

**LIFEBUOY v DETTOL: DECODING INDIA'S FIRST COMPARATIVE ADVERTISING  
AND DISPARAGEMENT DISPUTE DURING THE PANDEMIC**

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**I. Introduction**

Significant sales are redirected to businesses involved in the manufacture of soaps, disinfectants, sanitizers, etc. as a consequence of the unexpected pandemic attributable to viral outbreaks, which have become the instruments to combat the war against infection. In such emergencies, advertisement plays a crucial role in encouraging retail purchases, raising awareness, and conveying preventive and control actions to the population. As a result of the novel coronavirus's worldwide epidemic, brands have come up with creative, up-to-date commercials to showcase their products. Inadvertently, the novel coronavirus has offered numerous marketers the ability to market their products and services. Many brands see this as a chance to develop their efficacy and importance over their competitors concerning the outbreak.

Comparative advertisements compare two or more rival brands, where the rival brand's products are shown to be inferior and how. However, this advertising approach raises a serious question of infringing the rival brand's intellectual property rights.

Recently, in the case of *Hindustan Unilever Ltd v Reckitt Benckiser (India) Pvt Ltd*<sup>1</sup>, India witnessed its first reported IP dispute related to the pandemic. Here, Hindustan Unilever (HUL)

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<sup>1</sup> COMIPL/300/2020 (Bombay High Court).

took Reckitt Benckiser (RB) to court over a DETTOL hand wash advertisement allegedly mocking HUL's effectiveness LIFEBUOY soap.

Comparative advertisements may be generally defined as advertisement where a product, typically of a rival, is comparable, indirectly or directly. Comparative advertisement typically promotes that product is better than the others or a particular rival<sup>2</sup>.

Although comparative advertisements had been around for several years, they saw an increase in the 1970s when comparative advertisements were promoted by the US Federal Trade Commission because they helped convey information and better sell customers about the goods they buy<sup>3</sup>. However, comparative advertising often has different problems, frequently leading to conflicts between traders, mostly because a trader can never be impartial concerning another one, and this inconsistency can lead to misrepresentations and mischaracterizations. If one's arguments are indeed misleading and adverse to the rival's goods' image, it leads to product disparagement<sup>4</sup>.

## II. Comparative Advertising and Disparagement

### When Does Comparative Advertising Amount To Disparagement?

In general, advertisements are a type of puffery, or hyperbole, contrasted to reality. Also, in comparative advertising, such puffery is still permitted, although in some cases, it is disallowed.

Comparative advertising may be in two ways implicit comparative advertising and explicit comparative advertising. Implicit<sup>5</sup> comparative advertisements mean that a particular rival or his trademark is not listed explicitly but is actually a contender's allusion, and the rational man is obviously aware of that allusion. In explicit comparative advertisements<sup>6</sup>, there is explicit reference or contrast to the commodity or trademark or a market in overt competitive ads, and it is

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<sup>2</sup> Stephen B. Ash, Chow-Hou Wee, "Comparative Advertising: A Review With Implications For Further Research" 10 ACR 370-376 (1983).

<sup>3</sup> Statement of Policy Regarding Comparative Advertising, Federal Trade Commission, Washington, D.C., August 13, 1979.

<sup>4</sup> *Ibid.*

<sup>5</sup> Comparative advertising *available at*: <https://www.lexology.com/library/detail.aspx?g=34b2ff7c-f7c8-47ba-a8c8-55e332b2048e> (last visited on September 19, 2020).

<sup>6</sup> *Ibid.*

often argued that the advertiser's commodity is superior to the other. This style of puffery is permissible, both indirectly and expressly.<sup>7</sup>

However, if the analogy exceeds the threshold and causes another product's denigration, it may lead to product disparagement in those instances. The advertiser can also be liable for trademark violation and tortious liability if the commercial/advertisement directly contrasts with the advertising and not under the permissible limits. The precise scope of comparative advertising varies from jurisdiction to jurisdiction, and so whether such an advertisement amounts to disparagement is a matter of domestic legislation.<sup>8</sup>

### **Meaning of Commercial Disparagement:**

Commercial disparagement may also be known as business disparagement, and it is a civil wrong which creates a tortious liability on the individual accused of commercial disparagement. An individual has committed commercial disparagement if he makes a malicious comment to discourage another individual from doing business with that person against his title or property.

