

Persuasion or Disparagement: Rethinking Comparative Advertising and the Case for Legislative Reform in India

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Abstract

In the contemporary era of commercialization, where numerous similar products exist in the marketplace, traders frequently adopt comparative advertising as a strategy of persuasive marketing to demonstrate the superiority of their products over those of rival traders. Comparative advertising has emerged as a significant mechanism for influencing consumers' decision-making behavior and psychology. When supported by substantiated and truthful claims, it promotes fair competition. However, its misuse may lead to disparagement, which may amount to trademark infringement and constitute an unfair trade practice. In India, the absence of clear statutory provisions and a dedicated regulatory body governing comparative advertising, the rights and interest of traders and consumers are largely depending on Judicial Interpretations. In this research, the doctrinal research method has been adopted, relying on secondary sources such as books, newspapers, articles, journals and online resources. The study argues that the absence of statutory regulation creates legal ambiguity and vagueness. This article critically analyses the legislative framework of comparative advertising in India and suggests a regulatory framework.

Keywords: Brand, Comparative Advertising, Consumer, Disparagement, Persuasion, Trademark, Unfair Trade Practice.

Introduction

The origin of advertisement is intrinsically linked with the evolution of trade. Advertisements have been recognized as commercial speech under Article 19(1)(a)³, which guarantees the freedom of speech and expression with reasonable restrictions, ensuring that advertisements do not result in defamation of rival brands or mislead consumers.⁴ In Contemporary marketplace, as compared to non-comparative advertisement, comparative advertisement is widely used by traders as an important strategy of persuasive marketing to attract consumers. In this process, traders promote their brands by making direct or indirect comparisons with rival brands, a trader portrays its brand as superior.⁵ Comparative advertising is beneficial to consumers, advertisers and competitors, as it informs consumers and enables them to make informed purchasing decisions, promotes fair competition and enhances transparency in the market. However, such advertisements are made without substantiation of claim, thereby misleading consumers or causing disparage to the reputation or goodwill of a genuine brand, legal risk arises. The reputation of a brand plays a significant role in persuading consumers. Where negative publicity occurred, it becomes considerably difficult to restore the brand's goodwill and reputation.⁶

The key issue is that comparative advertising recognized in India as a form of advertising, however, the term comparative advertising is not expressly defined under any statutes.

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³ INDIA CONST. art. 19(1)(a).

⁴ Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd., AIR 1995 SC 2438.

⁵ Biplab Kumar, Comparative Advertising and the Consumer: Changing Dynamics, 22 J. INTELL. PROP. RTS. 113 (2017).

⁶ Dr. Utpal Chakraborty, Understanding Brand Perception: The key to building and maintaining business success, GLS KALP journal of multidisciplinary studies, Vol. 3 Issue 3, July – September 2023, PP 31 -36.

Consequently, in cases where comparative advertising results in trademark infringement, the judiciary depends on Section 29(8)⁷ i.e. Trademark infringement and section 30(1)⁸ i.e. honest practices and unfair advantages under the Trademark Act, 1999, however the vagueness of honest practices and unfair advantages may arise legal uncertainty, interpretation ambiguity and inconsistent judicial outcomes. Furthermore, in cases of misleading consumers arising out of comparative advertising the judiciary rely on section 2(47)⁹ i.e. Unfair Trade Practices of Consumer protection act, 2019 but traders are not recognized as “consumers”¹⁰ their protection primarily dependent upon judicial intervention. Additionally, In India the Advertising Standard Council of India (ASCI) functions as a self-regulatory body with only recommendatory powers. Consequently, it lacks enforceability and advertisements are not subject to regulatory control.

In this research paper, a comparative analysis of the statutory framework of the United States and India is undertaken to demonstrate the need for legislative reform in India to ensure the maintenance of fair competition through Comparative Advertising. The hypothesis of this study is that while comparative advertising serves as a tool for providing information and creating consumer awareness, the absence of clear legal regulations directly influences consumer purchase decisions. This, in turn, poses risk to the interests of genuine brand owners and increases the likelihood of misuse of commercial speech, thereby necessitating legislative reforms.

The study is significant as it undertakes a critical examination of the deficiencies in the existing legal framework governing comparative advertising in India. and on that basis advances recommendations aimed at strengthening the protection of stakeholder and ensuring the maintenance of fair competition in the marketplace through effective legislative reforms.

