

M. Phil

Thesis Report

On

Deception of Advertising in Bangladesh: An Empirical Investigation.

This report is submitted as a partial requirement for the fulfillment of M. Phil program, Department of Marketing, University of Dhaka.

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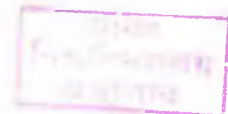
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Preface

Bangladesh is one of the poorest but the most populous countries of the world. To face the global challenges, she has to face some important issues. To protect the consumer rights is one of the most important of them. To meet the food crisis the producers and importers sometimes, are involved in deceptive activities. Deceptive advertising is one of them.

Over the years, it has been a major challenge to sell the products among the customers. On account of complex structure of the modern goods, it is only the producer who can assure the quality of goods and services. In the age of revolutionaries information technology, internet and with the emergence of E-commerce related innovations, consumers are further exploited to a great extent. As a result, buyers and sellers are being misled, swindled and deceived. No doubt, most of the deceptive activities are spearheaded by deceptive ad claims through mass Medias. Determining whether an ad is misleading continues to prove difficult and controversial. Advertisers as well as consumer advocates are rarely agree on whether a particular ad is misleading. The researchers also failed to agree on a broadly applicable definition of misleading or a procedure for identifying the deceptive ads.

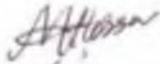
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In this paper, I have focused on some deceptive ad practices in accordance with the consumers view points that means, consumers' belief and attitudes and legislation of the government. The research found that almost all advertisers common tendency to deceive the consumers through their "Misleading" or "Bait" Ad claims. Unfortunately, there is a lack of legislation as well as govt. policy to protect the helpless consumers and their implementation. It is also found that consumer protection in our country is still in its infancy stage. The positive side is



that the government has instituted some laws, namely, the Consumer Rights Protection Act, 2009, Breast Milk Substitutes (Regulation of Marketing) Ordinance 1984, Smoking and use of Tobacco Goods (Control) Act 2005, Bangladesh Standard Weight and Measures (Labeling of Goods) Rules 2007. Some other positive sides are that among others, Consumer Association of Bangladesh (CAB) has been working to protect the deceptive ads.

I do hereby recording Profuse thanks to almighty Allah. Then, special gratitude to my honorable teacher Dr. A B M Shahidul Islam to select the topic “Deception of Advertising in Bangladesh: an empirical investigation.” for me as research work and suggest me to perform the work in proper way.



MOHAMMAD ANOWAR HOSSAIN

M. Phil, Part – 2

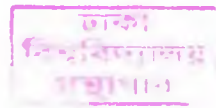
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Acknowledgement

A thesis report is compulsory for every M. Phil students. In this report a procedure for indentifying the deception of advertising in Bangladesh is presented, based solely on measured consumers beliefs and attitudes.

After acquiring and developing practical knowledge though the related secondary data from some thesis reports, I have prepared this report. To prepare this report, I was assisted by my honorable teachers, classmates, office staffs and other well wishers.

At first, I am most grateful to almighty Allah who helped me do the difficult task in time, and then my honorable supervisor and respectable teacher Dr. A B M Shahidul Islam, Professor, Department of Marketing, University of Dhaka. Without his active assistance, advice, direction & constructive suggestions, I would not have been able to prepare this thesis report.

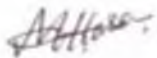
I am also grateful to the honorable teachers who inspired and helped me do this work in many ways. Among them Dr. Belayet Hossain, Professor, Department of Marketing, University of Dhaka; Dr. Mosiur Rahman, Associate professor, Department of Marketing, University of Rajshahi; Md. Shahariar kabir, Assistant Professor, IBA, Jahangir Nogar University of Bangladesh are mentionable.

I do hereby recording profuse thanks to those who helped me in the data collection procedure, especially Md. Kazi Faruque, Journalist &

Chairman of Consumers Association of Bangladesh (CAB) and Mr. Shamsuszoa, information officer, CAB who have been working to promote consumer protection for a long time and also helped me profusely in data collection.

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Abstract

In this paper, the procedure of indentifying and testing whether the advertisements are deceptive is empirically based and it relies on the measurement of consumer beliefs and attitudes. Because determining whether an advertisement is deceptive or misleading continues to prove difficult and controversial. Naturally, advertisers and consumers' advocates rarely agree on whether a particular Ad`vertisement is misleading or deceptive. More disappointing, however, is failiure of the researchers to agree on a broadly applicable definition of misleading (related to deceptiveness) or procedure for indentifying it. (Gardner 1975; Taco by and Small 1975; Preston 1976).

Key Words: Deception, Advertising, Bangladesh.

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Chapter – One

Introduction

To promote the products as well as market expansion, advertising is one of the essential tools. Advertising is ‘any paid form of non personal presentation and promotion of ideas, goods or services by an identified sponsor’ (Kotler, 1988). Advertisers use the words and pictures in their advertisements to make claims about the ideas, goods, or services that they are advertising. Thus, advertising claims may be made linguistically or non-linguistically. However, a claim is always expressible as a sentence’ (Grice, 1975). In any kind of information exchange such as an advertisement, a tacit communication pact exists between speaker and hearer that that information will be truthful and relevant (Garfinkel, 1983, Grice, 1975). ‘Advertisement viewers draw pragmatic inferences when they try to understand advertisements i.e. understand information that is implied or suggested, but not directly stated, by advertisements the beliefs, recommendations, or purchases of an advertisement viewer may change as a result of viewing an advertisement (Harris, 1979).

An advertisement is potentially misleading if it contains an unqualified claim that can be understood and evaluated only if qualified properly i.e. claim-fact discrepancy (Aaker, 1974; Gardner 1975; Armstrong, 1979; Fotfeld and Rotzoll, 1980; Ford and Calfee, 1986). Thus, the set of verbal claims made in an advertisement may be entirely consistent with fact, yet jointly imply a misleading claim (Preston, 1975; Harris, 1979; Russo et al., 1981; Farfinkel, 1983).

An advertisement is potentially misleading if the viewer’s existing attitudes and beliefs can interact with the viewing of the advertisement to produce one

or more erroneous beliefs i.e. claim-belief interaction (Gardner, 1975; Russo, 1981; Barbour and Gardner, 1982).

An advertisement is misleading if it ‘does not increase, but free-rides on, an existing level of misleading belief’ i.e. exploitive misleadingness (Russo, 1981). Advertisements containing unbelievable puffed claims cannot be misleading; (Preston, 1975, 1977; Russo, 1981). If the beliefs and behaviors of advertisement viewers are adversely affected by the puffed claim, then the advertisement is misleading.

An advertising campaign is deceptive if the total injury to consumers, or the magnitude of the injury to one or more individual consumers, is unacceptable (Preston, 1977; Russo, 1981; Ford and Calfee, 1986;). Furthermore injury differs from material harm (Armstrong and McLennan, 1973; Aaker, 1974; Armstrong and Russ, 1975; Glassman and Pieper, 1977; Armstrong, 1979; Rotfeld and Rotzoll, 1980).

An advertising campaign is deceptive if it results in unfair losses to competitors (Cohen, 1974; Gardner, 1975). Establishing an advertiser’s intention to lie is irrelevant to establishing whether or not an advertisement is deceptive (Preston, 1976; Russo, 1981; Rotfeld, 1983; Jones, 1986; Carson, 1988).

Defining deceptive advertising and measuring deceptive advertising are two separate issues (Gardner, 1975). Thus the definition of deceptive advertising should not rely upon a rule such as the percentage of viewers deceived (Gardner, 1975; Jacoby and Small, 1975; Carson, 1985).

Choice of appropriate criteria to indicate “seriousness” of deception and subsequent interpretation of the collected data must be based mainly on the values of the policy decision maker (Olson and Dover, 1978). The link between beliefs and behaviors is weak (Juster, 1964; Tate and Ball 1983).

Thus for advertising researchers to prove that an advertisement is deceptive, they should supply evidence regarding consumer beliefs and behaviors.

The advertisers use the words and pictures in their advertisements to make claims about the goods, services and /or ideas, that they want to promote. Thus, advertising claims may be made linguistically or non linguistically. However, acclaim is always expressible a sentence. According to Steven J Skinner advertising is a paid form of non personal communication about an organizations, and its products or its activities that is transmitted through mass medium to target audience. It includes Tv, radio & news paper ads, bill boards, sign boards, posters, banners, play cards, Pena- sign etc. An advertising objective is a specific communication task to be accomplished with a specific target audience during a specific period of time.

There are two types of significance of advertising - Economic Significance & Social Significance.

The Economic significance includes – Creating and increasing demand, increasing sales and profits, adjusting between demand and supply, industrialization, reducing production costs, to face competition, introducing new products, direct sale, creating goodwill, communication with traders, interring into international markets, increasing individual and national income.

Social Significance of advertising includes- To inform, improvement of standard of living, creation of employment opportunities, elimination the influence of middlemen, Assisting to sellers, Educational in nature, Creating and increasing awareness, developing tastes, creating nationality, discouraging to buy harmful products. In a brief, consumers may be informed about the benefits, features, using process and price of the products

through Ads. They also may be informed the demerits of the product through advertisement.

The main objective of the advertising is to promote the product and persuade the target customers to buy it. Consumers hope and believe that the messages about ideas, goods or services provided by the advertisers will reliable, boilable and essential for them. But sometimes Gimmick, fraudulent, misleading or deceptive messages of the Ads make a harm for the customers as well as creating a social crime.

Marketers sometimes, accused of deceptive practices that lead consumers to believe they will get more value than they actually do. For example, an advertisement for a photo- finishing service displays a well-known brand of film paper, but when the photos are orders, they are actually printed on an inferior brand. A consumer reads an advertisement for a discount offer on computer printers, but on visiting the store, finds that the advisement failed to mention that the printers were refurbished.

A car dealership advertisement claims that a particular vehicle is “well-equipped, lots of options.” but consumers who consult automotive magazine discover that it is it is actually a base model with only standard features. These are all examples of consumers complaints made to the industry regulatory agency advertising standards ([www. adstandards.com](http://www.adstandards.com), 2007).

Deceptive practices fall into three groups: deceptive pricing, promotion, and packaging (kotler & Armstrong, 1988). Deceptive pricing includes practices such as falsely advertising ‘factory’ or ‘wholesale’ prices or a large price reduction from a phony high retail list price. Deceptive promotion includes practices such as overstating the product’s features or performance, luring the customer to the store for a bargain that is out of stock, or running rigged contests.

Deceptive packaging includes exaggerating package contents through subtle design, not filling the package to the top, using misleading labeling, or describing size in misleading terms. A series of studies show that advertising deception leads consumers to become defensive and produces a negative bias in consumers' attitudes toward subsequent advertisements. Deceptive practices have led to legislation and other consumer protection actions. For example, in 1938 Congress reacted to such blatant deceptions as Fleischmann's Yeast's claim to straighten crooked teeth by enacting the Wheeler-Lea Act giving the Federal Trade Commission (FTC) power to regulate "unfair or deceptive acts or practices." The FTC has published several guidelines listing deceptive practices.

The toughest problem is defining what is "deceptive". For example, Palm recently agreed to settle Federal Trade Commission accusations that ads for the company's handheld computers were deceptive. The ads claimed the Palm's devices provide bulletins wireless access to the internet. Now this was true, but only for some models. Many Palm models did not provide such access without separate wireless modems and additional software. What's more, the ads failed to tell buyers that one model providing wireless. Internet and Email access requires that users pay monthly subscription fees to the company's Palm Net Internet service. Thus, although the information in the ads were technically true, omissions left some consumers with the wrong impressions. The FTC ordered Palm to "disclose, clearly and conspicuously, when consumers have to buy add-ons in order to perform advertised functions".

Marketers argue that most companies avoid deceptive practices because such practices harm their business in the long run. If consumers do not get what they expect, they will switch to more reliable products. In addition, consumers usually protect themselves from deception. Most consumers

recognize a marketer's selling intent and are careful when they buy, sometimes to the point of not believing completely true product claims.

One noted marketing thinker, Theodore Levitt, claims that some advertising puffery is bound to occur and that it may even be desirable. "There is hardly a company that would not go down in ruin if it refused to provide fluff, because nobody will buy pure functionality.... Worse, it denies....People's honest needs and values. Without distortion, embellishment, and elaboration, life would be drab, dull, anguished, and at its existential worst"

Deception through the advertisement in Bangladesh is a common phenomenon today. Among others, some of the advertisers publish the misleading, fraudulent or deceptive advertisement through the mass media such as TV, radio, bill boards, sign boards, transportation, satellite channels and so on. They are promoting various kinds of deceptive and fraudulent products claim for some complex diseases like *agma*, cancer, diabetics, acne and sexual inability etc. Through the advertisements claims they are strongly offering 100% guarantee to cure these complex those diseases within a few days. In some cases they offer to cure these complex diseases within few moments. They are publishing their advertising through mass Medias like TV, radio, bill boards, sign boards, transportation ads, satellite channels and so on. Not only for above diseases but also they are offering guarantee to solve all kinds of physical and mental problems within one or two hours through their single doges of medicine or through their imaginary (*Addhatik*) power.

According to the experts, all these advertising are either deceptive or misleading or unlawful and should take necessary measures to prevent these malpractices. The most peoples of Bangladesh are either illiterate or unaware of their health care. By dint of these deceptive ads claim, they can easily send their deceptive messages to the targeted customers within few

moments. There are also a shortage of specialized doctors to serve for the rapid growing population of the country. Most of the people are also taking poisonous foods and effecting many complex diseases like cancer, diabetics, HB Ag^{+ve}, agema and sexual diseases.

Responding to the deceptive ad claims through the mass media many illiterate, poor, middle class, even the rich & learned peoples are also going to these “*so called specialist*” hoping to be cured within short times. As a result, a wide speared advertising are promoted through the newspapers, television, radio, satellite channels, billboards, sign boards and many other media. These “so called specialists” often introduced themselves as a “specialist doctor”, psychologist,” “King of the snake (Shorporaz)”, “Big - Boss (Mohaguru)” and “Zinner badsha”, “Shes Darshan” and deceiving the customers. Not only these, but also some big multinational products manufacturing companies and reputed business firms are also deceiving the customers through their illegal or deceptive ad claims. This study is attempting to high-light some aspects of these deceptive advertisements in Bangladesh especially, in the field of baby food, tobacco, and herbal products marketing.

Justification of the Study

Deception through the advertisement in Bangladesh is a common phenomenon today. Among others, some advertisers published the misleading, fraudulent and deceptive advertisement through the mass media like TV, radio, bill boards, sign boards, transportation, satellite channels and so on. They are promoting various kinds of deceptive and fraudulent products for some complex diseases like agma, cancer, diabetics, acne and sexual inability etc. They strongly offered guarantee to cure these complex those diseases through their advertisements within a few moment. They are publishing their advertising through mass Medias not only for above diseases, they also guaranteed to solve all kinds of physical and mental problems within one or two hours through their single dodges of medicines or through their *Addatik* power (power getting through dreams) . According to the experts, all these advertising are 'deceptive' and authority should take necessary measures to prevent these malpractice. Most of the peoples in Bangladesh are illiterate and unaware of their health care. By dint of these deceptive ad claims, the advertisers can easily send their deceptive messages to these targeted people within few moments.