### **Difference between Commercial Disparagement and Comparative Advertising:**

There is a fine line of difference between commercial disparagement and comparative advertising. Article 2(c) of the European Directive<sup>9</sup> concerning Misleading and Comparative Advertising defines comparative advertising as any advertisement which identifies the competitor or his products either explicitly or impliedly. Showcasing one's product superior to the competitors' product falls within the ambit of comparative advertising, and the same is allowed. However, where a manufacturer makes any false statement about his competitors' product to make his product superior is known as commercial disparagement<sup>10</sup>.

India's laws allow the former one, i.e., comparative advertising, but prohibit the latter, i.e., commercial disparagement<sup>11</sup>. Comparative advertising can turn into commercial disparagement if

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<sup>7</sup> *Ibid.*

<sup>8</sup> Comparative Advertisement – Is It Disparagement? *available at:* <https://www.novojuris.com/thought-leadership/comparative-advertisement-is-it-disparagement> (last visited on September 15,2020).

<sup>9</sup> Directive 2006/114/EC Of The European Parliament And Of The Council, Official Journal of the European Union L 376/21.

<sup>10</sup> *Ibid.*

<sup>11</sup> Indian Trademark Act,1999, ss. 29(8)(b), 29(8)(c)

the manufacturer uses any false claim regarding the competitor or his product or represents the products of the competitor inferior compared to his product<sup>12</sup>.

### **Essentials of Commercial Disparagement:**

A competitor must prove that the following necessary ingredients are present in the advertisement to file a strong claim of commercial disparagement against the company or manufacturer-

- In the advertisement against the rival, the company or manufacturer made an extremely misleading statement.
- The company or manufacturer wanted to inflict financial harm or injury to the rival in the aftermath with such a false statement.
- The rival incurred substantial financial harm or injury as a result of such advertising.

### **Freedom of Speech:**

The Supreme Court, in the landmark judgment of *Tata Press Limited v. Mahanagar Telephone Nigam Ltd*,<sup>13</sup> held that the comparative advertisement is protected under Article 19(1)(a) of the Constitution<sup>14</sup> as a form of free speech. The restrictions can be placed on the comparative advertisement by the government only in accordance with the provisions of Article 19(2)<sup>15</sup> of the Constitution.<sup>16</sup> Furthermore, the corporate entity's protection under Article 19(1)(a) of the Constitution was also granted. From this judgment, it can be concluded that the competitors have the freedom of speech to promote their products and compare them with their rival manufacturers.

### **The ordinary person test:**

The courts employed the ordinary person test in the case of *Dabur*<sup>17</sup> and *Colgate*<sup>18</sup>. In these cases, the courts dealt with the impact of such advertisements on the ordinary person with reasonable

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<sup>12</sup> *Reckitt & Coleman of India v Kiwi T.T.K.* (1996 PTC (193) T 399)

<sup>13</sup> (1995) 5 SCC 139.

<sup>14</sup> The Constitution of India, art. 19(1)(a).

<sup>15</sup> The Constitution of India, art. 19(2).

<sup>16</sup> *Tata Press Limited v. Mahanagar Telephone Nigam Ltd* (1995) 5 SCC 139.

<sup>17</sup> *Dabur India Ltd. v. Colortek Meghalaya Pvt. Ltd* 2010 SC Online Del 391.

<sup>18</sup> *Colgate Palmolive Company & Anr. v. Hindustan Unilever Ltd* 2014 (57) PTC 47 DEL(DB).

intelligence. An advertisement will be considered disparaged if it creates a sense of bias and inferiority with respect to the competitor's product in an ordinary person's minds.

### **Legal consequences of Disparagement:**

The consequences of the commercial disparagement are similar to those ensued in the civil suit. The complainant competitor can file a claim for an injunction of damages against the concerned advertisement's manufacturer or advertiser<sup>19</sup>.

### **Exceptions to Disparagement:**

1. A true statement or claim is an absolute defense for commercial disparagement.
2. The statement concerned was a mere opinion and cannot amount to any action.
3. The conditional or absolute privilege is endowed with the defendant.

The laws and regulations to govern the commercial disparagement is in a very nascent stage in India and is still in the process of development. With the rapid and continuous growth in the business world, there is a need for more specific laws and regulations<sup>20</sup>.

