⁶ "Consumer Protection from Unfair Trading Regulations - Businesses: OFT979." *GOV.UK*, 1 Mar. 2008, www.gov.uk/government/publications/consumer-protection-from-unfair-trading-regulations-businesses.

¹⁷ "World's 10 Best Advertising Agencies." *LinkedIn*, 19 June 2020, www.linkedin.com/pulse/worlds-10-best-advertising-agencies-ravi-bhadauria/.

for monitoring the advertisements put forward online, on TV or radio and making sure that consumers are protected from health and financial risks.

Nigeria

Nigeria is a Less Economically Developed Country (LEDC) in Africa that has been severely hit by false advertisement, especially because there have been no measures implemented to counter it until 2018. One of the established bodies made to protect consumers was the Advertising Practitioners Council of Nigeria (APCON), created in 1988 by Act No. 55.¹⁸¹⁹APCON's mandate was to "regulate and control the practice of advertising in all its aspects and ramifications" but due to increasing fraudulent activities in Nigeria, the organization was not able to control the situation, thus, making it unsuccessful in completing its mandate. In response to this increasing danger of misleading advertising was the Law of Sale of Goods in Nigeria which was passed in June 2018.²⁰This law, even though not aiming towards consumer safety, regulated the way goods would be advertised to avoid both monopolies and unfair advantages in the entrepreneurial scene, such as verification of accreditations and complete transparency towards the buyer.

Paraguay

Paraguay, as an LEDC in South America, has made several attempts to ensure the defense of the consumer and user when it comes to both consuming the product or using the service and knowing the content or outcome of the action. The "Centro de Estudios en Libertad de Expresion y Acceso a la Informacion de Paraguay" is the central source of information for civilians as well as the legal body publishing the laws of the Paraguayan state. The parliament adopted Law No 1334 in August of 1998 regarding the Defense of the Consumer and the User which establishes "the norms of protection and defense of consumers and users, in their dignity, health, security and economic interests".²¹ The law specifically mentions the prohibition and punishment of fraudulent advertisement when it poses a threat to the basic rights of the consumer and promotes certain qualities the product or service does not have. The identification of these advertisements would be made through "collective interrogation", which is rather vague thus raising questions on whether this law may be successful or not. Overall, seeing that Paraguay is one of the first South American countries to push a

¹⁸ "About Us." *APCON - Advertising Practitioners Council of Nigeria*, apconng.blogspot.com/p/about-us.html.

¹⁹ "APCON and War Against False Adverts." *Financial Street*, 2 July 2022, financialstreet.ng/apcon-and-war-against-false-adverts/.

²⁰ "Law of Sale of Goods in Nigeria: Interrogating Key Elements of the Sale of Goods Act Relating to the Rights of Parties to a Sale of Goods Contract." *SCIRP Open Access*, 27 Apr. 2018, www.scirp.org/journal/paperinformation.aspx?paperid=85138.

²¹ CELE. "Paraguay Law No. 1.334 (Defense of the Consumer and Users) - 1998." *CELE*, 5 Aug. 2019, observatoriolegislativecele.com/en/paraguay-law-n1-334-consumer-and-user-defense-1998/.

law like this, it has, undoubtedly, set an example for other countries such as Brazil and Argentina who further applied their own laws regarding this issue.

TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
26 September 1914	The Federal Trade Commission was established in the United States under Woodrow Wilson.
23 September 1948	The advertising agency Ogilvy & Mather was established in New York by David Ogilvy.
24 December 1986	The Consumer Protection Act by the Parliament of India was published and put into force.
February 1988	The Advertising Practitioners Council of Nigeria (APCON) was established under Act No. 55.
July 1995	The Federal Trade Commission's responsibilities and jurisdiction were amended by the US Supreme Court.
5 August 1998	Law No 1334 regarding the defense of the consumer and users was adopted by the Paraguayan Parliament.
11 June 2005	The Unfair Commercial Practices Directive 2005 came into force in the EU.
1 March 2008	The Consumer Protection from Unfair Trading Regulation act was published and put into force in the UK.
June 2010	The Activia Yogurt scandal occurred in the US by Danone®.
1 October 2015	The Consumers Protection Act in the UK came into force.
March 2016	The Advertising Standards Authority for Ireland (ASAI) was established upon the signing of the 7 th edition of its code.