There are also a shortage of specialized doctors and medical services for the rapid growing population of the country. Most of the people are taking poisonous foods and are effecting many complex diseases like cancer, diabetics, agama and sexual diseases. Due to shortage of the specialized doctors and hospital services in the country, many illiterate, poor, middle class, even though the rich & learned peoples are going to those "so called specialist" hoping to be cured within short times. As a result, a wide speared advertising are promoted through the Newspapers, television, radio, satellite channels, billboards, sign boards and many other media. These "*so called*

specialists” often introduced themselves as a “specialist doctor”, “psychologist,” “King of snake (Shorporaz)”, “Great hero of the king (Mohaguru)” and “King of the evil (Zinner badsha)”, “The Last Attempts (Shesh Darshan)’ and deceiving the customers.

Some reputed national and multinational products manufacturing companies are also deceiving consumers though the misleading, fraudulent and deceptive advertisement claims using “special price”, or “priced for sale”, or “clearance price”, or “10%-90% discount,” and / or “100% Garrantee” and similar terms. But it is found that most of the companies are using the above terms to deceiveve the customers. It is impossible for anyone to discuss the large & broaden deceptive areas of Bangladeshi business sectors. So, this study is attempt to high-light some major aspects of these deceptive advertisements relating to health issues such as, baby food products, herbal medicine and tobacco marketing in Bangladesh.

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Chapter -02

LITERATURE REVIEW

What is deceptive Advertising? There is no statutory definition of deceptiveness in a word (Ford and Calfee, 1986). Others have pointed out that reasonable consumer is a vague notion (running contrary to much case law) that reduces the FTC's ability to protect those most in need of protection (Scherb, 1985). Still others stress that materiality has been confused with injury, the problem of real concern to the FTC (Rord and Calfee, 1986).

Furthermore, according to Welti (1947), the lack of a definitive standard of deception leaves the FTC and reviewing courts to a case by case analysis which creates unpredictable results' (FTC 1983,p.128). Thus the FTC has not provided a definition satisfactory to all concerned parties.

Instead, the operational definition for the legal standard is "An advertisement is legally deceptive when the majority of the five (FTC) commissioners' (1983) policy statement provides the foundation for RTC rolling about deception for Advertisement. This policy statement assumes many problematic notions, such as likely to mislead consumer and materiality (1983). Some writers have argued that being likely to mislead is not sufficient for deceiving (Ford and Cabfee, 1986).

Researchers have taken great unified point to define misleading, deception, deceptive, and puffery as well as the conditions under which the deception occurs (Howard and Hulbert, 1973, Aoker, 1974: Armstrong and Russ, 1975, Ford etal; 1975; Jacoby and Small, 1975, Gardner, 1975, 1976, Preston 1977, Olson and Dover, 1978, Armstrong etal, 1979, Rotfeld and Rotzoll, 1980; 1981; Russoetal 1981; Shimp and Preston, 1981; Rotfield, 1983; Farfinkel, 1983, Shimp, 1983; Frunert and Dedler, 1985)

Preston (1982 a, 1983 b) seems to suggest that the definitions must remain distict. On this view, researchers require a definition of deception; their

mission and their instrumentality (i, e direct measures of consumer's beliefs about false claims) concern only those advertisement views who have been deceived. However, deception of advertising is a complicated expression, and thus must be defined as a complex dimplier expressions. The complex definitions developed here depending upon defining the terms claims, misleading, deceptive advertisement, advertising campaign, deceptive advertising campaign and deceiver.

Advertisers use advertisements to make claims which are not always explicitly stated in words. When one speaks of a deceptive advertisement, it is really these claims which are important, not the exact wording of the advertising copy. The following definition of 'claim' is based on Grice (1975) (Coleman, 1983; Garfinkel, 1983; Skipper and Hyman, 1987)

An advertiser makes claim 'S' through advertisement A if, and only if, purchasers or purchase influencers tend to believe that

(a) The advertiser believes S, and

(b) The advertiser intends A to be instrumental in revealing that the advertiser believes S*.

*NB: Whereas a claim 'S' is always a sentence, it can be expressed linguistically or nonlinguistically.

A claim S is misleading if, and only if, it encourages mistaken actions by purchasers or by purchase influencers.

Using the above, we can now define deceptive advertisement. Thus,

An advertisement is deceptive if, and only if, it makes one or more misleading claims S_1, S_2, \dots, S_n .

To define deceptive advertising campaign, it is first necessary to define advertising campaign.

An advertising campaign is any advertisement or set of advertisements that is actually presented to purchasers or purchase influencers.

Thus, an advertisement exists even before it has been publicly presented, but after the first presentation it becomes an advertising campaign. Then,

An advertising campaign is deceptive if, and only if,

- (a) It contains one or more deceptive advertisements, and
- (b) The appropriate regulatory agencies or the courts rule at least one of the following to be significant:

1. The total resulting injury suffered by all consumers, or
2. The magnitude of the resulting injury suffered by one or more individual consumers, or
3. The total resulting loss suffered by all competitors, or
4. The magnitude of the resulting loss suffered by one or more individual competitors.

Finally,

A deceiver is an advertiser who innocently, negligently, or maliciously sponsors a deceptive advertising campaign.

This complex of definitions seems to cover the recognized ways in which advertisements can be misleading. By these definitions, an advertisement is misleading if it (i) contains a believable claim that is a blatant or an unconscionable lie (e-g.. Armstrong and McLennan, 1973; Fardner, 1975), (ii) encourages a discrepancy between what purchasers or purchase influencers believe to be claimed in the advertisement and what is fact (Aaker, 1974; Fardner, 1975; Armstrong, 1979; Rotfeld and Rotzoll, 1980; Ford and Calfee, 1986); and (iii) encourages the purchaser or purchase influencer to build upon previously held erroneous beliefs, so that their viewing of the advertisement

interacts with these prior beliefs to produce (or reinforce) one or more erroneous beliefs (e.g., Fardner, 1975; Russo, 1981; Barbour and Gardner, 1983).

Because the misleading claim needs only to encourage, not cause, mistaken actions by purchasers or by purchase influencers, cases of exploitive misleadingness (Russo, 1981) and of omitted, but directly relevant, information (Jacoby and Small, 1975) are covered by these definitions.

Puffs are also covered. A puff may, or may not, be deceptive; it is deceptive only if it is a claim. In other words, if consumers are not convinced that the advertiser believes the puff, or if consumers do not believe that the advertiser meant to communicate that belief via the advertisement, then the puff is not a claim, and therefore the advertisement is not deceptive (Rotfeld and Rotzoll, 1981). If a puff is a claim, then that claim can be examined for being misleading.

This complex of definitions is also consistent with other related and widelyheld beliefs about deception in advertising. Deceptive claims may be made linguistically or nonlinguistically; they may be made about ideas, goods, or services; they may be false without deceiving, and deceive without being false (Gardner, 1975; Preston 1975; Harris, 1979; Rotfeld and Rotzoll, 1980; Russo et al., 1981; Garfinkel, 1983). For legal purposes, the issue of responsibility remains distinct from issues of negligence or malicious intent (Oreston, 1976; Russo, 1981; Rotfeld, 1983; Jones, 1986; Carson, 1988). The people who are likely to be affected by the advertisement, rather than expert witnesses, determine whether or not the advertisement is deceptive; thus, deceptiveness may be measured by changes in the relevant beliefs or behaviours of those most likely to be affected by the advertisement (Gardner, 1975; Ford and Calfee, 1986; Preston, 1987; Hankel and Hyman, 1989).

Finally, this complex of definitions requires that researchers rely upon all of their methodological tools when attempting to demonstrate that an advertisement claim is misleading. Certain modified beliefs and behaviours are, by this definition, the result of viewing a misleading advertisement. Thus, researchers looking for misleadingness' (the term used in Russo et al., 1981) should use both advertisement-related measures (i.e. testing beliefs immediately after advertisement exposure) and brand-related measures (i.e. awareness, attitudes, purchase intentions and purchases in the population) (Armstrong et al., 1980). Furthermore, because the link between beliefs and behaviours is weak (Juster, 1964; Tate and Ball, 1983), simulated brand choice experiments (Shimp and Yokum, 1981; Hankel and Hyman, 1989) would convincingly demonstrate that a deceptive claim has modified the behaviour of consumers (i.e. that the deception is relevant).

The researcher focuses on oral or written misrepresentation, or omission, which is the most common form of deceptive marketing. According to the Better Business Bureau, "An advertisement as a whole may be misleading although every sentence-separately considered is literally true. Misrepresentation may result not only from direct statements but by omitting or obscuring a material fact" (Better Business Bureau, 1998).

This includes 'bait and switch' advertising and selling which is an alluring offer to sell a product or service in which a company has no intention to sell to the consumer. The goal of 'bait and switch' is to get the consumer in the door ready to purchase one product that was advertised and then get them to switch their purchasing decision to a higher priced product or service. Vague generalities are also included in this category.

According to the researcher, a vague generality is when an advertisement makes a vague claim. There are numerous examples of vague generalities such as "*our clothes are made in the USA, our cars are fuel efficient, our*

frozen desserts are low in fat". According to Mary Azcuenaga, Commissioner of the FTC (1994), "Should we assume that these claims apply to every individual item in the product line? To most or nearly all of the products in the line? Or is the message that, on average, the products have the characteristics?" These generalities often bring up more questions than they answer for the consumer, and can be misleading and confusing.

2.1 The Reasonable Consumer

The FTC also believes that in order for an advertisement to be deceptive, the act or practice must be considered from a reasonable consumer's point of view, or if a particular group is targeted, a reasonable member of the groups perspective; the key word being '*reasonable*'. In fact, a company is not liable for every consumer's point of view. One example is that some consumers may believe that a '*Danish Pastry*' is made in Denmark. This miscomprehension is not considered to be deception since this message is not likely to mislead a significant segment of targeted consumers. If a particular product or service is marketed to a particular group, the FTC will use the targeted group as their "*reasonable member*". The thought behind this decision is that some groups may be more susceptible to exaggerated claims such as an overweight person believing in a miracle pill that will make them lose weight (Federal Trade Commission, 1998).

2.2 Materiality

The third factor the FTC looks for in deceptive advertising is materiality. As mentioned earlier, a material misrepresentation is one that will likely effect the buying decision of consumers. Examples of material misrepresentations include certain claims and omissions of information, particularly those that

involve safety and health issues. An example would be a consumer who is very involved in environmental issues and may only purchase environmentally safe products. If a product ad claims “*it has reduced emissions of air pollutants by 70%*”, this may encourage the consumer to purchase the product, when in fact the product may still be emitting a high level of air pollutants. Additionally, “*information is likely to be material if it concerns durability, performance, warranties or quality*” (Federal Trade Commission, 1998)

The FTC believes that if a consumer can easily evaluate a product, it is inexpensive, and a regularly purchased item, the Commission will take a closer look at the deception before filing a claim. The FTC believes that companies rely on repeat sales of these items and therefore if they do not live up to their claims, consumers will not purchase them again (Federal Trade Commission, 1998)

2.3 Deceptive Acts and Practices

The Wheeler-Lea Amendments declared that “*deceptive acts or practices*” are unlawful but did not define these terms. Over the years, numerous Federal Trade Commission and judicial decisions have developed standards for determining whether an act or practice is deceptive.

According to early cases, the standard for determining whether a practice was deceptive under Section 5 was whether it had the “*tendency and capacity*” to mislead. (*FTC v Colgate-Palmolive*). When an advertisement contains express or implied representations of a particular level of substantiation- for example, “*according to clinical studies,*” or “*laboratory testing proves*”- that is the level of substantiation required. In the absence of an express representation about the level of evidence an advertiser possesses,

the Federal Trade Commission has held that objective product claims carry with them the implied representation that the advertiser has adequate evidence to substantiate those claims. In that circumstance, the agency weighs several variables set forth in Pfizer, Inc.¹¹ to determine the level of substantiation consumers reasonably would expect the advertiser to possess. These Pfizer variables include the type of product, the type of claim, the benefits of a truthful claim, the ease of developing substantiation, the consequences of a false claim, and the amount of substantiation that experts in the field would agree is reasonable.

The Federal Trade Commission generally will require advertisers to possess the level of evidence sufficient to satisfy the relevant scientific community of the claim's truth. For health and safety claims, as well as representations about a product's efficacy or other objective attributes, the requirement is competent and reliable scientific evidence, typically in the form of tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, conducted and valuated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Even if an advertiser can come forward with some scientific evidence to support a claim, a representation may still be deceptive if there are unresolved scientific questions relevant to the claim or if the existence of substantial reputable authority contrary to the claim is not disclosed.

2.4 Deception versus deceptiveness

The proposed definitions take into account (Preston 1982a, 1983b) observation that researchers are defining deception, rather than deceptiveness. These definitions allow the false played by researchers to remain distinct from those played by lawyers and regulators and can complement each other. The tools of research, for example, could first demonstrate that one or more of the claims made in an advertisement are misleading. Once misleadingness had been demonstrated, the courts and regulatory agencies could ascertain whether the misleadingness resulted in significant injury to consumers, or significant unfair loss to competitors, and could then award damages and prescribe remedial action (*Olson and Dover 1978; Rotfeld 1983*).

It has been argued that the FTC's burden of proof regarding deceptive advertising would greatly increase were the standard to become deception, instead of deceptiveness (*Preston 1983; Rotfeld 1983*). As a result of this increased burden, the FTC's ability to protect consumers from deceptive advertisements would suffer. However, to argue in this fashion is to assume not only that opinion is preferable to empirical fact as a basis for rulings, but also that empirical evidence is difficult to collect. Both of these assumptions are questionable.

Thus, the proposed complex of definitions discourages courts and regulatory agencies from considering whether or not an advertising campaign is deceptive until court-appointed researchers can show the misleadingness of at least one claim made in an advertisement used in the allegedly deceptive campaign. One clear benefit of this approach would be to release valuable legal resources from dead-end cases and to channel them into more problematic cases.

2.5 Deceptive Advertising Issues

The 1990's have brought on some new targets for deceptive advertisers as well as a new focus for the FTC and the BBB. The main targets of the 90's include; antioxidant claims; the diet industry for misrepresenting weight loss claims; environmental or green marketing claims for products claiming that they are good for the environment and are not; 900 numbers for misrepresenting the costs of phone calls and the Internet (*Federal Trade Commission, 1998*).

In one year, United Weight Control, Nutri/System, Inc, the Diet Center, Physician Weight Loss Clinic, Weight Watchers International, Inc, and Jenny Craig had all been cited for deceptive advertising and were made to modify their advertising and marketing practices. On one weight loss television commercial, an average weight loss is printed on the screen so consumers are not misled to believe that they will lose as much weight as the women/men in the commercial (*Federal Trade Commission, 1998*).