Research Objectives

1. To identify the legal and conceptual gap between persuasion and disparagement in comparative advertising.
2. To identify the regulatory gaps within the existing legal framework governing comparative advertising.
3. To evaluate the role of judiciary in regulating comparative advertising.

Research Methodology

This research paper adopts a doctrinal research methodology, extensively based on secondary sources such as books, academic journals, online links, judicial decisions. The study further applies a comparative analytical approach by examining the Indian legal framework with statutory laws in the United States. The study undertakes a critical examination of the legal framework regarding comparative advertising with particular emphasis on the ambiguity and vagueness inherent in existing provisions. By analyzing these interpretational inconsistencies, the research identifies deficiencies within the current legal regime and highlights the emerging need for legislative intervention to address such deficiencies and ensure legal certainty, consistency and effective regulation.

Literature Review

- **Kenechukwu S.A**¹¹ This research study undertakes an analytical examination of various articles authored by different research scholars to assess whether advertisements relating

⁷ Trade Marks Act, No. 47 of 1999, India Code (1999).

⁸ Id.

⁹ Consumer Protection Act, No. 35 of 2019, India Code (2019).

¹⁰ Id.

¹¹ S.A. Kenechukwu et al., Brand Advertising: The Language of Persuasion, International Journal of Asian Social Science, Vol.3 Issue 4, 2013, pp 951 – 959.

to goods and services are capable of persuading consumers. It further examines how the application of diverse persuasive advertising techniques can influence consumer behaviour.

- **Anushka Singh**¹²
In the present article the author has examined the origin and evolution of trade dress and has analysed its impact on consumers' decision-making process. The study further undertakes a comparative analysis of the legal framework governing trade dress under the Lanham Act, 1946 and the Trademarks Act, 1999. Additionally, through a comprehensive evaluation of landmark judgments, the paper elucidates the role of the judiciary in maintain fair competition in the market and in safeguarding consumer interest.
- **Meghna Singh**¹³ This study examines the law and the effects of comparative advertising is also studied on cross country basis due to the changing scenario of trade and commerce in the world. In this paper the author has discussed that in the UK and the US, Comparative advertising is regulated through specific legal provisions and supported by statutory regulatory bodies. In contrast, India lacks a specific statutory framework governing C.A and relies primarily on a self-regulatory mechanism. The study further suggests that, in order to curb unfair competition and to safeguard consumer interests, there is a compelling need for legislative intervention in India.
- **Dr. Utpal Chakraborty**¹⁴ In the present study, the author employs an empirical methodology to examine the concept and significance of brand perception in the contemporary competitive market. It further analyses the impact of both positive and negative branding on brand perception. Additionally, the study highlights the effects of negative publicity disseminated through social media in the present technological era on brand's reputation.
- **Ashok R. Patil**¹⁵ The study critically analyses the deficiencies and limitations inherent in various statutes of comparative advertising in India and further elucidates the various doctrines and principles evolved by the judiciary through a series of judicial pronouncements to address such inadequacies. Additionally, the paper undertakes a comparative analysis of the legal regime in the EU and the US, including their statutory regulatory bodies, and Contrasts, the same with the Indian legal framework and its self-regulatory mechanism. On this basis, the study highlights and substantiates the necessity for legislative intervention in India.
- **Biplab Kumar Lenin and Arun Babu**¹⁶ In the present research paper, the legal framework governing comparative advertising has been critically examined. In the absence of statutory regime, the study analyses active role of judiciary. Further the paper evaluates the impact of comparative advertising on consumer's purchasing decisions and choices. It also highlights the need to strengthen the Indian legal regime through the position of the UK and US laws regarding comparative advertising.

About Comparative Advertising as A Mechanism of Persuasion and Disparagement

In a competitive market, comparative advertising operates as a dual mechanism of persuasion and disparagement. whereby it seeks to influences consumer psychology, choices and purchasing decisions., while such advertisements are false, misleading or unsubstantiated claims, result in the disparagement of the goodwill or reputation of a genuine brand. Therefore,

¹² Anushka Singh, Purview of Trade Dress Protection in India, GLS Law Journal, Vol.07, Issue 01, January – June 2025.

¹³ Meghna Singh, Comparative Advertising Effectiveness with Legal and Cross Framework, 3 INT'L J. RES. MGMT. & PHARMACY 54 (2014).

