

MISLEADING DIGITAL ADVERTISING: ITS ROLE IN INFLUENCING USER BEHAVIOR AND TRIGGERING CRIMINAL LIABILITY

PUBLICIDADE DIGITAL ENGANOSA: SEU PAPEL NA INFLUÊNCIA DO COMPORTAMENTO DO USUÁRIO E NA GERAÇÃO DE RESPONSABILIDADE CRIMINAL

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Qais Khaleel Maaitah*

*Applied Science University, Al Eker, Kingdom of Bahrain

Orcid: <https://orcid.org/0000-0002-2155-3101>

qais.maaitah@asu.edu.bh

Elsaka Maha**

**Kingdom University, Kingdom of Bahrain

Orcid: <https://orcid.org/0009-0002-7255-6297>

M.elsaka@ku.edu.bh

Naser Alsaraireh***

***Royal University for Women, Kingdom of Bahrain

Orcid: <https://orcid.org/0009-0005-3837-5427>

nalsaraireh@ruw.edu.bh

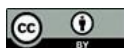
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Abstract

Advertising has become one of the most important methods of marketing products, Therefore, advertising has become one of the most important methods of marketing products, Therefore, the consumer has become more vulnerable to misinformation and this represents a danger to the security and safety of the consumer from misleading advertising, which has effects to attract his attention, whether by incorrect information or by the figures, shapes, colors, and presenting non-real specifications aimed at creating an unfair impression of the consumer about the goods or services. This it is due to his lack of experience and insufficient awareness, making him a victim of misleading advertisements. Therefore, legal protection is necessary to protect him from providers or advertiser from misleading advertisements. A variety of legislations have focused on protecting consumers from misleading advertisements and stipulating guidelines for commercial advertisements to ensure honesty in their advertisements and to avoid exaggerated praise in describing the product or service. Since advertisers are spending more effort to reach out to deliver goods and services in all ways and influences to reach the consumer's intention to contract.

Resumo

A publicidade tornou-se um dos métodos mais importantes de comercialização de produtos, Portanto, a publicidade tornou-se um dos métodos mais importantes de comercialização de produtos. Consequentemente, o consumidor tornou-se mais vulnerável à desinformação, o que representa um perigo para a segurança e a proteção do consumidor contra a publicidade enganosa, que tem como objetivo atrair sua atenção, seja por meio de informações incorretas, seja por meio de figuras, formas, cores e especificações irrealistas, com o intuito de criar uma impressão injusta no consumidor sobre os bens ou serviços. Isso se deve à sua falta de experiência e consciência insuficiente, tornando-o vítima de propagandas enganosas. Portanto, é necessária proteção legal para protegê-lo contra fornecedores ou anunciantes que utilizam propagandas enganosas. Diversas legislações têm se concentrado em proteger os consumidores contra propagandas enganosas e em estabelecer diretrizes para a publicidade comercial, a fim de garantir a honestidade nas propagandas e evitar elogios exagerados na descrição do produto ou serviço. Uma vez que os anunciantes estão dedicando mais esforços para alcançar e fornecer bens e serviços por todos os meios e influências, a fim de atingir a intenção do consumidor de contratar.



Keywords: Consumer. Misleading Advertisements. E Commerce. Economic. Internet Networks. Criminal Liability.

Palavras-chave: Consumidor. Propagandas Enganosas. Comércio Eletrônico. Econômico. Redes de Internet. Responsabilidade Criminal.

1 INTRODUCTION

Economic and commercial activities are growing in terms of technology, which has facilitated communication between individuals, through Internet networks, whereby marketing and advertising has become a vital field in this era, and one of the most important fundamental elements on which business and production companies are based is to enable their goods and services to reach consumers by communicating information via various media, and in ways that affect consumer behavior, such as electronic advertising, which is characterized by its rapid spread and reach in a short time to different countries at the lowest cost, including the lowest cost, including free, so it has become the most profitable and most influential means on the amount of the consumer. The advertising must have standards in order to ensure consumer protection, by informed the consumers of all essential information related to the product or service, especially at that stage before the conclusion of the contract, which is very important for the consumer and which actually affects his satisfaction and his ability to make a purchase without reflection.