The internet has also been a major source of deceptive advertising, particularly in regards to privacy issues. The internet has allowed online companies to "collect and use personal information about consumers, often without the consumers' knowledge or consent", and even use web sites as a guise to collect medical and financial information and even collect information about children (*American Marketing Association, 1998*).

According to the expertes, most of the advertisers are partially or sometimes, fully deceiving the customer through their ads claims. It is a metter of sorrow that there is a clear lack of monitoring agencies in Bangladesh, although the developed countries have a strong monitoring & evaluation agencies to follow up the ad claims. If the ad claims are deceptive or misleading or against to the consumers or the user or the claim is ethically against the

culture of the respective countries and then the ads are banned. For example, Glaxo Smith Kline and Nestle have felt the heavy hand of the Advertising Standards Authority (ASA) after accidentally showing two advertisements in the UK that were supposed to target children in Bangladesh. Two TV ads, for Horlicks and Maggi Noodles, have been banned by the watchdog for making misleading health claims that are not relevant to the UK audience and do not abide by the nutritional regulations of Ofcom. Nepali TV in the UK broadcast the Horlicks and Maggi Noodles ads, which were only meant to air in Bangladesh, without the knowledge of the brand owners as part of a rebroadcast deal. The TV ad for GSK-owned Horlicks, which is promoted as a health drink in some foreign markets, featured a number of claims including that it makes children *"taller, stronger, sharper"*, while Nestle's ad for Maggi Noodles claimed that the product makes children's muscles and bones strong. GSK said that its claims were accurate for *"children in that part of the world"* and that Horlicks complied with the regulatory requirements of Bangladesh. Nestle added that its campaign also complied with regulations in Bangladesh and had been approved for broadcast in that region.

The ASA reminded Nepali TV of its Ofcom license obligations and of the requirement to have adequate compliance procedures and was concerned that Nepali TV ran the ads without explicit permission. The advertising watchdog ruled ad must not be broadcast again in the UK in its present form and the product should not be advertised without adequate substantiation for the claims made for it. [source: online].

2.6 Some Complaint Against Consumer Deception

The complaint filed on 6 April, 2010 by the Hamburg Customer Protection Agency against Lidl due to unfair competition resulted in a swift victory. Vis-à-vis the Customer Protection Agency, Lidl formally agreed to cease proclaiming worldwide fair working conditions in its advertisements. The complaint was supported by the Clean Clothes Campaign (CCC) and the European Center for Constitutional and Human Rights (ECCHR). The pair objected to Lidl's advertisements that promised consumers fair labor conditions in its textile supplier plants in Bangladesh.

Lidl can no longer claim in advertising brochures that: "We trade fairly! Every product has a story. Who writes this story is important to us. Lidl globally advocates fair working conditions. Therefore, at Lidl, we contract our non-food orders only to selected suppliers and producers that are willing to undertake and can demonstrate their social responsibility. We categorically oppose every form of child labor, as well as human and labor rights violations in our production facilities. We effectively ensure these standards." Furthermore, Lidl can no longer indicate their membership in the Business Social Compliance Initiative (BSCI) in their advertising brochures.

This European business initiative advocates social standards as its objective, but these standards not obligatory for its members and their suppliers. The complaint refers to an investigation by the CCC and the ECCHR. Textile workers in various Lidl suppliers in Bangladesh reported inhumane working conditions, including excessive overtime with scarce and nontransparent compensation, payroll deductions as punishment, prohibition of trade unions, and discrimination against female workers. The aforementioned conditions violate the International Labor Organization Convention, the BSI code of

conduct, and Lidl's self-imposed obligations. Lidl must retract their advertisements. This outcome illustrates that competition laws can also be an effective means against deceptive advertisements concerning social responsibility. However, this doesn't help a single textile worker in Bangladesh," stated Günter Hörmann, the Director of the Customer Protection Agency in Hamburg. "The case demonstrates that it is risky for a corporation to put on a social guise. We call upon the federal government to oblige corporations to adhere to social standards along their supply chains, so that in the future concerns over working conditions in Bangladesh and China do not merely remain confined to deceptive advertisements," said Gisela Burckhardt from the Clean Clothes Campaign (CCC).

"We hold that Lidl is legally accountable for their promises of fair working conditions. It is indefensible that the workers affected by these horrendous labor conditions in the supplying plants of German corporations cannot take legal action against these global corporations in Germany", criticized Miriam Saage-Maaß (ECCHR). Lidl has offered to engage its critics in a dialogue. The Customer Protection Agency, CCC, and ECCHR will accept the offer.
[On Line]

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Chapter -03

MONITORING AGENCIES, LIABILITIES & PENALTIES

In this section, the researcher tried to find out whether any monitoring agencies, legislation, liabilities or penalties regarding deceptive advertising in Bangladesh or not. There are many rules and regulations in the developed countries of the world like the USA, the UK, Japan and/or China. But it is a matter of sorrow that there are a clear lack of proper monitoring agencies to follow up those who are violating the rules and regulations through their deceptive ads claims. The following monitoring agencies are found to monitor the deceptive activities in Bangladesh and abroad.

3.1 Consumer Protection Laws

As originally enacted in 1914, Section 5 of the FTC Act proscribed only “*unfair methods of competition*” (Codified, 2000). Nevertheless, the courts subsequently authorized the Federal Trade Commission to proceed against a broad variety of deceptive marketing practices on the theory that a deceptive marketer placed its honest competitors at an unfair competitive disadvantage (Wonsted Hoslery, 1922). Some predictable impact on competitors was required, however. In 1931, the Supreme Court in *FTC v. Raladam Co* (Wonsted Hoslery Co, 1931) affirmed the reversal of an order prohibiting a deceptive practice because the Federal Trade Commission had failed to demonstrate any adverse impact on competition.

Ramadan was legislatively overruled by the 1938 Wheeler-lea Amendments to the FTC Act, (Codified, 2000). Which extended the Federal Trade Commission’s jurisdiction to “*unfair or deceptive acts or practices,*” whether or not they amounted to “*unfair methods of competition* (Moe &

Jack, 1941).” The Wheeler-Lea Amendments provided the agency with authority to challenge both “unfair” and “deceptive” acts or practices. Until the 1960s, the Federal Trade Commission and the courts generally treated “unfair or deceptive” as a single substantive standard. Beginning in 1964, however, the Federal Trade Commission began to attribute independent significance to each term.

Today, the deception standard has developed into a tool that can be used to address a plethora of circumstances, products, services, and even new technologies. The deception standard and a variety of examples of when and how the deception standard is applied are discussed in this section.

The unfairness standard, which is relied upon sparingly by the Federal Trade Commission, is discussed in this part:

3.2 Monitoring Agencies - Foreign Countries Aspect

Besides the Federal Trade Commission, there are several other agencies that monitor advertising and marketing practices. Next to the FTC, the Better Business Bureau (BBB) is the key proponent of monitoring truth in advertising and was the primary reason that the BBB was formed. The National Advertising Review Council (NARC) is another agency that was developed by advertising associations and the BBB to foster “*truth and accuracy in national advertising through voluntary self-regulation*”. The National Advertising Division and the Children’s Advertising Review Unit (CARU) are investigative arms of the self-regulating programs in place by the NARC. The CARU was established in 1974 to promote responsible children’s advertising and is particularly interested in protecting children’s privacy and rights taking into account the vulnerability of the child audience. The FTC is the only legal enforcement arm of deceptive advertising. All

other groups rely on voluntary cooperation and self-regulation (*Better Business Bureau, 1998*).

Competitors and consumers are also two important monitoring groups. Competitors can be the best watchdogs for deceptive advertising in their industry and under the Lanham Act, they are able to sue their competitors for making deceptive claims. Consumers can also monitor companies and report any deceptive advertising or marketing act directly to the Better Business Bureau or file a complaint with the National Advertising Division who will investigate the accusation or service it is, but it does not stop there. Advertising agencies are now being held liable “*if the agency participated in the creation of the advertising and knew, or reasonably should have known, that the advertising was deceptive*”. It is the responsibility of the ad agency to substantiate the claims that a company makes and not rely on the advertiser’s word. Producers of infomercials are also held under scrutiny when a deceptive advertising claim is made against an infomercial. Producers must ask for information to back up the claims being made or risk being liable (*Better Business Bureau, 1998*).

3.3 Antitrust law developments

Ruled that a failure to have a reasonable basis for claims that a hair removal device removed hair permanently violated the FTC Act. The Federal Trade Commission held that there was no evidence that the device permanently removed hair and the company’s own studies contradicted its claims.¹⁴ The decision distinguished “*puffing claims*,” for which consumers could expect no substantiation, from objective product claims that contain affirmative information about a product’s attributes, performance, or efficacy and therefore require some level of substantiation FTC (April, 1964). The

advertisements in Removatron expressly and impliedly promised a scientific level of substantiation, and the Federal Trade Commission held that the advertisements were deceptive because the advertiser failed to possess well-controlled, double-blind clinical testing to support its claim (*Removatron, 1950*).

3.4 Failure to disclose material facts

In addition to an express or implied misrepresentation, a marketer also may violate Section 5 of the FTC Act by failing to disclose qualifying information necessary to prevent a practice, claim, representation, or reasonable expectation or belief from being misleading to consumers (*Pfizer, 1972*). Furthermore, when the first contact between a seller and buyer occurs through a deceptive practice, the law may be violated even if the truth is subsequently made known to the purchaser (*Pfizer 1973*).

If the disclosure of information is necessary to prevent a representation from being deceptive, the disclosure must be clear and conspicuous (*FTC v. Patron I Corp, 1994*).²⁰ In evaluating such disclosures, the Federal Trade Commission has recognized that reasonable consumers do not always read an advertisement in its entirety or may be directed away from the importance of the qualifying phrases by the acts or statements of the seller (*FTC Voluntary Code, 1973*). Accurate information in a footnote or elsewhere in the text likely will not remedy a false headline because reasonable consumers may glance only at the headline (*Haagen-Dazs 1995*). Nor may advertisers use fine print disclaimers to contradict other statements in an advertisement in order to clear up misimpressions the advertisement otherwise would leave (*Hewlett-Packard, 2001*).

The Federal Trade Commission has declined to issue one-size-fits-all regulations mandating the required size, typeface, wording, and location of disclosures that would be deemed sufficient to meet a Section 5 standard, opting instead for a flexible case-by-case approach. Factors typically examined include (1) prominence (whether the information is big enough for consumers to notice and read), (2) presentation (whether the wording and format are easy for consumers to understand), (3) placement (whether the information is in a place that consumers will look), and (4) proximity (whether the information is near the claim it qualifies). The agency has issued guidance regarding online disclosures (Index.htm.2000).

It also may be deceptive to fail to disclose qualifying information apprising consumers of the limited nature of a product's claimed benefits. Thus, in *Porter & Dietsch, Inc. v. FTC* (Denied, 1980). The use of testimonials from consumers who had lost substantial amounts of weight through use of the respondent's product was found deceptive where the marketer failed to disclose that the number of consumers losing weight was relatively low. Similarly, in (*Chrysler Corp 1982*) an advertisement that reflected a test report showing Chrysler six-cylinder cars to be more fuel efficient than General Motors cars was found deceptive for failure to disclose that the same test had shown Chrysler eight-cylinder cars to be less fuel efficient than similar General Motors cars. Even in the absence of an explicit deceptive representation, the Federal Trade Commission has found that the failure to disclose material facts about a product is deceptive when the claims made, coupled with a lack of disclosure, will leave consumers with erroneous expectations about the product.

3.5 Determining Meaning of Representations

Although early cases permitted the Federal Trade Commission to insist that advertising statements be literally true, (*Charles, 1992*). The DECEPTION Statement makes clear that the agency will evaluate representations in light of the general impression they are likely to create. Where the overall impression conveyed is likely to mislead consumers, the literal truth of a representation will not bar a finding of deception (*Beneficial, 1976*). In evaluating the deceptive potential of a representation, the Federal Trade Commission will look to the “net impression of the advertisement, evaluated from the perspective of the audience to whom the advertisement is directed” and not to hyper-technical argument as to the meaning of each word and phrase. As the agency stated in *FTC v. Sterling Drug, Inc.* The entire mosaic should be viewed, rather than each tile separately. The “entire mosaic” includes not just the text of an advertisement, but also the overall impressions left by the “visual and aural imagery.

In evaluating how consumers would interpret a claim, the Federal Trade Commission traditionally has considered how reasonable consumers would be likely to understand it. A practice that misleads a significant minority of reasonable consumers is deceptive even if it would not mislead the majority of consumers or the more sophisticated ones (*Heinz W. Kirchner, 1963*). If the representation or practice affects or is directed primarily to a particular group, the agency examines reasonableness from the perspective of that group. Characteristics covered by the guarantee, its duration, and the duties placed upon the consumer in order to obtain performance. Additionally, the guarantor must be identified, and the manner of its performance must be set forth. The Guarantee Guides also deal with such practices as pro rata adjustment guarantees, “satisfaction or your money back” claims and “lifetime” guarantees (*Porter & Dietsch, 1979*).

Subsequent to the adoption of the Guides, the Seventh Circuit in *Montgomery Ward & Co. v. FTC* upheld a Federal Trade Commission finding that the presence of hidden conditions attached to products advertised as unconditionally guaranteed may constitute a deceptive practice, even where the hidden condition is not relied upon as a basis for dishonoring the guarantee. The Federal Trade Commission also has held that the failure to disclose service charges attached to guarantees is deceptive, and it has stated that when an oral guarantee is offered, it is necessary to issue a written guarantee consistent with the oral statement.

The Magnuson-Moss Warranty Federal Trade Commission Improvement Act, enacted in 1975, (*Siebert, 1966*) provides detailed disclosure standards for written consumer product warranties against defect or malfunction, Consistent with the Seventh Circuit decision in *Montgomery Ward*, the Federal Trade Commission has held that the presence of hidden conditions that must be satisfied in order for the warranty to apply is deceptive (*Codified 2000*).

3.6 Origin of products

Since the 1940s, the Federal Trade Commission has issued numerous decisions and advisory opinions dealing with representations about the U.S. origin of merchandise. Historically, the agency had treated unqualified U.S. origin claims (e.g., “Made in USA”) as implying that products are “wholly of domestic origin.” This is also a deceptive ad claim.

3.7 Monitoring Agencies - Bangladeshi Aspects

According to the chairman of the Consumers Association of Bangladesh (CAB), there is a lack of consumer protection roles and legislation as well as their implementation in Bangladesh. In spite of the lacking of sufficient monitoring agencies in Bangladesh, following acts and ordinances may reduce the deceptive practices and protect the consumers from suffering. To reduce the deceptive business activities the government implemented many rules, regulations and ordinances. But the researcher found that the monitoring agencies in Bangladesh are neither active nor sufficient alert to reduce deceptive activities. However, the following acts and ordinances may reduce the deceptive practices to protect the consumers from suffering.