¹⁴ Supra note 6.

¹⁵ Ashok R. Patil, International Legal Framework on Comparative Advertising in European Union, United States and India – A contemplative comparative Study, International journal on Consumer Law and Practice, Vol.6 Issue1, 2018, pp 54 – 73.

¹⁶ Supra note 5.

an advertisement of Pepsodent has made a claim that it was 102% better than ordinary toothpaste.¹⁷ In such comparative advertising, one side it's persuade consumers' psychology by claiming that Pepsodent is more effective than Colgate, thereby influencing and altering consumers' purchasing decisions and choices. Conversely, due to such unsubstantiated claims this type of advertisement result in the disparagement of the goodwill and reputation of Colgate.

1. Nature of Comparative Advertisement

Comparative advertising is a marketing strategy whereby brand owners, through the use of superlative claims, directly or indirectly comparison about features such as quality, price, delivery terms, services with those of rival brands with a view to persuading consumer's behavior, psychology and attitudes, thereby possessing potential to directly influence their purchasing decisions.¹⁸ In contrast to non-comparative advertising, it's not only provides information regarding the advertiser's own product but also highlights the deficiencies in the rival's product. Where such advertising is carried out in accordance with honest practices, it may result in fair competition. However, where such advertising misleads consumers, contains false claims or is made without adequate scientific substantiation, it may amount to a disparagement.¹⁹ In compared to non-comparative advertising, comparative advertising offers greater opportunities to persuade consumers but simultaneously invites significant legal risks.

2. Conceptual Relationship with Persuasive Marketing

In India, where as substantial portion of the population possesses an average level of intelligence, rival traders tend to make superior claims in relation to their own products vis-à-vis reputed brands, thereby persuading consumers and drawing them into a deceptive trap that influences their decision making process.²⁰ Comparative advertising is conceptually linked with persuasive marketing, as it is not merely intended to provide information to consumers but also to persuade their behavior, choices and purchasing decisions.²¹ It operates on the underlying premises that by highlighting the deficiencies in a rival's product remedies such deficiencies, advertisers make superlative claims that appeal to consumers on an emotional level and impact their psychology. Consequently, consumers are influenced to make decisions not solely on the basis of rational evaluation, but on psychological, cognitive and emotional consideration.

3. Interrelation between Persuasion and Disparagement.

According to David Ogilvy, the more informative your advertising, the more persuasive it will be.²² Persuasion and disparagement effected through comparative advertising function as mechanisms that influence consumers purchasing decisions and choices. Where comparative advertising is supported by substantiation, truthfulness and advances superlative claims in a fair and substantiated manner such advertising promotes fair competition and transparency in the market and are legally permissible. But such advertisements are made without substantiation, with the intent to mislead consumers, and result in harm to the reputation and goodwill of a genuine brand, they constitute disparagement and are not legally permissible. Thus, persuasion and disparagement exist within the same sequence, where is whether comparative advertising amount to persuasion or disparagement depends upon the nature,

¹⁷ Hindustan Unilever Ltd. v. Colgate Palmolive (India) Ltd., (1998) 1 SCC 720.

¹⁸ Supra note 13.

¹⁹ Priya Mangain & Shilpa Chaudhary, Generic Brand Disparagement, BAR & BENCH (Feb. 21, 2024), <https://www.barandbench.com/view-point/generic-brand-disparagement>.

²⁰ Supra note 6.

²¹ Supra note 5.

²² CHANDER M. LALL, COMPARATIVE ADVERTISING LAW AND PRACTICE 1 (1st ed. 2024).

truthfulness and overall character of advertising claim. Traders adopt persuasive communication and employ various persuasive techniques with the objective of attracting and influencing the interest of consumers,²³ other than Comparative advertising as outlined below:

a. Informational techniques – In this context, traders provide detailed and comprehensive information concerning their products, including features, pricing, associated benefits as well as the potential disadvantages arising from non-use or misuse thereof.

b. Story telling techniques – In this method a narrative plot is constructed in such a manner as to evoke emotions such as love, fear, happiness and a sense of status among consumers, thereby influencing and persuading them to purchase the concerned product. For them to purchase the concerned product. For instance, the wires that don't catch fire campaign by Havells exemplifies the use of storytelling combined with emotional appeal to create a perception of safety and reliability in the minds of consumers.