## **III. Legal Scenario**

### **US AND EU POSITIONS**

As one of the free market economy pioneers, the US has very liberal legislation on comparative advertising<sup>21</sup>. Their legislation does not provide any legal action against other goods' denigration if such an assault, smearing, or critique is honest and is not explicitly or implicitly misleading<sup>22</sup>. US trademark law does not allow comparative advertising if the said advertisement is either a false narrative of the product or is deceptive, which potentially conveys an implied message even though its claims are either valid or vague. However, the onus is on the claimant alleging disparagement to prove that such an injurious implied message was passed on the audience and customers<sup>23</sup>. US

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<sup>19</sup> *Reckitt Benckiser (India) Ltd. v. Hindustan Lever Limited*, 2008 (38) PTC 139 (Del).

<sup>20</sup> Comparative Advertisement & Commercial Disparagement, *available at*: <https://www.mondaq.com/india/advertising-marketing-branding/980744/comparative-advertisement-commercial-disparagement> (last visited on September 18,2020).

<sup>21</sup> Jenna D. Beller, "The Law of Comparative Advertising in the United States and Around the World: A Practical Guide for U.S. Lawyers and Their Clients," 29(4) *The International Lawyer*, 943 (1995).

<sup>22</sup> *Carter Products, Inc.*, 60 F.T.C. 782

<sup>23</sup> *Ibid.*

advertisement regulator, the Federal Trade Commission, also takes the liberal view that genuine comparative advertising should not be restricted. Also, the United States permits the comparison of goods or products of a single type with products of a different type<sup>24</sup>.

Compared with the US, the EU has a narrower scope for comparative advertising. The UK, which previously followed common law principles while accepting disparagement claims, is now guided on the subject by the EU directives<sup>25</sup>. The Directive states that comparative advertising must not be misleading, discrediting, or denigrating another person's trademarks or goods<sup>26</sup>. However, one or more material, relevant, verifiable, and representative features of such trademarks and products may be objectively comparable, and the EU directives prohibit comparing, unlike goods or products. While the EU position is somewhat more restrictive, as even if genuine, denigration cannot be allowed, and a favorable environment for comparative advertising has been created with practical guidelines that define the scope of such advertisements<sup>27</sup>.

### COMPARATIVE ADVERTISING IN INDIA

In India, the principles of common law remain in force for comparative advertising and disregard claims. In Section 30(1) of the Trade Marks Act 1999, a reference allows the use of a trade name by a third party as long as such use complies with honest practices and does not unfairly profit or damage the distinctiveness of this trademark. It may also be said that this reference is made to comparative advertising<sup>28</sup>. The Code of Advertising Standards Council of India, 1985, also stipulates conditions for comparative advertising<sup>29</sup>. Thus, although the law permits comparative advertising, the Indian position remains exceptionally restrictive.

The lack of a legal instrument to deal with advertisers' grievances has led to establishing an independent regulatory agency known as the Advertising Standards Council of India (hereinafter referred to as "ASCI"). ASCI's principles ensure that this comparative advertising practice is conducted relatively, considering all associated groups' interests. The principles laid down by ASCI ensure that the comparison is not designed to offer the manufacturers an unfair advantage

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<sup>24</sup> *Supra* note 21.

<sup>25</sup> *Supra* note 9.

<sup>26</sup> Directive of The European Council, art. 4

<sup>27</sup> *Supra* note 9.

<sup>28</sup> Code for Self-Regulation in Advertising. Chapter IV.

<sup>29</sup> Code for Self-Regulation in Advertising, sec. 4.1

over the competitor's product<sup>30</sup>. It also ensured that the comparisons were precise and based on the facts to prevent potential consumers from being deceived<sup>31</sup>.

Although ASCI has set reasonable and fair guidelines, it has faced problems when non-members' actions cause infringement. Sections 29(8) and 30(1) Trademarks Act<sup>32</sup> is more appropriate to address the problems related to such infringements. While Section 29(8)<sup>33</sup> deals with the infringement of trademarks when made through advertisements, Section 30(1)<sup>34</sup> exempts the use of marks in industrial and commercial matters where such use is conducted under the "honest practices." If a producer uses comparative advertising to promote their products or services, this may cause the competitors' trademarks to be diluted, tarnished, or blurred. The Trademark Act protects such producers' interests, who will likely denigrate their marks due to competitors' unfair actions.