The Penal Code 1860

Deceptive activities are occurred mainly in packages, prices and in advertising processes aim at the sales procedures. The Penal Code 1860, one of the oldest statutes of the land, contains some provisions relating to consumer protection. Offences relating to weights and measures, offences relating to public health, safety and convenience have been made punishable both in terms of fine and imprisonment. Other nuisance, negligent act likely to spread infection of disease dangerous to life, malignant act likely to spread infection of disease dangerous to life, adulteration of food or drink intended for sale, sale of noxious food or drink, adulteration of drugs, sale of adulterated drugs, sale of drug as a different drug or preparation, polluting water or public springs or reservoir and making the atmosphere noxious to health.

Essential Commodities Act, 1957

Most of the deceptive practices occurred mainly on products' prices. Prices of essential commodities also depended on its supply and demands. Sometimes the corrupted businessmen make syndicates and reduce supply at the aim of increasing price. The government implemented the Essential Commodities Act, 1957 which empowers the government to make any order to regulate and control the price, supply, distribution of essential commodities for daily life. Section 3 read with section 6 of the Act, 1957 provides a penalty if any order is flouted or anything is done in contravention to this Act.

Standard of Weights and Measures Ordinance, 1982

Once there were deceptive practices that the retailers did not use standard weights to measure the essential commodities. To reduce the deceptive activity the then government enacted the "Standard of Weights and Measures Ordinance, 1982." This law was enacted to make provision for the establishment of standards of weights and measures based on the metric system and units of measurement and for matters connected therewith or incidental thereto. The law, inter-alia, provides penalty for use of non-standard weights or measures which may amount to three thousands taka or six months of imprisonment.

Breast Milk Substitutes (Regulation of Marketing) Ordinance, 1984

It is called that children are the future of a nation. Without feeding pure and safety foods it is impossible to make a good child as well as a good nation. But due to malpractice of the of Bangladeshi businessmen, the children of our country are in the risk. They are getting impure and poisonous baby foods. To reduce the the risk the government enacted the Breast Milk Substitutes (Regulation of Marketing) Ordinance, 1984. Promotion of

breast milk substitutes are discouraged by this legislation. It provides that no breast-milk substitute shall be marketed unless-

- (a) It is put in a sealed and closed container;
- (b) An easily readable and understandable message in Bangla is printed on a conspicuous part of its container to the effect that breast-milk;
- (c) Clear instructions on the proper method of its preparation and information regarding its composition are printed on the container or in a literature kept inside the container; and
- (d) Its registration number and the dates of its manufacture and the expiry of its usefulness are printed on the container. Neither the container nor any literature kept inside the container shall have any picture of infant or such other picture or writing which may idealise the use of any breast milk substitute, contravention of this law shall be punishable with imprisonment for a term which may extend up to two years, or with a fine which may extend to five thousand taka, or with both.

The researcher examined if there any violation in implimation of the the Breast Milk Substitutes (Regulation of Marketing) Ordinance, 1984.The researcher found a lot of violations of this laws that are discussed later.

The Bangladesh Standard and Testing Institution Ordinance, 1985

The Bangladesh Standard and Testing Institution (BIST) is one of the most impotent government owned institution in bangladesh. The BSTI Ordinance, 1985 provides for the establishment of an institution for standardization, testing, metrology, quality control, grading and marking of goods, section 30-32 protects certain rights of the consumers by bringing

some offences (like improper use of standard mark, disregard of export or sale restrictions etc) within the ambit of this law.

Smoking and Use of Tobacco Goods (Control) Act, 2005

At present, one of the great problems in Bangladesh is to protect the consumers as well as the general public from the effect of smoking. To protect them the government introduced the Smoking and Use of Tobacco Goods (Control) Act, 2005

Advertisement of tobacco products has been prohibited by this law. By this law, the statutory caution to the effect that smoking is harmful for health etc. is also to be legibly printed on the packet of tobacco products. The researcher examined if there are any deceptive activities in tobacco marketing in Bangladesh or not.

Pure Food Act, 2005

With a view to protecting consumers from the menacing effect of adulterated food, the Pure Food Act was passed in 2005. Adulteration of food is an offence under the Act, providing penalties of different kinds. The Act provides for the local government to appoint a 'Public Analyst' to check, control the health and sanitation, quality/safety of foods, drinks and other products marketed in the localities outside the municipality and city.

Bangladesh Standard Weight and Measures (Labeling of Goods) Rules, 2007

Label of the packaged goods is very important. It protects products to be destroyed and also maintains products quality. Sometimes labeling of products may be an important media of advertisement. The rules framed under the Bangladesh Standard and Measures (Labeling of Goods) Ordinance 1982 have laid down that certain information is to be mandatorily scribed on

the label of packaged goods, for example, the name, address of the manufacture, contact, manufacturing date of the goods, expiry date, caution, price, weight etc are to be clearly legible on the packaged goods.

The Mobile Courts Act, 2009

The Mobile Courts Act, 2009 empowers the Executive Magistrates to take into cognizance and try various offences under a number of laws including a good deal of legislations having consumer implications. However, under this law, no Magistrate of a mobile can impose punishments of more than 2 years. But in imposing fines, the amount is fixed according to the law under which the offence was committed.

The Trade Marks Act, 2009

Sections 71-78 of the Trade Marks Act 2009 are designed to suppress certain unfair trade practices relating to trade marks which have the tendency to deceive consumers. Remedies can be sought under these provisions against falsifying and falsely applying trademarks, selling and using false trademarks and tradenames, misrepresentation of trademarks etc.

The Local Government Act, 2009

The Paurashava is responsible for the sanitation of the municipality as well as the control of environmental pollution, control of the safety in building and road construction, control the slaughter houses, dhoby bathing places etc. it will also take adequate measures for removal, collection and disposal of refuse. It will also ensure the supply of the wholesome, safe and quality water sufficient for public and private use. Paurashava may by by-laws, prohibit the manufacture, sale or preparation, or exposure for sale, of any specified article of food or drink in any place or premises not licensed by the Paurashava. It may prohibit the import into municipality for sale, or the sale,

or the hawking for the sale, of any specified article of food or drink by person not so licensed. The act also ensures that the dwellers in the municipality area have the right to access to the information about the activities of the Paurashava.

Accord Thompson Med. Co., 104 F.T.C. at 813; Removatron, 111 F.T.C at 296-97 Bristol-Myers Co., 102 F.T.C. at 321; Pfizer, Inc., 81 F.T.C. at 64.

American Home Prods. Corp. v. FTC, 695 F. 2d 681, 688 (3d Cir, 1982). The FTC's deception analysis recognizes that an advertisement may create more than one impression and that a reasonable consumer may take more than one meaning from the advertisement. A secondary message understood by reasonable consumers is actionable if deceptive even though the primary message may be accurate, DECEPTION STATEMENT, supra note 107, 4 Trade Reg. Rep, (CCH)

Achievement Corp., 144 F Supp, 2d 993, 1010 (N.D. Ind. 2000); See DECEPTION STATEMENT, supra note 107, 4 Trade REG. Rep. (CCH) 13,205, at 20,913; see also FTC v. Think FTC v. Five Star Auto Club, Inc., 97 F. Supp, 2d 502 (S.D.N.Y. 2000).

Beneficial Corp. v. FTC, 542 F 2d. 611, 617 (3rd Cir, 1976). See Kraft, Inc., 114 F.T.C. 40 (1991), aff d, 970 F, 2d 311 (7th Cir, 1992), cert denked, 507 U.S. 909 (1993);

Codified at 15 U.S.C. § 45 (a) (2000). Act of Sept. 26, 1914, ch 311, § S(a), 38 Stat. 717, 719

Codified at 15 U.S.C § 45(a) (2000). Act of Mar. 21, 1938, ch, 49, § 3,52 Stat. 111

Cert. demoed. 514 U.S. 1083 (1995). However, even a disclosure that is clear and conspicuous generally cannot cure an otherwise deceptive claim. FTC v. Pantron I Corp., 33 F. 3d 1088 (9th Cir. 1994).

Charles of the Ritz Distrib. Corp. v. FTC, 143 F. 2d 311 (7th Cir, 1992), cert, denied, 507 U.S. 909 (1993);

Beneficial Corp. v. FTC, 542 F. 2d 611, 617 (3d Cir, 1976), cert, denied, 430 U.S. 983 (1977);

Sterling Drug, Inc, 317 F. 2d 669, 674-75 (2d Cir, 1963); Bennett v. FTC, 200 F. 2d 362, 363 (D,C. Cir 1952);

Codified at 15 U.S.C. §§ 2301-2312 (2000)). Act of Jan, 4, 1975, Pub, L,No, 93-637, Title I, §§ 101-112, 88 Stat, 2183-93

Codified at 15 U.S.C. §§ 2301-2312 (2000)). Act of Jan, 4, 1975, Pub, L,No, 93-637, Title I, §§ 101-112, 88 Stat, 2183-93 See part H. 4 of this chapter.

Denied, 445 U.S. 950 (1980).F. 2d 294, 303 (7th Cir, 1979), cert,

FTC Press Release (Sept. 30, 1970).

FTC v. Wonsted Hosiery Co. 258 U.S. 483 (1922).

G., Hewlett-Packard Co., C-4009, 2001 FTC LEXIS 37 (2001) (consent order); Microsoft Corp., C-4010, 2001 FTC LEXIS 80 (2001) (consent order); Value America, Inc., C-3976, 2000 FTC LEXIS 108 (2000) (consent order); Office Depot, Inc., C-3977, 2000 FTC LEXIS 109 (2000) (consent order);

Buy. Com, Inc., C-3978, 2000 FTC LEXIS 110 (2000) (consent order).

Heinz W. Kirchner, 63 F.T.C. 1282 (1963), aff d, 337 F.2d 751 (9th Cir. 1964).

Id; see also *FTC v. Five-Star Auto Club, Inc.*, 97 F. Supp. 2d 502, 531-32 (S.D.N.Y. 2000); *Horizon Corp.*, 97 F.T.C. 464 (1981); *Raymond Lee Org*, 92 F.T.C. 489 (1978), *aff d sub nom Lee v. FTC*, 679 F. 2d 905 (D.C. Cir. 1980); *National dynamics Corp.*, 82 F.T.C. 488, 563-66 (1973), *remanded in part*, 492 F. 2d 1333 (2d Cir.) *cert. denied*, 419 U.S. 993 (1974).

Murray Space Shoe Corp. v. FTC, 304 F. 2d 270, 272 (2d Cir, 1962); see also *Aronberg v. FTC*, 132 F.2d 165, 167 (7th Cir. 1942).

Novartis Corp. v. FTC, 223 F. 3d 783 (D.C.Cir 2000) (*Doan's pills pain reliever formula misrepresented as having special ability to cure back pain*); *American Home Prods, Corp. v. FTC*, 695 F. 2d 681, 702-04 (3d Cir, 1982) (*misrepresenting the superiority of nonprescription analgesics*); *Porter & Dietsch, Inc. v. FTC*, 605 F. 2d 294 (7th Cir, 1979)

Online Advertising (May 3, 2000), See *Dot Com Disclosures: Information about available at www.ftc.gov/bcp/conline/pubs/buspubs/dotcom/index.htm*.

Pfizer, Inc., 81 F.T.C. 23,58 (1972).

Removatron, 111 F.T.C. at 304.

Chapter - 04

CRITERIA FOR A FINDING OF DECEPTION AND UNFAIRNESS IN ADVERTISING

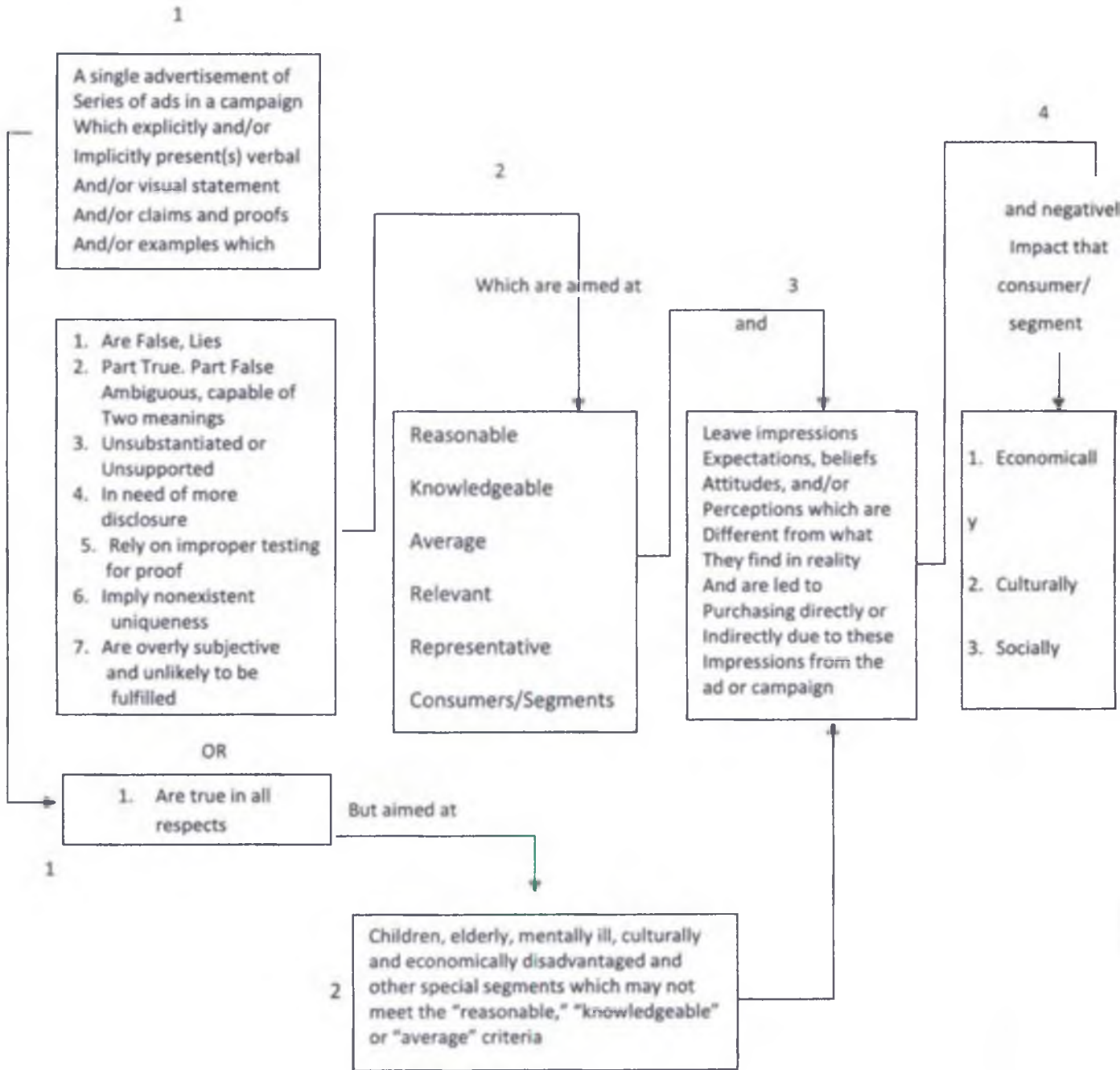
One of the most complex aspects of deception in advertising is determining what deception is. This problem has been addressed by many previous authors Colgate[Palmoive Co.(1970); Ford Motor v FTC, (1941); Bristol Myers Co. (1949); NK. Humphrgy (1976).] Among other issues, these prior studies have looked at:

- ❖ Unfairness,
- ❖ Reasonable man concepts,
- ❖ Implied uniqueness,
- ❖ Perceptual bias,
- ❖ Detrimental consumer behavior,
- ❖ Causal factors of deception, and
- ❖ Deception definitions. An attempt to summarize these various deception criteria appears in Exhibit 1.