c. Persuasion through Puffery – In such advertisements, traders attribute to their own brands appellations such as No.1 brand or the best in the world, such representations amount to puffery, wherein exaggerated claims are made through a generalized comparison with all similar products in the market.

d. Persuasion through Celebrity Endorsement – In such advertisements, brand owners appoint publicly renowned personalities as brand ambassadors and engage them in promotional campaigns, thereby creating a sense of desirability and aspiration among consumers and inducing a heightened inclination to use the advertising product.

e. Persuasion through Proof – In such advertisements, brand owners disseminate claims suggesting widespread acceptance of the product, such as most trusted brand or used by millions. Further certain advertisements also incorporate endorsements implying professional validation, including representations such as doctor – recommended. Such practices are strategically designed to persuade consumer psychology, behavior and purchasing decisions, particularly by creating a negative perception regarding the competing product. Consequently, consumers may be persuaded not merely on the basis of objective evaluation, but through cognitive and emotional conditioning induced by the advertisement. If such advertisements mislead consumers or cause harm to the goodwill and reputation of genuine brands, they may amount to disparagement.

Legal Framework in India

Comparative advertising is not expressly defined or referred in any statutes, and there are no specific or direct legislative provisions governing comparative advertising in India, such practices are afforded indirect protected by various laws and guidelines.

1. Trademark Act, 1999²⁴

The fundamental objective of this statute is to distinguish marks i.e. name, logo, symbol, phrase, color combination from one person from those of others, to prevent the unauthorized use of such marks, to facilitate the protection and promotion of trademarks and to prevent consumer deception, thereby ensuring fair competition in the market.²⁵

In the absence of a direct or specific statutory framework regarding comparative advertising, where trademark infringement arises through such advertising, the

²³ Supra note 13.

²⁴ Supra note 7.

²⁵ Dr. JYOTI RATTAN, TRADEMARK LAW 9–10 (1st ed. 2021).

judiciary provide protection against such infringement by interpreting section 29²⁶ i.e. Infringement of registered Trademark and Section 30(1)²⁷ i.e. Honest practices and unfair advantages of the Trademarks Act, 1999. Where an advertiser, unauthorized use of registered trademark, employs comparative advertising with the intent to gain unfair advantage by making unauthorized use of a rival's trademark, thereby misleading consumers or disparaging the goodwill of genuine mark, the judiciary, in such circumstances, interprets such conduct as trademark infringement under section 29(8)²⁸ of the Trademark Act, 1999 and accordingly adjudicates instances of trademark disparagement arising from comparative advertising. However, where comparative advertising is undertaken in accordance with honest practices, without obtain unfair advantage and does not result in the disparagement of the reputation or goodwill of the mark, such advertising does not constitute trademark infringement.²⁹ At this juncture, an issue arises that the terms honest practices and unfair advantage, owing to their inherent vagueness give rise to statutory ambiguity. Consequently, the determination of trademark infringement in cases of comparative advertising largely depends upon judicial discretion, thereby creating uncertainty in the legal rights of stakeholders.

2. Consumer Protection Act, 2019³⁰

The core objective of the consumer protection act is to protect the rights of consumers, prevent unfair trade practices (UTP), regulate misleading advertisements and promote consumer awareness. False or misleading advertisements have the potential to mislead consumers and distort market conditions, thereby constituting unfair trade practices.³¹

It is pertinent to note that according to section 36A³² the concept of unfair trade practices, As well as disparagement was expressly defined within the ambit of UTP, wherein the dissemination of false or misleading facts concerning the goods, services or trade of another person was recognized as constituting disparagement³³. However, with the repeal of the MRTP Act and the incorporation of UTP provisions into the Consumer Protection Act. The term disparagement has not been expressly or included within the statutory framework. Consequently, in cases of disparagement arising out of comparative advertising, the absence of explicit legislative recognition necessitates reliance upon judicial interpretation for determining liability and providing redress. which was earlier governed under the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969, has, following the enactment of the Competition Act, 2002³⁴, been subsumed within the framework of consumer protection act and is now regulated under the Consumer Protection Act, 2019.

In the absence of a direct statutory framework regarding comparative advertising, where Unfair trade practices arise through such advertising, the judiciary provides protection against such practices by interpreting section 2(47)³⁵ of the said act. Where advertisers, through comparative advertising, make false or misleading representations in relation to a rival brand, thereby jeopardizing consumer interests, in such circumstance the judiciary, interprets such conduct as an unfair trade practices

²⁶ Supra note 7.