### **Permissible comparison**

While comparative advertising is not prohibited in India, the ASCI's code for self-regulation monitors advertising and only allows advertising containing comparisons to other competitors provided<sup>35</sup>:

1. The comparison must show clear-cut parameters as to which aspects of the advertiser's product are being compared with which aspects of the competitors' product.
2. The comparison topic is not chosen to give the advertiser an artificial advantage or suggests that a better deal is offered instead of reality.
3. The comparisons are factual, accurate, and substantial facts, and evidence can be endorsed.
4. As a result of comparisons, the consumer is not likely to be misled, whether about the product that was advertised or compared.
5. It should not denigrate other products, advertisers, or advertisements unfairly, either directly or implied.

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<sup>30</sup> Code for Self-Regulation in Advertising, sec. 4.1(b)

<sup>31</sup> Code for Self-Regulation in Advertising, sec. 4.1(d)

<sup>32</sup> Indian Trademark Act, 1999.

<sup>33</sup> Indian Trademark Act, 1999, s.29(8)

<sup>34</sup> Indian Trademark Act, 1999, s.30(1)

<sup>35</sup> Legality Of Comparative Advertisements, *available at*: <https://www.mondaq.com/india/advertising-marketing-branding/692896/legality-of-comparative-advertisements> (last visited on July 20, 2020)

6. It must not take unfair advantage of the goodwill attached to a mark or symbol of another company or its product or the goodwill acquired through the publicity campaign, nor should it make an unacceptable application of a third entity's name or initials.
7. The layout, copy, slogan, visual presentations, music, or sound effect of other advertisers should not be similar to any previous running commercials to indicate plagiarism.

### **Judicial Approach**

The courts in India have established the following principles as they determine the legality of comparative advertising:

1. A trader/advertiser has the right, even though the statement is untrue, to declare his items to be the best.<sup>36</sup>
2. A trader/advertiser can say his products are better than his competitors, even if this is not true.<sup>37</sup>
3. The traders/advertisers can even compare their products' advantages with those of another to say their products are better than competitors<sup>38</sup>.
4. However, the trader/advertiser cannot say that the goods of their competitors are bad as they can be called a slander/defamation of their competitors and their goods, which is not permissible.<sup>39</sup>
5. If there is no defamation to the goods or the manufacturer of such goods, no action lies, but if there is such defamation, an action lies, and if an action lies for recovery of damages for defamation, then the Court is also competent to grant an order of injunction restraining the repetition of such defamation.<sup>40</sup>
6. An advertisement is considered defamatory if it underestimates, undervalues, discredits, and dishonors the competitor's product.<sup>41</sup>

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<sup>36</sup> *Reckitt & Colman of India Ltd v M.P.Ramachandran* (1999) PTC (19) 741.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Pepsi Co. v Hindustan Coca Cola Ltd* 2001 (21) PTC 722.



7. While the trader/advertiser can boast that his goods are the best in the world, the same does not give any other trader/advertiser or competitor the cause of action until the aggrieved has been disparaged or defamed.<sup>42</sup>
8. It is permissible to glorify the product provided that the product of the rival is not denigrated.<sup>43</sup>
9. There is some amount of implicit disparagement in comparative advertising, and, provided the comparison does not show the goods to the competitor in the wrong light, there is no actionable claim against the same as long as the advertisement is limited only to puffing.<sup>44</sup>
10. If the following conditions are met, comparative advertising is permitted<sup>45</sup>: -
  - i. goods or services that meet or intend to meet the same needs and purpose
  - ii. one or more relevant, verifiable, representative and, material features
11. It must be ensured that comparison statements with competitors' products are not defamatory, disapproving, libelous, or misleading.<sup>46</sup>

In the case of *Reckitt and Colman of India Ltd. v. M.P. Ramchandran*<sup>47</sup>, the underlying position on the nature of comparative publicity was provided, where it was held that:

- (i) the seller has the right to proclaim his goods the best in the world, despite this declaration not being true
- (ii) the seller can exclaim his goods are better than the goods of his rivals, despite this declaration not being true
- (iii) the seller can compare his goods' advantages with those of others
- (iv) he can not say, however, that goods from his competitors are bad.

While comparisons of India's products are allowed, what is not allowed is a negative illumination of the other product. The question as to whether the comparison disparages the product of the other must be answered, taking into account factors such as<sup>48</sup>:

- (i) Commercial intent

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<sup>42</sup> *Karamchand Appliances Pvt. Ltd v Sh. Adhikari Brothers* 2005 (31) PTC 1 (Del).

<sup>43</sup> *Supra* note 17.