Deception of Advertising in Bangladesh: An Empirical Investigation.

EXIHIBIT 1

Criteria for Deceptive or Unfair Advertising



[Source: On line]

Many advertisers feel that they have safeguarded themselves against deceptive advertising by providing money-back guarantees, warranties, and by adding disclaimers to ads. According to the FTC this is not accurate. Money-back guarantees do not eliminate deception. Sears and Roebuck learned this in 1980 when the FTC noted that *“a money-back guarantee is no defense to a charge of deceptive advertising. A money back guarantee does not compensate the consumer for the often considerable amount of time and expense incident to returning a major-ticket item and obtaining a replacement”*(Federal Trade Commission, 1998 [on-line]). What a money-back guarantee and a warranty may avoid however, is prosecution if the guarantee or warranty is honored since the FTC looks more favorably on those that comply with their guarantees and warranties.

Disclaimers, accurate text or small print do not remedy the effect of a false headline either. The FTC has ruled that many reasonable consumers may only read the headline and be misled or deceived by the advertisement, therefore, the headline must also make sure that it complies with fair advertising standards (*Federal Trade Commission, 1998*). It is difficult to find out whether an is deceptive or not. Because an ad claims may be totally misleading or false or sometimes deceptive. Some of the advertisement also may be partially deceptive. All of bthe above terms are deceptive . However, on the basis of FTC cases and court interpretations, an advertisement will be considered false, misleading, or deceptive when the following apply:

4.1 The Claim is False

An advertised claim is false when it misstates facts. A credit card service corporation, whose services included insuring credit card holders from the risk incurred when their cards were lost or stolen, advertised that these

services were ex-tremely valuable since, according to the advertisement, owners of lost or stolen cards might “*find themselves liable for as much as \$175,000.*” However, an amendment to the Truth-in-Lending Act very specifically, limits the liability for lost or stolen credit cards to a maximum of \$ 50 per card. This claim of saving consumers as much as \$ 175,000 was obviously false. The company was ordered to cease and desist this practice and required to make clear disclosure in its future advertisements about the protection afforded by Public Law N0. 91-508 (*RhodesPharmacal co,1953*).

4.2 The Claim is Partially True and Partially False

An advertisement that is capable of two meanings, one of which is false, is misleading (Williams 1973). For a number of years, the commission has been trying to assure that the J.B. Williams Company cease advertising its products, Geritol and Femlron, as tiredness remedies. Both of these preparations possess a nutritive ingredient in the form of iron. If an individual who suffers from iron deficiency uses these preparations, he or she may find them beneficial. However, tiredness may not be a symptom of iron deficiency, nor is iron deficiency generally accompanied by tiredness symptoms. The Federal Trade Commission issued a cease and desist order in 1967, stating that Ceritol is not to be represented as a generally effective remedy for tiredness, loss of strength, run-down feeling, nervousness, irritability. After years of trying to secure compliance, and expenditures of over 8,491 man-hours on this case, the commission ultimately imposed panelties against the J.B. Williams Company and Parkson Advertising Agency in the sum of \$ 812,000 for violations of the cease and desist order.

4.3 The Claim Contains Insufficient Information

An advertisement may be misleading not only because of what it does say, but also because of what it does not say. This lack of information is frequently cited as causing a health or safety hazard, but there is concern for consumer finances as well. Both the truth-in-lending and truth-in-packaging laws were partially based on the concept that providing the consumer with more information will enable him to make purchase decisions that promote his economic welfare.

Where an advertisement has been determined to provide insufficient information because of its failure to reveal limitations on the effectiveness of a product with some beneficial use, it may be misleading. A cease and desist order may require affirmative disclosure of these limitations to effectively prevent deception of the public. The legality of an affirmative disclosure requirement has been upheld by the courts. In a recent consent order with Medi-Hair replacement system salons, the commission included an “*affirmative disclosure*” provision which requires that the company devote at least 15% of each advertisement to the following disclosures:

1. The system [which implants hair in the scalp] involves a surgical procedure resulting in the implantation of wire sutures in the scalp to which hair is affixed;
2. There is a high probability of discomfort and pain, and a risk of infection, skin disease and scarring; and
3. The system has been in use for too short a time to determine to a reasonable medical certainty the extent of seriousness of the above side-effects.

Likewise, the manufacturer of a swimming aid device was required to disclose in its advertising that the device is not a life preserver, should not be

used by nonswimmers without proper supervision, and in all cases should be used in shallow water(Colgate-Palmolive, 1970).

4.4 The Claim May Be True but the Proof is False

In the early 1960s, a commercial prepared by Libby-Owens-Ford Company, in conjunction with General Motors, was designed to prove the superiority of Libby's plate glass over plain glass. Plate glass is, indeed, superior to plain glass in a number of attributes. However, to demonstrate this to the consumer, a scene was photographed through two automobile windows, one purported to contain plain glass and the second supposedly containing plate glass, for the plain glass presentation, vaseline was streaked over the window and the resulting view indicated obvious distortions. For the plate glass presentation, photography was conducted with the window rolled down (Colgate-Palmolive, 1970).¹¹

The commission has prohibited the advertising of products through *"presenting a test, experiment or demonstration or part thereof that is presented as actual proof of any fact or product feature that is material to inducing the sale of the product, but which does not actually prove such a fact or product feature"* (Journal of Marketing, vol.34,1970).

In a similar case, a television commercial for Colgate-Palmolive's Baggies purported to prove Baggies' superiority over competitive wraps for keeping food fresh under ordinary conditions of use. This claim may be true, but it is difficult to prove, since prevention of food spillage encompasses many factors, including temperature, air, moisture, storage, and types of food stored. In the televised demonstration, two sealed bags were dumped in water and swished vigorously for three to five seconds. During that time, the competitor's bag was forced open by the demonstrator to allow water to

enter, while no water was permitted to enter the Baggie. A consent order has restricted the use of this deceptive advertisement(Ford Motor, 1941).

Another commercial demonstration purported to give actual proof of the superiority of Black Flag Ant and Roach Killer with Baygon over competing insecticides in killing all types of roaches. However, the type of roach used in the demonstration is known to have developed a resistance to the active ingredient in the competitive product (Kalwajtya, 1956).

4.5 The Claim May Be “Literally” or “Technically” True but Creates a False implication

A number of court rulings have strengthened the commission’s position concerning the potential falsity of some literally true claims. These rulings include the following statements:

An “advertisement must be judged from its general fabric, not its single thread(National Bakers 1964.)

“A statement may be deceptive even if the constituent words be literally or technically construed so as to not constitute a misrepresentation (P. Lorillard,1950)(P. Lorillard, 1950).”

“Deception may be by innuendo rather than outright false statements” (Pfozer,1972).

Old Gold has advertised its cigarettes as containing less irritating substances and therefore as being less harmful to the throat. The claim was based on an article in Readers’ Digest which indicated that Old Gold did contain less irritating substances. However, the article expressly stated that the table of variations in which Old Gold scored lowest in tests was used specifically to demonstrate the fact that the differences in scores were insignificant. When the company contended that it merely claimed what had been truthfully stated in a magazine, Judge Parker upheld a complaint of false advertising

and stated: *“The company proceeded to advertise..... As though it had received a citation for public service instead of castigation from the Readers’ Digest(Pfozer ,1973).*

CRITERIA FOR DETERMINING UNFAIRNESS IN ADVERTISING

Most of the previously cited criteria for a finding of deception in advertising have been adopted by court decisions. Since application of the unfairness doctrine to consumer advertising is much more recent, the criteria cited here are based on current activities of the commission. In addition, they reflect the author’s opinion of the means by which the standard of fairness may be used to close apparent loopholes in the network of consumer protection.

4.6 The Unsubstantiated Claim

The claim has not been adequately substantiated:

In the opinion of the Federal Trade Commission, it is unfair and illegal to advertise an affirmative claim for a product without having a reasonable basis for making the claim. Such unfairness may exist even if the claim is true or if the product performed as advertised. According to the commission, the fundamental unfairness results from imposing on the consumer the economic risk that the product may not perform as advertised, when neither the consumer nor the manufacturer has a reasonable basis for belief in the product claim(The Firestone , 1973).

The Pfizer Company had claimed that its sunburn-relief product, “Unburn,” anesthetizes nerves and relieves pain fast. The commission charged that these claims have not been supported by prior, fully documented, and well-controlled scientific studies or tests. The company admitted it had not conducted full scientific tests but contended that in view of the medical literature, medical knowledge, and clinical experience with the principal

ingredients of the products, it had a reasonable basis for making the advertised claim.

The charges against pfizer were ultimately dismissed on the grounds that there was insufficient evidence to prove there was no reasonable basis for making the advertised claim. Under the pfizer rule, a determination of unfair advertising based on inadequate substantiation of a claim may consist of two principal steps:

1. What substantiating evidence constitutes a reasonable basis for making a product claim?
2. Did the respondent in the case produce such evidence?

A court of appeals has upheld an FTC ruling that required a company to obtain scientific proof before advertising any safety or performance characteristics of its automobile tires. The court agreed with the commission's position, "There may be some types of claims or some types of products for which the only reasonable basis [for making claims] in fairness and expectations of consumers would be a valid scientific or medical basis (Bristol-Myers Co. 1949)."

4.7 The Special Audiences Claim

The claim motivates special audiences, such as children, the Ghetto dweller, the elderly and the handicapped, to engage in conduct deleterious to themselves

One of the areas attracting the attention of various groups is the effect of advertising on children. Child psychologists, consumer groups, parents organizations, advertisers and regulatory agencies have expressed interest and concern in this area. Research is being conducted, recommendations are being made, codes are being established and at this writing, the Federal

Trade Commission is calling for a strong self-regulatory code in television advertising to children. One of the areas needing corrective action includes advertisements that encourage children to purchase soft drinks, candy and snacks without explaining how the product fits into a well-balanced nutrition program. Another is the use of advertising material that may frighten children and/or promote anxiety or that portrays children in unsafe acts (Aronberg, 1942).

Advertisements to the poor and the elderly that encourage self-diagnosis, suggest fast cures for ailments or encourage the use of drugs for minor pain also may be subject to the unfairness doctrine.

4.8 The Puffing Claim

The claims cannot be objectively disproved but offers promises unlikely to be fulfilled. Claims that are characterized as merely enthusiastic descriptions that cannot be objectively disproved are usually considered “*puffing*.” If the exaggeration can be objectively disproved, however, it is considered deceptive, claims that a toothpaste will “*beautify the smile*” have been dismissed as permissible exaggerations (Leight R Isaacs, 1942).

Permissible puffing as a defense against the unfairness doctrine most likely will be limited. Over 30 years ago the courts ruled, in defining the average consumer, that the law “*was not made for the protection of experts but for the public- the vast multitude which includes the ignorant, the unthinking and the credulous*”(J.B. Williams, 1972).” More recently, Robert Pitofsky, former chairman of the Bureau of Consumer Protection of the FTC, stated at the FTC hearings on advertising in 1971, “*What was considered puffery twenty years ago might not be puffery today. Television tends to limit the scope of that*

defense a claim that nobody in his right mind would take seriously Williams, 1972).” Examples of puffing claims that may be subject to the fairness doctrine are the subjective claim and the unconscionable claim.

4.9 The Subjective Claim

Objective claims relate to representations for which some external measurement device is available as an evaluating mechanism. Subjective claims may be considered those that are based on consumers' perceptions of the representations and are difficult to evaluate objectively.

The FTC alleged that the J.B. Williams Company improperly advertised that Vivarin will make one more exciting and attractive, improve one's personality, marriage, and sex life and solve marital and other problems (RJR Foods, 1973). One such advertisement is as follows:

“ONE DAY IT DAWNED ON ME THAT I WAS BORING MY HUSBAND TO BEATH” -- I decided I had to do something. I had seen an advertisement for a tablet called Vivarin---- I took a Vivarin tablet at 5:00 p.m. just about an hour before Jim came home --- It worked.

All of a sudden Jim was coming home to a more exciting woman, me. We talk to each other a lot more than we have in a year ---- And after dinner I was wide awake to do a little more than just look at television. And the other day - ---- it wasn't even my birthday---- Jim sent me flowers with a note. The note began, “To my new wife.”

In addition, to declaring that these claims are unlikely to be fulfilled, the complaint alleged that the advertisements do not disclose the material fact that Vivarin's primary active ingredient is caffeine, in about the same amount as the caffeine content of two average size cups of ordinary coffee. In a

consent order, the firm agreed that advertising for Vivarin, or any other drug product containing caffeine, will clearly disclose the caffeine content (expressed in terms of average size cups of ordinary coffee) with the accompanying statement that caffeine is the primary active ingredient (J. B. Williams, 1972). Claims that any one of the firm's stimulant, calming, or sleep-inducing drug products can solve or even reduce a potential user's marital, sexual or personality problems are prohibited.

In another recent complaint, the Federal Trade Commission alleged that through the use of such phrases as "*seven natural fruit juices*," Hawaiian Punch beverages were represented as consisting predominantly of natural fruit juices, the predominant ingredients are actually water and sweetening agents that are added to fruit juices. In a consent order agreement, the commission required future Hawaiian Punch advertising to state the total percentage of single strength fruit juice concentrate. "*Deception by innuendo*" may still exist, however, in the revised advertising campaign for Hawaiian Punch, which now declares that the beverage "*Contains not less than 11% fruit juice.*"

In evident concern for subjective perceptions of claims, the commission introduced an innovation in this consent order agreement. The requirement to disclose the total percentage of single strength fruit juice concentrate contained in a serving is to remain in effect until the firms submit to the commission a survey on consumer perception of Hawaiian Punch fruit juice. If the survey discloses that 67% of current purchasers of all fruit-flavored beverages, or 80% of current or prospective purchasers of Hawaiian Punch products, or 95% of current purchasers of these products, think that Hawaiian Punch products contain no more than 20% natural fruit juice, the affirmative disclosure provision will no longer be required.

4.10 The Unconscionable Claim

Unconscionable practices in law include those that contain elements of “*oppression and unfair surprise.*” The term unconscionable is applied here to the advertising claim in an effort to designate an element of unfair surprise.