²⁷ Id.

²⁸ Supra note 7.

²⁹ Id.

³⁰ Supra note 9.

³¹ Abanti Bose, Consumer Protection Act, 2019, IPLEADERS (Apr. 29, 2022), <http://blog.ipleaders.in/consumer-protection-act-2019/>.

³² The Monopolies and Restrictive Trade Practices (MRTP) Act, 1969, Act No. 54, Act of Parliament, 1969 (India).

³³ Section 36A(1)(x), Id.

³⁴ Competition Act, No. 12 of 2003, India Code (2003).

³⁵ Supra note 9.

and extends protection to consumers against Unfair trade practice arising from comparative advertising.

According to said act traders or manufacturer or advertisers are not considered as a consumer so that comparative advertising or disparagement constitutes an unfair trade practice, the determination thereof is largely dependent upon judicial interpretation.

3. The Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022³⁶

The central Consumer Protection Authority hereby issues the guidelines in exercise of the powers conferred by section 18 of the Consumer Protection Act, 2019. The object of these guidelines is to prevent consumers from being unduly persuaded through celebrity endorsements and to ensure the maintenance of fair competition in the market by mandating substantiation of advertising claim. However, the guidelines suffer from the absence of mandatory scientific substantiation, resulting in a lack of pre-screening mechanism and are further characterized by ambiguity in defining misleading advertisements.

4. Advertising Standard Council of India Code, 1985

The Advertising Standard Council of India (ASCI) functions as a self-regulatory body operating in accordance with the ASCI code, 1985. Its role is primarily recommendatory in nature³⁷, and it does not possess statutory or controlling powers. So that in India, there is no dedicated statutory body vested with the authority to comprehensively monitor and regulate advertisements, or to strictly prohibit or direct modification of advertisements that mislead consumers or disparage competing brand.

Judicial Approach

Owing to the ambiguity in the statutory framework and absence of a statutory body, a substantial burden is placed upon the judiciary to safeguard the rights of stakeholders and to ensure fair competition in the market. Nevertheless, the judiciary has developed several principles through its jurisprudence to address these concerns.

1. Dabur India Ltd. v. Emami Ltd. 2004.³⁸

The brief fact of the case is that Emami ltd. Released an advertisement featuring sunny Deol, wherein it was stated that in the summer season, one should forget chyawanprash and instead consume Himani Sona Chandi Amritprash. Dabur India ltd. filed a disparagement case against Emami.

The court held that comparative advertisement and puffery are permissible, however no advertiser is entitled to disparage or denigrate a competing product under the guise of persuasion of consumers.

2. Marico ltd. v. Adani wilmar ltd., 2020³⁹

Marico ltd. is a co. known for its saffola edible oil. Whereas Adani wilmar Ltd. issued an advertisement in respect of its fortune edible oil making health related claims to the effect that certain refined oils (implicitly including brands such as saffola) are not suitable for health. In these circumstances, Marico contended that the advertisement conveyed half-truth and incomplete information. Thereby amounting to indirect disparagement of its product.

³⁶ Press Information Bureau, Centre Issues Guidelines on Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, PRESS INFO. BUREAU (June 10, 2022), <https://pib.gov.in>.

³⁷ Sudarshan Thapa, Laws Governing Comparative Advertisements in India, IPLEADERS (Apr. 26, 2026), <https://blog.ipleaders.in/laws-governing-comparative-advertisements-in-india/>.

³⁸ Dabur India Ltd. v. Emami Ltd., 2004 (29) PTC 1 (Del.).

³⁹ 2020, SCC OnLine, Del, 1513.

The court held that the presentation of selective facts is likely to mislead consumers and that health or scientific claims must be precise, accurate and duly substantiated. Accordingly, such advertisements were held to be impermissible.

3. Zydus wellness products ltd. v. Prashant Desai, 2024⁴⁰

In the present case, the defendant, a social media influencer, uploaded a video on Instagram asserting that complan is unhealthy for children. The plaintiff instituted a suit alleging disparagement of its product.