<sup>44</sup> *Colgate Palmolive Company v Hindustan Unilever Ltd*

<sup>45</sup> *Havells India Ltd v Amritanshu Khaitan* DelHC CS(OS) 107/2015

<sup>46</sup> *Ibid.*

<sup>47</sup> *Supra* note 36.

<sup>48</sup> *Supra* note 17.

- (ii) The manner and nature of the commercial
- (iii) The commercial's storyline and the message it sought to convey.

So, what needs to be looked at is whether there is an intention to denigrate a competitor's product, more than what is allowed or what is needed to portray one's product as better than the others. In *Tata Press Ltd. v MTNL*<sup>49</sup>, it was held that the advertiser must have some reasonable factual basis for the assertion made if an advertiser declares his goods as better than another's. However, in the case of *Reckitt Benckiser (India) Ltd. v Hindustan Unilever Ltd*<sup>50</sup>, the court reasoned that concerning the claims of disparagement, the truth could not be an absolute defense, since the court will not look into the merits of such specific claims. Therefore, it can be deduced that while specific claims should be avoided, general superiority claims should be made. In this case, the comparison will cross the permissible limit, where statements are of a sort in which the rational person takes them more seriously than regular publicity.

In the absence of specific legislation, the problem with Indian law on comparative advertising has been the multiplicity of various courts' interpretations and approaches. The general view is that comparisons with others' products are permitted and that such products should not be denigrated, even if they are genuine<sup>51</sup>. The need for the hour is that the legislators must examine the matter, develop a framework, or Apex Court to issue an authoritative guideline.

#### IV. Critical Analysis of Lifebuoy v Dettol Case

##### India's First Comparative Advertising and Disparagement Case in Pandemic

Following the COVID-19 crisis and several medical advisories issued in the public interest such as WHO, ICMR, two FMCG majors have locked horns over commercial disparagement. In this dispute, an original suit filed before the Bombay High Court by Hindustan Unilever Limited (HUL), the manufacturers of LIFEBOUY soap, against Reckitt Benckiser (India) Private Limited (RB), the manufacturers of DETTOL liquid handwash<sup>52</sup>.

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<sup>49</sup> (1995) 5 SCC 139

<sup>50</sup> (2014) 57 PTC 78

<sup>51</sup> Biplab Kumar Lenin, Arun Babu, "Comparative Advertising and the Consumer - Changing Dynamics" 22 JIPR 118 (2017).

<sup>52</sup> TNN, "Lifebuoy takes Dettol to HC over ad" The Times of India, April 02,2020.

HUL earlier aired an advertisement where LIFEBOUY soap was advertised to endorse the need and importance of washing hands to maintain self-hygiene. Soon after, RB followed suit and aired an advertisement promoting their DETTOL liquid hand wash, wherein it was allegedly illustrated that their product is more efficient and effective than the existing regular soap bars (a red soap bar was displayed<sup>53</sup>). Following this advertisement, HUL claims that RB allegedly tried to denigrate their product since the red soap bar is identifiable in the said disputed advertisement, making the HUL approach the High court to seek permanent injunction and damages from RB.<sup>54</sup>

The said advertisement is no more available, but the premises of action of HUL (according to information available to the public<sup>55</sup>) are as follows:

- That RB's advertisement misrepresented a physician telling patients to stay away from the soap, which highly resembled in shape, color, and size of LIFEBOUY soaps.
- In this way, falsely representing/indicating that soaps are inferior and DETTOL hand wash is superior and more effective (especially those sold under the brand LIFEBOUY),
- HUL also relied on the World Health Organization's guidelines on maintaining personal hygiene in the fight against the novel coronavirus. It stated that RB's advertisement was against it and, instead of encouraging awareness, they meant to build discrimination about the use of soaps.
- HUL's plaint read- "Nations across the world are communicating just the opposite and asking people to wash their hands with soaps and water whereas the defendant is creating scare amongst the general public by falsely propagating that soaps are useless by maligning the market leader in the soaps category. When the need of the hour is for everyone to come together and work towards the common good, the defendant's action is irresponsible and against public morality."<sup>56</sup>

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<sup>53</sup> *Ibid.*

<sup>54</sup> The battle between the brands amidst COVID-19 *available at:*

<https://s3.amazonaws.com/documents.lexology.com/cee2af17-1e15-4c9f-ad22-a980ac2c4851.pdf?AWSAccessKeyId=AKIAVYILUYJ754JTDY6T&Expires=1600709350&Signature=ZrY1ZVQmiIx0gcyfPCYnpKErosE%3D> (last visited on August 30, 2020).