21 December 2016	The “Review of Research on the Effects of Food Promotion to Children” was published by Gerald Hastings.
June 2018	The Law of Sale of Goods was put into action in Nigeria for the protection of consumers.
27 November 2019	The Unfair Commercial Practices Directive of 2005 was amended to catch up with current developments.
24 December 2021	The resolution A/RES/76/227 on Countering disinformation for the promotion and protection of human rights and fundamental freedoms was adopted by the General Assembly.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

Unfair Commercial Practices Directive 2005²²

As already mentioned above, the Unfair Commercial Practices Directive of 2005 or “Directive 2005/29/EC” was an EU attempt to combat the UCPs phenomenon in the European context as soon as the internet and online advertisements started existing. Apart from all the details mentioned in the previous section, this directive was amended in 2019 to be applied to the current community needs in response to globalization. This meant that seeing as multinational corporations have occupied different monopolies in the trading scene, products differ from member state to member state and, thus, the advertisement of a product at Country X should not be the same as at Country Y. Moreover, as rankings were introduced in the business scene, new restrictions were introduced through this amendment that aimed at purifying customer reviews and ensuring transparency.

Consumer Protection from Unfair Trading Regulations - businesses: OFT979²³

As mentioned in the previous section, the “Consumer Protection from Unfair Trading Regulations - businesses: OFT979” act was a legislative attempt put into action in 2008 aiming at minimizing UCPs’ effect on the commercial economy that was put forward by the Department for Business, Enterprise and Regulatory Reform (BERP) of the UK government. These new regulatory measures, apart from establishing a new body to

²² "32005L0029." *EUR-Lex — Access to European Union Law — Choose Your Language*, eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32005L0029.

²³ "Consumer Protection from Unfair Trading." *Business Companion*, www.businesscompanion.info/en/quick-guides/good-practice/consumer-protection-from-unfair-trading.

overlook the legislation at hand, were successful in minimizing the extent of misleading advertisements in the UK as seen by the significant drop of criminal instances stated in the 2014 amending regulation.²⁴

Consumer Protection Act 1986

The Consumer Protection Act of 1986, also called COPRA, was an act installed by the Indian Government in response to the growing threat of misleading ads and UCPs within the country. This act aimed at both ensuring the protection of the consumer as well as establishing councils and further authorities that would settle issues regarding consumer safety from all sorts of attacks. It can be regarded as the statute of the Consumer Protection Council (CPC) of India that would further create subdivisions such as the Gujarat and federal organizations on consumer education.²⁵ Some rights that this act protects are the rights to be informed on the quality and accrediting standards of a certain product, justification of prices, and the right to education when it comes to consumerism. Overall, it can be deemed as a successful attempt to protect the rights of consumers in India as it created fundamental and federal legislative standards for consumers.

Countering disinformation for the promotion and protection of human rights and fundamental freedoms (A/RES/76/227)²⁶

Even though the United Nations has not been actively involved in consumer protection from misleading advertisements, it has made attempts to combat misinformation and disinformation when it comes to human rights and fundamental freedoms in the resolution A/RES/76/227 adopted by the General Assembly on 24 December 2021. This resolution aims at ensuring that civilians from all member states are shown a transparent view of the financial and social backgrounds of all governments to promote peaceful collaboration between the community and the government. This collaboration aims at granting the fundamental freedoms and rights each civilian should have through transparency in all governmental and non-governmental actions. The latter actions include advertisement and commercial practices, although not specified, thus, establishing an international legislative framework on the protection of citizens from an opaque commercial scene.

²⁴ "The Consumer Protection (Amendment) Regulations 2014." *Legislation.gov.uk*, www.legislation.gov.uk/uksi/2014/870/contents/made.

²⁵ NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, ncdr.nic.in/.

²⁶ United Nations. "Countering disinformation for the promotion and protection of human rights and fundamental freedoms." *United Nations Library*, 21 Dec. 2021, documents-dds-ny.un.org/doc/UNDOC/GEN/N21/416/87/PDF/N2141687.pdf?OpenElement.