In a case concerning the D.L. Blair Company’s promotion of McDonald’s \$ 500,000 sweepstakes, a majority of the commissioners dismissed the complaint that the advertising was deceptive. Applying the doctrine of unfairness, however, suggests that the claim may be unconscionable and contains elements of “*unfair surprise.*”

The commission admitted that the disparity between the amount advertised and the amount given away may be surprising to most people not familiar with this promotion. Of the 15,610 prizes valued at \$ 500,000 that were finally awarded. This disparity, according to the majority of the commissioners, was due mainly to consumer indifference and not to anything false and deceptive in the advertisement. A disclaimer in the advertisement state; “All prizes not claimed will never be given away, so hurry!”

The hearings disclosed that as a charge for all the costs of the promotional effort, which was to include advance payment for all the prizes awarded under this “\$500,000 Sweepstakes,”. Blair quoted Mc Donald’s a fee of \$25,000. Commissioners Dennison and Jones, who dissented from the decision to withdraw the complaint of deception, noted that the \$500,000 in prizes offered was obviously an attempt to attract customers for McDnald’s with the full knowledge that there was no possibiity that the represented amount would be awarded. The disclaimer in the advertisement may have been adequate as a defense against a finding of deception. However, the puffing claim, which made promises despite prior knowledge that they were

unlikely to be fulfilled, may not be defensible when measured against standards of fairness.

4.11 Deception and Social Exchange Theory

Cosmides and Tooby's Social Exchange Theory is rooted in a growing body of research that argues that human information processing is tuned to the demands that originate from social interactions (Colgate-Palmolive Co, 1970; H.H. Kelley, 1967; R.P. Worden, 1996.). Examples of these demands include the need to predict the intentions of adversaries (P. Thagard, 1992; P.Lorillard Co.1950; N.K. Humphrey, 1976), and the need to reason about permissions, obligations, and social exchanges (L. Cosmides, 1985).

Social Exchange Theory focuses on the detection of "*cheating*" in "*social exchanges*." A social exchange is broadly defined as an interaction in which one party is obligated to satisfy a requirement of some kind, usually at some cost, in order to receive a benefit from some other party. "*Cheating*" is the violation of the social contract and consists of taking the benefit without satisfying the requirement.

The structure of social exchange encourages individuals to develop knowledge that allows for detecting efficiently and effectively whether someone is "cheating" them (L. Cosmides and J. Tooby; 1992). A series of laboratory experiments (Cognition, 1989) have found that this detection knowledge can be general enough to enable efficient detection of instances of cheating that are unfamiliar, or that have not been encountered before by the detector. In general, deception is hard to detect [P. Ekman, 1992). It has been argued that the likelihood of successful detection is dependent on its frequency of occurrence: the more frequent the occurrence of a deceit, the more likely the victims are to learn how to circumvent it (R. Kraut, 1980).

Yet, successful detection has been observed even in domains where the frequency of occurrence of the detection of deception is low (Johnson,1993). To explain this success in unfamiliar or novel situations, it has been proposed that individuals apply to novel situations what they have learned about deception in the course of their daily lives (Lawrence Eflbaum Assoc, 1992). From exposure to a variety of instances of deception and its detection across domains and experiences, individuals extract a small number of schemata describing general tactics for deceiving other, as well as a corresponding set of schemata describing general ways to detect that one or more of the tactics are used by others against them. Work by Dennett (Dennett, 1987) and Johnson (1993) has proposed that potential victims solve the problem of detecting deception by identifying anomalies in the environment that has been manipulated by the deceiver, and by interpreting these anomalies in the light of the deceiver's adversarial goals the deceiver's possible actions.

The diffusion of internet transactions has opened a new forum for performing social exchanges as well as new opportunities to cheat. As the agents involved in internet transactions do not have established psychological histories, we can expect that they will attempt to fall back to what they know from previous experiences with similar transactions, and in particular the physical counterparts of these transactions. Accordingly, we expect to observe internet variation of well-known deception schemes, such as pyramid schemes, phony IPO's, scholarship scams, deceptive travel programs, false weight-loss claims, questionable business opportunities, work-at-home schemes, prizes and sweepstakes, and credit card offers.

More interestingly, however, the intrinsic nature of the internet medium seems also to enable novel forms of deception, which were previously virtually impossible to execute. Page jacking- the focus of this study- is a fraudulent scheme that does not have an obvious equivalent in traditional channels. Page0jacking consists of redirecting a browser from the target location intended by the user, to another location determined by the deceiver.

A particularly pernicious form of page-jacking occurs when the unsuspecting user is redirected to a location difficult to distinguish from the intended site. Users who believe that they are interacting with a friendly site, not the one to which they are actually connected, may behave in ways that are rather inappropriate. For instance, a user might believe that she is accessing her bank account on her bank web site, while in fact, she is revealing her user name and password to a hacker site that is posing as her bank. In addition, if after stealing the information, the site simulates a sustem glitch, reconnects the user to the true. Readers more familiar with traditional attribution theory and the work by Kelley may find similarities between the schemata describing the deception tactics and the "*causal schemata*" described by Kelley (Morristownn,1972). Kelley's schemata are abstractions from experience that we extract to interpret the environment, inclusive of othe ragents and ourselves. According to his theory, schemata are particularly useful when available information is insufficient, unclear or derived from an infrequently occurring event (McGraw Hill,. 1991), which is the case when a potential victim attempts to eplain an identified anomaly that results from the deceit.

Site, asks her to re-enter username and password, and therefore establishes a true session with the bank, there is a good chance that she will never know about the theft, page-jacking is an innovative scheme because the Internet medium makes it relatively easy and inexpensive to simulate web sites

owned by others a “mimicking” tactic (Johnson, 1993), which was virtually impossible (or at least much harder) to implement in the physical world.

According to the arguments proposed above, one might suspect that consumers will be particularly susceptible to be victimized by page-jacking. Its relative novelty implies that consumers cannot tap into previous (non-Internet) experiences with similar schemes. The lack of similar experiences means that there is little or no basis for learning how to detect it, which lead us to hypothesize that even relatively *Internet-* savvy consumers will have a high average rate of failure at detecting this specific form of deception. We also hypothesize that frauds designed to engender trust in the malicious merchant, and mask his/her opportunism by giving a sense of normality (“business as usual,” acceptable risk) are most difficult to detect. That is, Internet deception is most perilous when the deceiver has constructed an environment (website) that engenders trust and assurance in the relationship between the consumer and the deceiver. The next subsection will examine the concepts of trust and risk and describe a model of consumer behavior that relates perceived deception, risk, and trust.

4.12 Trust and Trust Building

Kramer (Kramer, 1999) defines trust as “a state of perceived vulnerability or risk that is derived from individual’s uncertainty regarding the motives, intentions and prospective actions of others on whom they depend.” Although acknowledging that trust can include affective and social components, we shall focus on the cognitive processes of trust and view trust as a choice process. Choice can depend on a calculative rationale or can be based on heuristics (e.g. “everything is in proper order”) when interpreting motives and actions of other individuals. In particular, trust in a target is

expected to be high when there is an expectation that the target behaves as expected without the presence of any monitoring or surveillance (FTC,1953).

Mayer (1995) proposed a general model of trust as a dyadic relationship between thruster and trustee. Although this model assumes that the target of trust is an individual, other researchers have argued that individuals can also hold expectations about the motives and behavior of a group or an organization (Zaheer, 1998). In this paper, we consider a situation where the trust or is a consumer who reaches a web store about which he/she has no prior knowledge; the trustee is a website that sells goods and services on the web. The consumer has neither prior knowledge about any of the store's characteristics, nor has visited the site before or has had the opportunity to observe directly the seller's behavior in terms of order confirmation, delivery, after sales support, and so forth. Rather, the consumer is making a judgment of the merchant's trustworthiness based on the situational information that he/she gathers from the web site. Zucker (1938) presented three different modes that produce trust. The first mode pertains to the characteristics of the trustier (buyer) and trustee (seller).The characteristics of the trustier (buyer) are general dispositions. That is, we assume that individuals have deep-seated tendencies with which they are born or to which they are socialized early in life and that make them either trust or not trust others. The characteristics of the trustee (seller) refer to the buyer's beliefs in the integrity, ability and benevolence of the seller. The second mode is the process mode and relates to the thruster's experience and direct interactions with the trustee. Trust increases over time as the trustier accumulates information about the seller through repeated encounters. The third mode is called the institutional mode and relates to established guidelines, either legislative or unwritten and the expectation that if the trust

is violated, penalties are forthcoming. McKnight (1998) developed a model of initial trust formation and emphasized that in new relationships there is no interaction with which to support the process mode. In first-time encounters, trust is largely based on the characteristics of the trustier, assumptions made about the traits of the trustee, and the institutional factors.

4.13 Perceived Risk and Uncertainty

Risk refers to a consumer's perceptions of uncertainty and adverse consequences of engaging in an activity (Dowling, 1994; Mramer, 1999). When risk is present, trust is needed before a buyer is willing to transact with a seller. The greater the negative consequences that a buyer faces from the seller's failure to act trustworthily (i.e., the higher the risk), the higher the need for trust. Conversely, if there is nothing to risk, there is no possibility for exploitation, and consequently there is no need for trust. Fisk presents a "*test of trust*" (Das Gupta, 1988).

Perceptions of risk have been found to be higher when consumers purchase products through direct rather than in-store channels (Peterson, 1989). This is because the consumers lose the ability to engage in direct observation of the seller behavior. More generally, the specific characteristics of the internet arguably increase both perceived and substantive risk via a variety of mechanisms: for instance, the Internet reduces and in many cases eliminates face-to-face interactions between sellers and consumers; lowers the market costs of new entrants, possibly increasing the number of fly-by-night operations and making it harder to separate legitimate businesses from con men. In addition, the internet allows firms from different legal and regulatory environments to present their offerings without a strong international legal and consumer protection system.

The possibility that a seller withholds information about the quality of a product or service, or about the performance of a company, is a source of risk for potential buyers. Yamagishi (1998) refer this situation as “*social uncertainty*.” Social uncertainty exists when 1) the seller has an incentive to act in a way that imposes costs (or harm) on the consumer; and 2) the buyer does not have enough information to predict if the seller will in fact act in such a way. Uncertainty increases when the buyer cannot observe the quality of the product or the performance and is therefore dependent on information that is provided by the seller.

These conditions characterize many service and product transactions on the Internet and can lead to the classic lemon problem. Buyers cannot tell the real quality of the merchandise displayed on a website. Furthermore, the seller has an incentive to act dishonestly because the buyers’ knowledge. Of the possibility of getting a lemon depresses their price offerings, hence reducing the incentive for the seller to sell quality merchandise and providing an incentive to sell lower quality merchandise (e.g. the lemons).

Figure:01

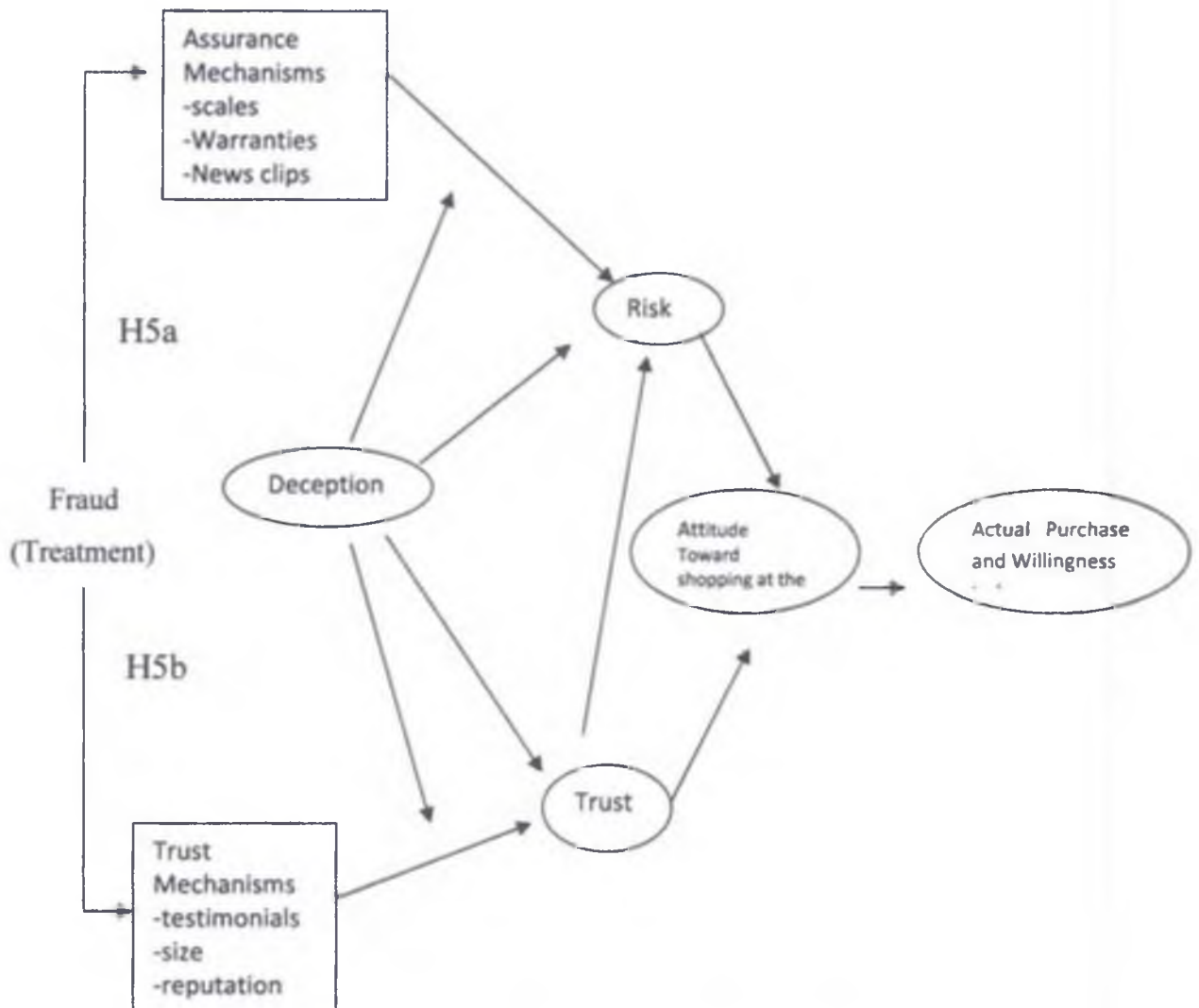


Figure: Social Exchange Theory [Source: Internet]

In situations where the sellers have incentives to act dishonestly, the less information the buyer has about the seller's real intentions, the higher the need for the buyer to trust the seller. Kollock (1994) examined trust in exchange relationships with varying levels of uncertainty. He found that people in the "high uncertainty" condition rated their trading partners' trustworthiness higher on average than did people in the low uncertainty

conditions (“certain” condition). Moreover, people in the high uncertainty condition rated their best trading partner exceptionally high on trust, much higher than those in the certainty condition. Overall, it was found that high social uncertainty is conducive of exchange relations only with the most trusted parties.