<sup>55</sup> Omkar Gokhale, "After Hindustan Unilever moves Bombay HC, Dettol suspends handwash ad" *Indian Express*, March 23, 2020, *see also, Supra* note 34.

<sup>56</sup> Comparative advertising amidst a pandemic, *available at:* <https://www.lexorbis.com/comparative-advertising-amidst-a-pandemic/> (last visited on September 20, 2020).

Based on precedential case law concerning comparative advertising<sup>57</sup>, for a claim of disparagement to succeed, HUL will need to prove the following satisfactorily:

- that RB slandered the products because of a misleading/false claim concerning HUL's product,
- that the claim made by RB deceived the customers' minds or triggered deception,
- the market would consider goods from HUL as inferior, eventually impacting the behavior of customers, decisions, and eventually leading to HUL's business loss.

By showing that the above requirements have not been met and claiming that puffery is allowed under the honest practice defense of Section 30 of the Trade Marks Act<sup>58</sup>, RB can possibly defend against HUL's allegations as the said provision allows for conduct such as stating that its own goods are superior, without denigrating the goods of the competitor.

However, before the parties to the lawsuit could examine more closely the claims and arguments, RB unilaterally agreed to take the disputed advertisement off-air on March 22, 2020, till April 21, 2020, when the matter was scheduled for a hearing, but before the hearing could be done nationwide lockdown was imposed, and there was the closure of the courts of non-important matters.

It could be assumed that the said advertisement will remain off-air till the time matter is sub judice, and the matter would likely be heard after the lockdown is lifted and once the courts resume hearing non-essential matters. It would certainly be interesting to see how, on the next date, the court further perceives this matter.

### **Analysis of the case**

Comparative advertisement can be described as any statement that portrays a competitors' similar/identical goods in a bad light while simultaneously promoting the manufacturers own goods. This practice is not permitted and is treated equivalent to disparagement, as laid down in various precedents.

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<sup>57</sup> *Supra* note 16,17,18,19,36,42,43,44,45.

<sup>58</sup> Indian Trademarks Act, 1999, s.30.

Further, product disparagement occurs when a false/misleading statement regarding the goods is circulated with an intention to deceive consumers and to likely influence consumer behavior, as laid down in *Pepsi Co v Coca Cola*<sup>59</sup>, *Reckitt Benckiser v. HUL*<sup>60</sup>, *GlaxoSmithKline v Heinz*<sup>61</sup>, etc.

If a case satisfies the above stated, the Trademarks Act can be invoked to enforce the aggrieved party's intellectual property rights. Often, a party counters disparagement under the garb of the fundamental right to freedom of speech or Section 30 of the Trademarks Act<sup>62</sup>, which allows such advertisements where honest practices are followed, and the rival product is not shown in a bad light.

## V. Conclusion

The laws and regulations to control commercial disparagement are at a very early stage in India and are still evolving. More detailed laws and regulations are required with the fast and constant development in the business world.

In the advertising scenario where different brand goods compete, advertisements serve to enhance their market prospects by highlighting their consistency and facets while providing an advantage over the others. However, broadcasters must ensure that they are neither disparaging of any third party's products nor making misleading statements in their own race to benefit themselves.

Compared to India, countries like the UK and US for comparative advertisements are more liberal. Where comparative promotional practices reflect a common pattern, producers are usually not permitted to make superlative statements about their goods without evidence. They can also compare their goods with those of their rivals. They must mention that the other's product is not as good as theirs if they make a valid and fair argument. The author believes that this should also be adapted in India because the primary objective is protecting customers from deceitful practices of traders who make superlative statements about their goods without them being valid. Also, when the producer's argument about the product of his rival is correct and scientifically provable, this should be permitted as the justification for selecting a better product would be legitimate for

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<sup>59</sup> *Supra* note 41.

<sup>60</sup> *Supra* note 50.

<sup>61</sup> (2009) 156 DLT 330.

<sup>62</sup> *Supra* note 58.

customers and it enables a healthier trading practice in the long term, which will enable rivals to enhance their product quality.

Advertisers and industries must also avoid broadcasting false statements or making claims with no proof or analysis, especially in the light of this pandemic, which may also lead to health risks by making false and misleading advertisements.