POSSIBLE SOLUTIONS

The Legal Committee, as a General Assembly Committee of the United Nations, is not able to create legally binding resolutions for all member states. However, it can, undoubtedly, formulate a set of solutions that serve as suggestions for all countries to abide by. Seeing as the United Nations have not been actively involved in the scene of consumer protection, most of the following solutions will be UN-oriented to properly declare the international extent of this issue.

Establishment of a supervisory UN body

Seeing as the United Nations has primarily focused on limiting misinformation rather than limiting false advertisement and taking into consideration that the issue of this report primarily focuses on domestic affairs, the establishment of a UN body in coordination with the World Bank, the International Monetary Fund, the Food and Agricultural Organization and other relevant UN specialized agencies is necessary. This UN body may be responsible for monitoring the already existing domestic bodies that serve for consumer protection to ensure that third-party supervision is achieved and that the domestic bodies are not malicious or underperforming. Thus, by establishing reporting deadlines and specific international standards or strengthening already existing ones, a legal framework can be created when it comes to the operational and financial nature of domestic supervising bodies.

International Conferences on the Protection of Consumers from Misleading Ads

As already seen in the previous section, there are countries that have already made several attempts towards ensuring consumer protection within their territory primarily from unfair commercial practices and misleading advertisements. Through the initiation of international conferences organized by the United Nations or any other non-governmental organization, countries from all continents will get to come together and discuss the immediate effects of misleading ads on both the companies and the civilians and the ways each has handled them without destabilizing the financial and social balance in society. These conferences may entail the signing of a treaty that expresses via specific terms how fraudulent ads and UCPs can be minimized and how consumer protection can be ensured from the malicious activity of certain corporations.

Defining and setting the terms for misleading advertisements and UCPs

Seeing as the definitions for misleading ads and UCPs vary from region to region, the United Nations or another international organization should take initiative and define all terms involved within the misleading ad umbrella. Through the definition of the terms and narrowing down of all potential explanations, Member States will be able to communicate on this matter more effectively and, therefore, the signing and ratification of treaties or resolutions will become easier as these terms will have been defined. Also, seeing as the terms will be defined, the application of international

legislation on domestic jurisdictions will become easier as a global agreement on how to approach the said terms will have been reached. Hence, the establishment of an international legal framework for the Protection of Consumers from Misleading Advertisements and Other Unfair Commercial Practices will experience a fast-forward and become a reality with less conflicting ideas and more keen member states.

Legal Empowerment and Promotion of Legal Awareness

Legal empowerment is one of the most efficient and responsive forms of dealing with this issue because it gives citizens the ability to identify and enforce the law. Legally empowered individuals can use the law to their advantage to discover practical solutions to obvious injustices, such as the ones posed by misleading advertisements and improper information regarding the purchase of products. It takes an individualistic approach to justice, focusing on the needs of each person in the application of the law to promote and protect their rights. Combined with the promotion of legal awareness, this solution facilitates the realization and understanding of their rights by the people, who are encouraged to actively seek justice.

Strengthening the role of Civil Society

When it comes to the protection of consumers from misleading advertisements, civil society can play a very important role. Civil society is made up of groups or organizations that work in the benefit of citizens but are not affiliated with the government or the for-profit sector. They provide vital services to society and ensure that their members are kept satisfied. Considering that individuals are not able to sue huge enterprises and take them to court for misleading advertising since they don't have the same resources, civil society can assist in this process and support the plaintiff. In that way, people don't have to deal with the trial by themselves, and collaboration between them and civil society is fostered, to achieve a better and fair outcome.

Facing obstacles to the administration of justice

As mentioned, even when an individual decides to take action and sue a company that may have sold them a product through false and misleading advertisement, without the necessary support, they may not be able to achieve a satisfactory outcome, which may otherwise result in a lengthy legal battle full of appeals from which they would eventually get nothing. Apart from this issue, there are many obstacles to the administration of justice that need to be surpassed. Increasing transparency in and public knowledge about the judicial system can definitely be used as a method of eliminating such obstacles. Through transparency, the actors of the criminal justice system—judges, lawyers, and jurors— can be held accountable, and the proper and fair administration of justice can be ensured. Hence, following legal awareness and

the implementation of Civil Society, reporting mechanisms and legal confrontation that follows them can be more effective, following international standards.

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