4.14 Consequences of Trust

The importance of trust in exchange relationships has long been noted by marketing researchers (Williams, 1973). In consumer product channels of distribution, trust has been found to impact attitudes, purchase intentions, and purchase behavior (Ganesan,1994)). One of the most valuable consequences of trust is the spontaneity in forming new exchange relationships (Kramer, 1999). Trust “plays the role of a booster rocket that helps one to take off the secure ground of committed relationships” (Yamagishi,& Hamagishi, 1994). Trust is the social lubricant that facilitates the meeting of consumers and unfamiliar firms on the internet.

Web stores that engender trust not only can improve the consumers’ attitude toward shopping at the store, they can also moderate the relationship between risk and attitudinal orientation of the consumer toward the website. That is, the effect of risk on attitudes toward a seller is mitigated because trust generates confidence that a consumer can deal with the seller successfully regardless of the potential negative consequences (Das & Teng, 1998). This happens because trust creates confidence in the buyer and this confidence might allow a consumer favorably consider a high-risk purchase situation. When trust is high, risk considerations have less of an impact on the formation of attitudes about the site. Positive attitudes are expected to promote both purchase behavior and reported willingness to shop.

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Chapter -05

IDENTIFYING MISLEADING ADVERTISING

Determining whether an ad is misleading continues to prove difficult and controversial. Naturally, advertisers and consumer advocates rarely agree on whether a particular ad is misleading. More disappointing, however, is the failure of researchers to agree on a broadly applicable definition of misleadingness or a procedure for identifying it (Gardner 1975; Jacoby and Small 1975; Preston 1976). The problem is further complicated by the conflict between the behavioral paradigm of researchers and the jurisprudential view of regulatory organizations.

In this paper, we propose and test a procedure for identifying misleading advertising. Contrary to custom, the procedural problem is confronted first, and a definition of misleadingness follows. The procedure is empirically based, as it relies on the measurement of consumer beliefs.

5.1 Presumptions

We make certain presumptions when we speak of misleading advertising. First and most important is the discrepancy between the claims of an ad and the facts of actual product performance. If such a discrepancy does not exist, no one can be misled. The second presumption is that consumers cannot by themselves correct all claim-fact discrepancies. Individual consumers cannot correct some claims because verification is technically impossible or prohibitively expensive. For example, how can the ordinary consumer determine whether Volvos are built better than Fords? Manufacturers themselves are generally unable or unwilling to provide consumers with substantiation for such claims (Corey and Patti, 1979). The final presumption is

that not all claim-fact discrepancies can be corrected by natural market mechanisms (Eighmey 1978). In some cases the market is self-correcting, as when a false claim is corrected by a competitor's advertising. And, of course, economic self-interest dictates the correction of any false impressions of one's own products that reduce sales. In spite of some self-correction, however, there are many instances where natural market mechanisms are inadequate. Clearly, claim-fact discrepancies do exist at market equilibrium, and misleading advertising does increase sales.

These presumptions impose two requirements on any solution to the problem of misleading advertising. There must be some extramarket, institutionalized system for detecting misleading advertising. Such a regulatory system may be public, private, or mixed (as currently have in the United States). Second, whatever combination of public or private institutions regulates advertising, there should be some equitable, standard procedure to determine whether an ad is misleading. The focus of this paper is on such a procedure.

5.2 Three Approaches to Unjust Advertising

One may best understand our procedure in the context of three alternative views of unjust advertising: fraud, falsity, and misleadingness.² These views parallel the three components of an advertising communication: the advertiser, the message itself, and the resultant consumer beliefs about the advertised product.

Fraud

Fraud focuses on the advertiser and assumes a deliberate intent to create false beliefs about the product. We believe that fraud is neither a valid nor practical approach. It is invalid because the advertiser's intent may be irrelevant to the harm done to consumers. It is impractical because the

requirement of proof of intent makes it difficult to take action against the ad, and thereby stop the harm it is doing to consumers.

For both reasons, fraud plays a declining role in current regulatory practice. The Federal Trade Commission has not been required to prove intent for over 30 years.

Similarly, the main industry regulator, the National Advertising Division (NAD) of the Better Business Bureau, does not need to prove fraud in order to find that an ad should be withdrawn (Ashmen, Hasenjaeger, Hunt, Katzmiracle, Preston, and Schultz 1979). Unfortunately, current statutes still require proof of fraud in some situations, such as the U.S. Postal Service's regulation of advertising through the mails.

Falsity

Falsity in advertising refers to the existence of a claimfact discrepancy. examples include price and availability claims, as when a vendor advertises a product at a reduced price, "Literal truthfulness" requires both that the item be sold at the advertised price and also that a reasonable number of such items be available for sale.

In order to demonstrate falsity in advertising, one must verify the existence of a discrepancy for prices, this is a simple task, accomplished with numerical certainty. For availability, however, it becomes more complicated. What is the minimum number of advertised items a vendor must have available for purchase? To answer such questions, numerical certainty must give way to subjective judgment. The most common approach is the use of expert testimony;but, of course, experts do not always agree. Especially if the issue is important, experts can usually be found to support each opposing viewpoint.

Standardization of Meaning. The usefulness of the falsity approach is greatly enhanced if a regulatory institution has the power to standardize the meaning of critical words. How else can one resolve the falsity of a claim like “nutritious”? there is some nutritional value in even the worst junk food, and experts do not agree on what constitutes a “nutritious” food. Standardization of meaning removes the ambiguity and potential misleadingness of such terms.

Standardization has become a widely used regulatory strategy. Many trade associations regulate the use of product descriptions, and governmental agencies standardize product labels. For example, the Department of Agriculture sets standards for grades of fruits, and even determines whether a product name, like peanut butter, can be used at all. As “unconscionable lies” have disappeared from advertising, the role of standardization of meaning has become increasingly important in demonstrating the falsity of and advertised claim.⁴

Insufficiency of Falsity, inspite of the efficacy of a emonstration of falsity, it is beither sufficient nor necessary to prove that an ad is misleading. What matters is what consumers believe, a false claim does not harm consumers unless it is believe, and a true claim can cause great harm if it generates a false belief.

Some false claims are clearly harmless. Fanciful cartoon characters, though literally false, can enhance the belief of a valid claim. Similarly, true claims can create false, harmful beliefs. Consider the following (hypothetical) audio commercial: “Aren’t you tired of the sniffies and runny noses all winter? Tired of always feeling less than your best? Get through a whole winter without colds. Take Eradicold pills as directed” (Harris 1977; Harris and Monaco 1978). The ad claims that Eradicold pills will prevent winter colds is not

linguistically asserted, yet it is clearly implied. Preston (1975) describes a television ad for toy racing cars that the FTC found to be deceptive. Through clever close-up photography, the impression was created that the cars were traveling faster than they actually could.

In short, we believe that falsity is the wrong criterion. What is claimed and what is believed can be quite different, and it is what is believed that harms consumers.

Misleadingness

The third view, misleadingness, focuses exclusively on consumer beliefs. A demonstration of misleadingness requires the observation of false consumer beliefs in conjunction with exposure to the ad. Whereas falsity refers to a claim-fact discrepancy, misleadingness refers to belief-fact discrepancy. During the last two decades, the FTC altered its approach to unjust advertising, so that the focus gradually shifted from the message itself to the resulting beliefs of consumers. In keeping with this change in focus, the percentage of FTC advertising cases using behavioral evidence has increased from four percent prior to 1954 to 54 percent in the early 1970s (Brandt and Preston, 1977). A thorough legal analysis of the various definitions of unjust advertising, including the need to rely on consumers beliefs or “expectations,” is presented by Beales, Craswell, and Salop (1981).

5.3 Rational Of The Procedure

The proposed procedure for identifying misleading advertising requires the assessment of consumer beliefs about a false claims. This means that consumer beliefs must be measured and then classified as correct or incorrect. The incorrect beliefs must be further partitioned into those that can harm consumers to the benefit of advertisers, and those that cannot harm consumers. Thus, the category of incorrect beliefs is divided into misleadingly false and correctably false. This coding scheme is most easily explained with an example.

5.4 Misleadingly False Versus Correctably False Beliefs

Suppose a banana ad that claims “*there’s only 85 calories (in a banana]*”. This claim is false because an average banana contains 101 calories. There are two types of incorrect beliefs: an average banana contains fewer than 100 calories (100 is considered correct as a rounded encoding of 101), or it contains more than 101 calories. Although both inaccuracies are potentially harmful to the consumer, only the former serves the advertiser’s goal of selling more of the product (except for those very few consumers seeking more calories). Any belief that calories exceed 101 can be presumed to be correctable by natural market mechanisms. That is, the advertiser has the incentive of increased sales to correct the impression that there are more than 101 calories in a banana. We call such beliefs correctably false. However, if consumers believe that calories number below 100, the advertiser benefits at the expense of the consumer. These misleadingly false beliefs are the ones that require extramarketplace regulation. Therefore, the proposed procedure for detecting misleading advertising focuses only on these beliefs. As the proposed procedure is best introduced through example, we describe the experiment that was performed.

5.5 Experimental Evidence

Ten magazine ads were selected for testing. All had a verifiable claim-fact discrepancy, and were independently correctable. The latter phrase means that the ad can be altered to remove all of the misleadingness and none of the legitimate persuasiveness. The original and corrected versions, combined with a no-ad (control) treatment formed the three treatment conditions of the experiment.

One hundred consumers were recruited from city and suburban social organizations. They were instructed to read and evaluate the entire advertising message. They then answered questions designed to assess belief in the misleading claim and in an important legitimate claim. Responses to these questions form the evidence on which misleadingness is to be identified.

Two potentially confounding effects were evaluated and found to be absent. Beliefs were unaffected by the ads' construction, which was below professional quality. Different interest levels in purchasing a product did not affect the likelihood of a misleading belief.

5.6 Consumer Subjects

One hundred members of PTA, church and women's organizations were recruited as experimental subjects. All organizations were from Chicago area suburbs or city neighborhoods with middle rankings (median 110 out of 200) on the recent reports of socioeconomic status of Chicago area communities. Citing her husband's job in advertising, one person declined to participate, leaving a sample of 99. Subjects earned a flat rate of \$4.00 for their participation, as well as a 10-cent bonus for correctly answering each of ten

selected questions. Payment was credited to the subjects organizations; no payments were made directly to individuals.

Based on self-reported socio demographic data, the average participant was female, age 39, with slightly more than two years of college completed, and an annual household income of \$25,000. (The 1978 estimated average Chicago household income after taxes was \$21,679). Consumers who are above average in income and education were probably over represented in our sample. Thus, the reported results may not generalize across the entire United States population. However, as subjects were partitioned into four groups as demographically balanced as possible, within the time schedule and location constraints of field testing, any atypicality was evenly balanced across treatment groups.

At the end of the experimental session, participants were asked whether they had trouble reading any of the 12 ads. As the ads contained large amounts of text, it is not surprising that 51 percent reported some trouble with at least one. The 17 subjects who reported some difficulty with four or more ads were dropped from the study. This left a total of 82 subjects distributed in groups of 19, 17, 26, and 20. We tested for differences in subject characteristics across these four groups and found none. An analysis of variance revealed no significant ($p < 0.05$) differences for any of the measured socio demographic characteristics: income, education, age, occupation and number of ounger (under six years) and older (six to 17 years) children living at home.

5.6 Task

Participating consmers were shown a series of ads. Their task was to read and comprehend the entire advertising message, and to evaluate the product. To assure that the entire message was perceived and understood, subjects

were asked a simple factual question immediately after seeing each ad, and were paid a ten cent bonus for each correct answer. To simulate realistic viewing, subjects were also asked if the ad made it more or less likely that they would purchase the product or, if the product was one of which they had no use, recommend purchase to a friend. After all ads had been shown, a second group of questions was presented. One question was designed to assess misleadingness and the other to measure the effectiveness of some legitimate claim. In general, the subject's task was to process each ad completely in preparation for factual, evaluative and substantive questions.

4.7 Advertisement Tested

Mainly the research work was done based on the secondary data. The researcher did not find sufficient secondary report or experimental tools or techniques/ procedure regarding Bangladeshi aspect, he had mainly to depend on secondary data collected from foreign journals through online. The following ad claim were chosen to satisfy several criteria. First, there had been a verifiable claim-fact discrepancy. Because we had no special testing facilities to verify product claims, we had to rely on publicly available criteria or our own judgment. The public criteria were decisions of the NAD and a proposed FTC Trade Regulation Rule on the use of nutritional claims in food advertising (*Federal Trade Commission 1974*).

The second selection criterion was correctability. An ad is correctable if the misleading claim can be removed without reducing its legitimate power to persuade. For example, the banana ad that falsely claims 85 calories for what people presume to be a banana of medium size can be corrected by substituting the true caloric value, 101 calories, for the false one. This does

not change the central legitimate claim that a banana and a glass of milk is a superior "60-second breakfast".

The introduction of corrected versions of each tested ad restricted us to print sources. He did not have the facilities to duplicate and modify broadcast ads. Thus, the ten ads selected for testing were taken from popular magazines, including 1975-1978 issues of Better Homes and Gardens, Good Housekeeping, Newsweek, and Redbook.

The ads were also chosen to represent a wide variety of products. They included the following product categories: acne treatments (Mudd), automobiles (Chevrolet Nova), bananas (Dole), breakfast cereals (Cherios and Kellogg's), breakfast drinks (Tang), cigarettes (Carlton), margarine (Diet Imperial and Fleischmann's), and snack foods (Granola Bars). Summaries of five of these ten ads are presented in Exhibit 1.

He prepared corrected versions of the ads by removing the misleading part of the message and substituting a revised portion. Some revisions were typed, so the appearance of the ad clearly showed that it had been altered. So that this "cut-and-paste" appearance did not differentially affect the corrected versions, cosmetic alterations were also made on the original versions. Thus, both sets of ads appeared equally altered.

To test whether this cosmetic alteration affected consumers' comprehension of an ad's message, four untouched original versions were shown. These imprinted originals were exact copies of the ads that appeared in the magazine. Note that there was no difference in content (pictures and text) between the untouched and altered versions. The latter merely substituted identical typewritten segments for what had been typeset in the untouched originals.⁵ For both versions of each ad, he computed the proportion of consumers holding misleadingly incorrect beliefs. These proportions showed

no significant differences ($p < 0.05$), either in aggregate or for the four ads tested individually.

After all ads had been prepared, they were photographed and printed as 2-inch \times 2-inch slides. Subjects viewed these slides at a convenient viewing distance.

5.8 Experimental Design

The experimental design contained three homogeneous and one mixed-treatment condition. Each of these conditions contained one version of all ten experimental ads. The first treatment condition contained the ten (cosmetically altered) original ads. The second contained the corrected ads. The third group contained no ads, which is to say that the same questions were asked of subjects, but without exposure to any version of the ad. A fourth treatment was mixed. It included the four untouched originals and variations of the six other ads.