2 LITERATURE REVIEW

Commercial advertising is considered a method of presenting the commodities or services provided by the producer to the consumer, therefore, the commercial advertisement must be consistent economic and commercial ethical guidelines, reflecting the reality of the service or commodity that is intended to be obtained and contracted for from the provider or producers.[1] However, many people may ask about the legal methods that we can facing the misleading advertising, whether it is by any visual or auditory method or social media platforms which aim to mislead the consumer, which has become the objective of the marketing companies [2].

Accordingly, the misleading commercial advertisement is considered a tool used

by producers to announce the consumer about the services or products provide to them. therefore it can be defined the mislead commercial advertisement “An advertisement that contains information or data aimed at causing confusion and deception regarding the essential elements and descriptions of the product”. according to some law commentators. which means that a misleading the consumer.[1]

Whereas some Jurisprudence considers that misleading advertising is an advertisement that includes information to leads the consumer to fall into deception or confusion regarding the essential elements or descriptions of the product. there are many ways utilized by the advertisers hide the reality from the consumer. although they defined as: “Deception and influence on the consumer's spending behavior with the intention of the advertiser receiving the contract.” [2]

Accordingly. advertising is an important tool in the revitalization of the economy. in terms of encouraging the consumer and pushing the development of production. Advertising is also characterized by its accessibility to the consumer without being bound by time or place and can reach anyone in the universe. advertising proceeds to the stage of knowledge of the commodity or services and then to the stage of knowing how to benefit and its characteristics that the consumer obtains and then moves to the stage of evaluating the commodity or service and the need for it. which is the final consumer decision in buying or not buying. [3]

2.1 Commercial advertising conditions and regulations

- Conditions related to the reliability of goods and services data.

Commercial advertising is considered to be an attempt to attract consumers so that the person accepting the offer is persuaded by the advertisement of the goods or services. so the advertisement must be accurate and not misleading. [4].

Therefore. the advertiser must be truthful in advertising and avoid flattery and exaggeration in describing goods and services. and the advertisement must not be exaggerated in a way that affects the consumer's intention. in addition to not misleading the consumer in a certain way that makes him confuse between one commodity and another commodity. [5].

Moreover, the product must include all its components and internal elements in its structure, and if there is misleading in it, there will be a fundamental difference in it, so the misleading in the same product that if a change in its characteristics leads to the loss of its internal elements and components, for example, a merchant's advertisement for furniture made of walnut wood, but it is made of lesser quality wood and covered with walnut wood chips. [6].

It is also considered one of the forms of misleading commercial advertising, advertising that lacks the officer of truthfulness, such as describing a commodity, service or establishment that advertises it with advantages and characteristics that it does not have, which is the opposite of what it claims, or if it is advertised in words and phrases that are difficult for the consumer to verify its authenticity, such as (the strongest and fittest) because it cannot be verified except by conducting a field study, for example, advertisers of a cleaning product as the best does not prove its truth except by experiment [7].

- Conditions related to the announcement of prices, prizes and discounts.

Discounts are one of the main factors that help attract consumers' attention and convince them to buy, even if they do not need these goods or services. Many consumers are unaware of the promotional offers or discounts that many retailers offer to showcase their products. Therefore, individuals wait for these offers to get a price that matches their income compared to the original high price. It is no surprise that these discounts are used by many companies to make profits from old products that have been stagnant for a long time and to clear out old stocks to update old goods in order to showcase their products, goods or services at a lower price. [8].

Therefore, in order to achieve honesty in advertising, it is necessary to comply with the terms of advertising. The seller must inform the consumer before the end of the sale by all means of all honest information by which the products or services are recognized, all the conditions of sale and the contractual liability for the sale. [9].

Regarding the conditions and guidelines of advertising, I see the necessity of adherence when placing advertisements to be within controls and conditions, due to the large number of promoters of goods and services through websites, in which there are many claims that mislead and deceive the consumer, and we find that the Bahraini legislator did not follow what the Egyptian and Emirati legislators came to the terms and

conditions of advertising There is absolutely no question that influencers on social networking sites are more influential in luring their followers to buy products from some online stores deceiving the consumer. so the controls and conditions In order for the viewer not to be deceived by the product. controls must be put in place so that the promotion of any product is not unless the merchant has the right to use it. such as trademarks and that the content of the advertisement does not contain any claim that deceives the consumer. as we find that the Bahraini legislator did not mention electronic advertising in the texts of the consumer protection law and did not set conditions and controls and did not set penalties for those who violate them to protect the consumer from advertising misinformation [9].