The court held that making disparaging statements against a brand without any scientific evidence constitutes an infringement of Trademark. It was further observed that misleading statements disseminated by social media influencers can amount to comparative disparagement and are not permissible.⁴¹

Comparative Analysis with The United States

In the context of comparative advertising, a comparison between India and United States (U.S) reveals that, under the U.S constitutional framework, Article 1 section 8 of the U.S constitution provides the foundational basis for the protection of commercial and intellectual property interests. Further Section 43(a) of the Lanham act, 1946 offers explicit legal protection in relation to comparative advertising, particularly in cases involving false advertising and trademark infringement. Additionally, the Federal Trade Commission (FTC), as a statutory regulatory body, plays a pivotal role in regulating advertisements by prevent unfair methods of competition, seek monetary redress for conduct injurious to consumers, make reports and legislative recommendations to congress, ensuring claim substantiation, verifying scientific evidence and monitoring advertising practices.⁴²

Thus, the United States legal framework not only prioritizes fair competition in the marketplace but also effectively safeguards the legal rights and interests of all stakeholders, including consumers and trademark proprietors.

Conclusion and Suggestions

It can be concluded by above discussion, among the various strategies of persuasive marketing, comparative advertising constitutes a powerful method of influencing consumers through the use of superlative claims. While it facilitates competition and informs consumers, its misuse may give rise to significant disparagement. In view of the ambiguity and vagueness prevailing in the legal framework, the scope for the use of such practices in India is considerably wide, whereas the laws regulating such advertisements remain comparatively narrow. Furthermore, a substantial segment of the Indian population, being of average intelligence, is more likely to be influenced and persuaded by exaggerated and unsubstantiated claims made by advertisers through comparative advertising, rather than relying on the reputation or goodwill of the brand itself. In the contemporary economic landscape, where advertising has become a vital instrument driving the economy, it is imperative to accord constitutional recognition to comparative advertising, while simultaneously introducing legislative reforms to regulate the same. The enactment of a direct and specific legal framework governing comparative advertising would also ensure the protection of the rights and interests of stakeholders.

Further, in the context of comparative advertising a thin line of distinction exists between persuasion and disparagement. This distinction is indirectly recognized under various statues, which seek to protect the rights of stakeholders and promote fair competition in the market. However, such laws and their provisions suffer from ambiguity, deficiencies and vagueness, as a result of which the boundary between persuasion and disparagement often becomes blurred and uncertain.

⁴⁰ Zydus Wellness Prods. Ltd. v. Prashant Desai, CS(COMM) 684/2024 (Del. H.C. Sept. 26, 2024).

⁴¹ Ajayanutabh, Disparagement and Limitation for Social media Influencer, Legal Service India, www.legalserviceindia.com.

⁴² Supra note 15.

The following suggestions have been proposed by the author to undertake legislative reform in the laws governing comparative advertising in India.

- In India, there is a need to provide statutory definitions of the term comparative advertising and disparagement. Such definitional clarity would help determine the circumstances under which comparative advertising amounts to disparagement, thereby reducing legal ambiguity and ensuring greater certainty in the application of law.
- Section 30(1)⁴³ of the Trademarks Act, 1999 employs terms such as Honest practices and unfair advantage. Which presently lack precise statutory definition. There is a need to clearly define and elucidate these concepts. Removal of such vagueness would facilitate a clearer determination of when comparative advertising ceases to be in accordance with honest practices and amounts to take unfair advantage.
- There is need to establish statutory regulatory body, like to the Federal Trade Commission, to regulate traditional and digital advertising. Such a body should be vested with powers to pre-screen advertisements, mandate claim substantiation and initiate legal action against advertisements that mislead consumers or disparage competing brands, thereby such mechanism ensure protection of consumers from unfair trade practices, maintain the reputation and goodwill of genuine brands against disparagement and ensure responsibility of advertisers across digital platform.
- The Competition Act, 2002 does not contain provisions relating to Unfair Trade Practices (UTP), whereas the Consumer Protection Act, 2019 specifically deals with UTP. However, traders are not encompassed within the definition of consumer under the said act. Therefore, there is need to introduce provisions relating to Unfair Trade Practices with the Competition Act to ensure adequate protection to traders

Thus, through the above discussion, various aspects of comparative advertising, including its role in persuading consumers and disparaging competing brands, have been examined, along with comparative analysis of the United States statutory framework and the Indian statutory framework. Further, an attempt has been made to propose necessary legislative reforms in Indian laws in order to reduce the burden on the judiciary.

⁴³ Supra note 7.