2.2 Motivations for the provenance of misleading online ads

Commercial advertising is considered one of the most influential electronic media on consumer behavior in many stages. but it must be noted that there are many motives that led to the spread of misleading advertising so quickly in light of the widespread spread of information technology. social media sites and other media had the largest share of this media that led to the promotion and rapid spread of misleading commercial advertising. in addition to many factors accompanying it. whether from the economic or technical aspects [10]

The globalization of social media and the lack of technical experience: The revolution in communication technology in general is the main reason for the spread of various social media platforms. as social media relies on web-based sites and programs to facilitate the process of communication between users. and the exchange of information between them occurs through mobiles or computers. [11]

Advertisers have exploited these platforms as they have become a means to achieve various objectives. including advertising and promotion of various products and services (). so social media platforms have become electronic or virtual shops that do not have a physical or tangible entity. so its concept has expanded to include not only the conclusion of electronic contracts. but also the stages preceding the conclusion of the contract. such as advertising and promoting discounts. and represents the stage after the conclusion of the contract represented by the implementation of what was agreed upon

between them, such as the price and electronic means of payment and more than that may be agreed upon to deliver the sale directly. [12]

On the other hand, we find that the technical Internet, which has become an open channel for a number of millions of the population, and this network offers all products and services and has direct interaction and through which the contract occurs, the consumer's ability to deal with this network, that is, his ability to easily access the products offered and services through this network, but he lacks the knowledge that he faces through it in addition to the issues that may face the consumer from social networking sites, it may lead him to fall into tricks and misleading from a fake contract or from fictitious sites. [13]

Therefore, we find that social media platforms, as we mentioned, are the most widespread and accepted by the population, and we watch them on a daily basis and in different forms, as they are the most influential means of influencing consumer behavior.

One of the most important issues related to advertising is the advertiser's attempt in all ways to attract the attention of the consumer and resort to the use of means of images, graphics and exaggeration in stating the facts related to the commodity, its features and characteristics in an attempt to attract the consumer's attention to the commodity and prompt him to respond. [14]

For example, we find that the owners of small companies, and even the largest companies in the world use social networking sites to publish their advertisements for products, goods and services, as these sites have opened doors for everyone without exception to place advertisements and be available for the world to see, as social networking sites are the most appropriate means of electronic commercial advertisements due to the large number of users, and they have become virtual markets for their subscribers.

Economic and legal motives: Sites on social media platforms have contributed to economic activity, as they enabled the possibility of doing business for all individuals from around the world in a few seconds without the need to go shopping, and the economy in the digital system relied on the development of trade and capital development, so that social media platforms have become a powerful tool used by owners of companies and institutions, through which they are adapted to serve the economy and develop it with commercial operations marketing. [15]

Social media platforms have become an important and an integral part of the success of many enterprises. due to the enormous spread of these platforms and the wide impact on the economic sector. and it is not limited to large companies even for small and medium enterprises. so the increase in projects and the marketing of services and goods.

The researcher believes that it is important for the Kingdom of Bahrain to keep pace with the modern technological growth and add more protection that gives more protection to the consumer through websites. because the electronic transactions law is limited in scope and there is a need to protect the consumer so that he feels safe by ensuring the punishment of promoters and preventing misleading advertisements and unfair business practices. as it is a law that forces companies to work to protect the consumer in Bahrain by not deceiving or misleading him and they must clearly indicate the terms and conditions that may affect the consumer's decision in any transaction he makes. as if a strong legal framework for e-commerce has been created.

2.3 Scope of protection of consumers from misleading advertising

Evolutions in the world of digital advertising have led to changes in consumer behavior. so that it has become the influential factor in their purchasing decision. due to the various advertisements that play an important role in motivating and directing the individual towards purchasing. as producers seek to promote their products in different ways of suspense and display specifications and information to attract consumers to buy. so the behavior of each individual differs from the other in the selection process. as some cannot determine the reasons that led them to buy goods and services. so personal factors that are affected by advertising that aims to bring changes in buyer behavior through stages that advertisers are creative in the way they advertise to the buyer. [16]

Consumer protection in the context of E-commerce contract privacy Electronic contracts are generally characterized by the fact that the consumer is the weaker party in them. and this is what prompted the Bahraini legislator and other legislators to create protection for the consumer during the formation of the electronic contract. and the fact that most contracts concluded by electronic means do not meet the principles of negotiation or bargaining. from contracts of acquiescence. so that the consumer. as the weaker party in the contract. is not granted the right to modify or annul arbitrary terms.

The general principle established in contractual relations is consent between the parties to the contract. but the development of economic conditions in light of the modern technological development. in light of the disparity in the financial positions of the parties to the contract. and their lack of direct presence. may lead one of them to dictate their terms to the other party without discussion. which required additional protection for the consumer. [17]

A contract of adhesion is defined as “a contract whose contractual content is wholly or partially determined in an abstract and general manner before the contractual period.” Contemporary legal principles have changed much of the concept of contracts of adhesion. which used to require the existence of a monopoly for the service or good. and that both represent a necessity for the consumer. in addition to the fact that the terms of the contract are imposed on the consumer without having the right to discuss or modify them.

Arbitrary clause an unfair clause is defined as “a condition imposed on the consumer by the provider as a result of the latter's arbitrary use of its economic power in order to obtain an unfair advantage.” This leads to an inequality between the rights and obligations arising from the contractual relationship. as it is written in advance and is not subject to negotiation between the provider and the consumer. so the consumer has no influence on the terms and contents of the electronic contract. [18]

These legislations are centered on two main aspects: the first is the protection against unfair terms by giving the judge the power to modify the contract of consent. and the second is the interpretation of doubt in the interest of the consenting party: Interpreting doubt in favor of the acquiescing party. This indicates that modern legal principles contain additional protection aimed at creating new obligations that guarantee consumer protection in electronic contracting. and this protection appears by allowing direct intervention by the judiciary in order to prevent arbitrary terms that are unfavorable to the consumer. and these principles also allow the executive authority to issue whatever laws. regulations and decisions it deems appropriate that seek to restrict or prevent arbitrary terms contained in electronic consumer contracts. [19].

3 CONCLUSION

The importance of protecting consumers from misleading advertising is receiving attention in many legislations because of the danger it represents in our time. as it is considered the most effective means of reaching the consumer and attracting him to buy products and services. and this phenomenon deals with the consumer on a daily basis and pays to buy to surprise him after that that the product or service is different from what was advertised. and this phenomenon has grown among some advertisers to seek quick profit and exploit the weak position in which the electronic consumer is.

From this logic. we find that the consumer has an urgent need to protect him from misleading advertising through social media platforms as he is the weakest link. and we find that the Bahraini legislator has developed a protection law No. 35 of 2012 on consumer protection. but it lacks protection for the consumer from electronic misleading advertising. and as a result of the above. many findings and recommendations have been reached. as follows:

3.1 Recommendations and conclusion

- Strengthening the regulatory role to control practices that fall under misleading electronic advertisements and establishing controls and conditions for electronic advertisements. compliance with them and penalties for violating them.
- Activating the role of the Consumer Protection Association in initiating consumer lawsuits and working more in educating electronic consumers to claim their rights if they are exposed during online shopping to misinformation. encouraging them to report violations committed by the advertiser or provider through social media by developing guidelines to intensively educate the consumer about his rights and duties. urging him to take the initiative in filing reports. supporting and encouraging him by representing him before the judiciary. preparing awareness programs for schools and universities and providing them with knowledge and holding conferences and seminars that guide them when they discover commercial fraud to report them to stop the corruption of misleading advertisements.

- The Bahraini legislator has to extend the scope of protecting the consumer from misleading advertisements through social media platforms. intensify monitoring and criminalize every misleading advertisement due to the increasing popularity of the electronic purchase process in recent times. as it has become the main pillar in promoting. in order to provide the greatest amount of protection for the consumer to preserve his rights and reconciliation against the advertiser or provider who violates the law.

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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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