The four subject groups should not be confused with the four treatment groups. To counterbalance any subject differences, each subject group saw two or three ads from each treatment condition in an approximation of a Latin square design. That is, each subject group saw seven or eight of the ten ads once, but not in the same treatment condition. For example, a subject in the first group saw the original Tang ad, the corrected Chevy Nova ad, no version (the control treatment) of the Fleischmann's ad, and the unaltered Carlton ad. The results depend only on the differences across treatment conditions, not subject groups. It should be remembered that within the same treatment condition different ads were seen by different subjects. This will explain the differences in sample sizes within the same treatment condition.

5.9 Procedure

Consumer subjects were participated in small groups (range of group size, four to 11) in a subject's home. After two practice ads and samples of the questions, subjects saw seven or eight of the ten experimental ads. (Recall that two or three ads occurred in the no-ad treatment.) In addition, two or three distractor ads were shown. The (cosmetically modified) distractors were included to reduce any suspicion that the ads were selected to be misleading. The exposure time

EXHIBIT 2

**MISLEADINGLY FALSE, LEGITIMATE, AND CORRECTED CCLAIMS FOR
 SELECTED ADVERTISEMENTS**

Advertised product and type of claim	Content of claim
<p>Dole bananas Misleadingly false</p> <p>Legitimate</p> <p>Corrected</p>	<p>“amd there’s (sic) only about 85 calories (in a banana).” This number is true only for small bananas. A typical medium-sized banana contains 101 calories.</p> <p>The central theme of the ad is that a banana and a glass of milk are relatively healthful as a very fast breakfast. The headline reads “the 60-second breakfast from Dole.”</p> <p>The corrected ad subsitiSSSSStuted 101 for 85 in the calorie claim.</p>
<p>Chevy Nova automobile Misleadingly false</p> <p>Legitimate</p> <p>Corrected</p>	<p>The bottom of the ad prominently displays a picture of a Chevroiet Nova with a price. The car is shown with white striped tires, wheel covers, and body side molding. The price shown, \$44; wheel covers \$39; body side molding \$42). These latter values are given in the text of the ad.</p> <p>The ad’s theme is that a Chevy Nova is inexpensive, yet rugged enough to be a police car.</p> <p>The boldly printed price at the bottom of the ad is changed from \$3,823 to \$3,948.</p>
<p>Nature Valley Granola bars Misleadingly false</p> <p>Legitimate</p> <p>Corrected</p>	<p>“Nature Valley Granola bars [are] crunchy, wholesome, delicious.” According to a proposed Trade Regulation Rule of the FTC the word “wholesome” may connote “nutritious” and cannot be used unless the product satisfies a munimum standard of nutrition (defined in terms of the percent U.S RDA of the eight nutrients listed on the food label). Granole bars fall far short of the minimum standard.</p> <p>The theme of the ad is that Granola bars are a “100 percent natural” snack.They contain “no additives [and] no preservatives.” The headline is “Go Natural.”</p> <p>The word “wholesome” was removed, eliminating the nutrition claiml. This was judged to be an advertiser’s likely response. The only alternative permitted by the FTC’s proposed rule is the inclusion of a very unflattering table of percent of U.S. RDA.</p>

Carlton cigarettes Misleadingly false	The ad includes a list of alternative “low tar” brands and their mg. of tar per cigarette. This list is shown in the left panel of Exhibit 2. The alternative brands listed are not those lowest in tar. The misleading implied claim is that no other “low tar” brands are nearly as low as Carlton; specifically, that even if one smokes the second lowest brand, one must inhale five times the tar of Cariton.
Legitimate	The ad truthfully claims that Carlton has less than all other brands. This claim is stated in the headline, “Carlton is lowest.”
Corrected	The misleading panel is changed to contain the six brands lowest in mg. of tar, in order and without omissions, as shown on the right of Echibit 2.
Diet imperial margarine Misleadingly false	The ad states no restriction on the use of Diet imperial, implying that it can be substituted for regular margarine in any situation. This implied claim is true when margarine is used as a spread, a use pictured in the ad; but it is not true when margarine is used in cooking. As Diet imperial achieves its caloric reduction by diluting regular margarine with water, there is 50 percent less oil per tablespoon.
Legitimate	The central claim is that Diet imperial has 50 instead of 100 calories per tablespoon. The headline reads, “Try delicious, new Diet imperial. Still only half the calories of butter or margarine.”
Corrected	A disclaimer is added, “Do not use in baking.”

Note: A complete desconption of all ten ads can be found in Russo, Metcalf, and Stephens (1979).

“Numbers in parentheses are sample sizes. $P < 0.05$. Proportion of misleadingly incorrect beliefs is 0.92 for the original group and 0.44 for the control group. This difference is both large and statistically significant ($p < 0.05$). He concluded that viewing the ad caused an increase in the level of false belief, and he find it incrementally misleading.

The causal assertion of misleadingness can be strengthened by examining those answers that are “ exactly misleading,” in this case the 85 calories stated in the ad. If the ad is changing consumers’ beliefs about caloric content, then more consumers in the original treatment than in the no-ad (control) treatment should answer exactly 85 calories. The proportions are

0.50 (13 of 26) for the original group and 0.03 (1 of 36) for the control group, again a significant difference.

This criterion formisleadingness was applied to all ten ads. That is, he tested for a higher level of misleadingly false beliefs in the original treatment than in the no-ad (control) treatment. Table-2 reports the two proportions and the results of a chi-square test for their equality. Significant misleadingness was found in only two cases, the Dole banana and Chevy Nova ads.

What about the other eight supposedly misleading ads? Are they really not misleading at all, or only not incrementally misleading? There is at least one other form of misleadingness that Criterion 2 overlooks, exploitive misleadingness. The criterion of increased false belief after exposure to an ad is sufficient evidence of misleadingness, but it is not necessary. Specifically, it failed to detect non-incremental forms of misleadingness.

Exploitive Misleadingness

All advertisers feel that changing people's beliefs is a vey difficult task. It takes many exposures, usually to different ads, for a campaign to change beliefs. It is much easier to link a product to existing beliefs. Cranola Bars are believed to be nutritious because Granola cereal has that image. Trying to raise the existing belief, reinforcing and utilizing it to sell the product. He call this exploitive misleadingness. The advertiser does not misled by increasing false beliefs, but by exploiting those that already exist.

If this type of misleading advetising exits, how can it be detected? Obviously, the previous procedure will fail. By the very nature of exploitive misleadingness there is no increase in the level of false belief. At least two approaches are possible. The first is to show an increase in something other than the misleadingly false belief. The confidence in the belief and the importance of the belief to an overall product evaluation are secondary

beliefs that may be increased by exposure to the ad. For example, Armstrong, Gurol, and Russ (1978) found that a Listerine mouthwash ad increased only the importance of a false belief. This approach retains from Criterion 2 the concept of an increase as a causal demonstration of the effect of the ad. However, it changes the focal observation from primary to secondary beliefs. The development of this approach is an important goal of future research.

Alternatively, one can continue to focus directly on the misleadingly false belief and search for a more sensitive comparison than the no-ad (control) treatment. The second approach, a more sensitive comparison, forms the basis of Criterion.

Less Misleadingly False Beliefs for Corrected than for Original Advertisements

We believe that a properly corrected ad provides the desired comparison. For each of the ten original ads a corrected version was designed to remove the original claimfact discrepancy, and to affect no other aspects of the ads. For example, in the Granola Bar ad the word “wholesome” was eliminated. In the Carlton ad, the table of Mg. of tar for selected brands was replaced by one containing the lowest brands, as shown in Exhibit 2.

TABLE-2

PROPORTION OF MISLEADINGLY INCORRECT ANSWERS AFTER VIEWING ORIGINAL AD

Advertisement seen		
Product	Original	None (Control)
Carlton	.92(25)*	.94(18)
Cheerios	.68(19)	.60(20)
Chevy Nova	.65(20)	.00(17)
Diet imperial	1.00(20)	.85(26)
Dole	.92(26)	.44(36)
Fleischmann's	.94(17)	.88(26)
Granola Bar	.82(17)	.87(15)
Kellogg's	.88(17)	.60(20)
Mudd	.82(17)	.61(46)
Tang	.40(20)	.39(18)
Mean	.80	.62)

* Number in parentheses are sample sizes. $bp < 0.05$.

If a significantly lower of misleadingly false belief is produced by the corrected ad, we conclude that the product attribute involved in the false claim is perceived by consumers and exploited by the advertiser. For example, 92 percent of consumers exposed to the original Carlton ad believed that the brand second lowest in tar contained more than 1 mg. by comparison, only 40 percent of consumers who saw the corrected version held this false belief.. the corresponding mean estimate of mg. of tar dropped from 4.5 to 1.9.Using a corrected version to provide the standard of comparison conforms to a common scientific principle.

Unfortunately, the chi-square test is two-tailed, whereas our hypothesis is one-tailed. However, all nonsignificant p values exceeded 0.10. In one case (the Kellogg advertisement), all sample size requirements for a chi-square test were not met, and a Fisher's Exact test was used ($p=0.07$).

Another study conducted on "Regulation of Retail Newspaper Advertising" initiated by an investigation in April 1972 of 432 display advertisements by retailers in the major metropolitan area in Delaware, with a population of more than one-half million. The paper chosen held a dominant position as a vehicle for retail advertising in the market.

The "Retail Advertising Copy Standards" of the Better Business Bureau of Delaware (issued November 1, 1966) furnished the criteria for determining whether or not an advertisement was false, misleading, or deceptive. In the initial screening, 174 of the 432 ads were classified as "not questionable"; a typical advertisement in this category was an announcement by a florist of his place of business. Of the remaining 258 ads, 26 could not be investigated without purchasing the product or service, such as an ad by a firm offering to waterproof basements. In all, 232 ads, 94% of which used a price appeal of some sort, were investigated. To check compliance with BBB copy standards, MBA students visited the store either on the day the ad was run or on the following day.¹

Twenty-six advertisements, approximately 1 out of every 9 investigated and 1 out of every 17 ads in the study, were found to be clearly in violation of one or more of the bureau's copy standards. These 26 ads were run by 21 different merchants, with retailers of appliances, home electronic equipment, carpet, and furniture accounting for 12 of the 21.

A total of 49 violations of the standards were found in the 26 ads, with the number of violations per ad ranging from 1 to 5. The violations fell into fourteen different categories; the ordering in Table 1 is based on BBB copy standards.

In summary, the initial investigation indicated that a typical issue of the newspaper contained 72 display advertisements by local retailers and that on

an average, 4 of the ads were false, misleading, or deceptive according to the Better Business Bureau standards. The next question considered was how such advertising was regulated.

1. For greater detail on the research procedure, see James R. Krum, "Truth in Retail Newspaper Advertising," Bureau of Economic and Business Research, University of Delaware, 1973.

Table 1

**VIOLATIONS OF BETTER BUSINESS BUREAU
 COPY STANDARDS**

Type of Violation	No.
Accuracy of descriptions	4
Accuracy of illustrations	5
Layout	3
Competitive claim	4
Use of "save" or "savings"	
Comparative price statements:	4
Based on reduction from advertiser's	
Own price	10
Based on price of identical	
merchandise	3
Use of following terms:	
"clearance sale." "inventory reduction"	1
"sale"	4
"special purchase," "manufacturer's	
closeout"	1
Time limit on sales	4
"Imperfects," "irregulars," "seconds"	2
"Bait" advertising	3
Distress and special sales	1
Total	49

The "Advertising Acceptability Standards" of the paper's publisher expresses the newspaper's general attitude toward deceptive advertising practices. The tone of these standards is captured in this quotation:

In the interest of the reader who is the mutual customer of the [publisher] and the advertiser, these newspapers make every effort to exclude misleading, inaccurate, unethical, and fraudulent advertisements.[Emphasis added.]

According to a recent survey by the American Newspaper Publishers Association (ANPA), the existence of these standards places this publisher in a select group, since "fewer than one-third of the nation's newspapers actually have written advertising standards (Elliott,1974)

James R. Krum is associate professor of business administration and Stephen K. Keiser is assistant professor of business administration in the College of Business and Economics, University of Delaware. Role. This approach is consistent with a statement by Donald McVey, vice-president of ANPA. "The advertiser is responsible for what he advertises. The newspapers try to see that an ad is legitimate, but beyond that, what can they do?" The newspaper's attitude as a sponsor of the Deceptive Consumer Fraud Law, which specifically exempts media from responsibility for advertising when the publisher has no knowledge of the design, purpose, or intent of the advertiser.

This background helps explain the apparent lack of initiative by the newspaper when confronted with a charge that certain advertisements were found to be in violation of BBB copy standards. Three copies of a report of the 1972 study containing reproductions of violating advertisements were submitted to the paper's director of advertising in May 1973. In response to a February 1975 letter, the director discussed the role of the newspaper in working with the Better Business Bureau and other groups to improve self-

surveillance by the advertising community, but he ignored the question as to whether specific changes in advertising had resulted from the report of the 1972 study. complaint. The remaining eight firms, seven of which were BBB members had not responded to the BBB complaint or had not followed through with promised action. Thus, these firms had failed to comply with the following statement from the BBB copy standards:

Advertisers should not only see that copy is prepared in accordance with the Standards but should be prepared to provide acceptable substantiation for any claims or offers made in advertising. The bureau took no further action against these firms-other than the standard inclusion of the complaint in bureau files.

Government Regulation

Having probed the effectiveness of self-regulation, the next step in the study was to make specific documented complaints to state and federal agencies. It was decided to limit complaints to two retailers whose ads turned up in the 1972 study: (1) a local chain of discount drug stores whose advertising represented the most common violation found in the 1972 study- a comparative price statement based on an apparent reduction from the advertiser's own price; and (2) a Pennsylvania-based chain of home appliance and electronics stores with four outlets in the Delaware area under study. The appliance chain accounted for 3 of the 26 violations in the 1972 study. Documented complaints were filed against each retailer in June 1974 with: (1) the Delaware Division of Consumer Affairs, for violation of Subchapter II (Consumer Fraud) and Subchapter III (Deceptive Trade Practices) of Title 6 (Commerce and Trade) of the Delaware Code; and (2) the Federal Trade Commission, for violation of its "Guides Against Deceptive Pricing" (effective January 8, 1964).

Before looking at the specific complaints and the governmental response to them, we will digress briefly to compare Delaware with other states. The Delaware Division of Consumer Affairs was organized in 1971 as part of the Department of Community Affairs and Economic Development. Among its duties is enforcement of the 1965 consumer fraud and deceptive trade practices laws. Delaware is typical of 47 other states with laws designed to extend consumer protection to intrastate commerce; these laws are similar to the FTC Act. A large majority of states have assigned administration of consumer protection directly to the attorney general's office. The Delaware agency, however, has no organizational ties to the office of the attorney general and simply uses this office as its representative in legal proceedings.

In its brief history, the Division of Consumer Affairs has based its priorities largely on significant areas of consumer interest as indicated by the number of complaints reported here served as a catalyst in focusing the attention of the division on advertising by established retailers, an area that had been largely ignored previously.

Discount Drug Chain

The discount drug chain had switched its advertising to a weekly publication in a nearby city, where sale ads appeared in each edition. The typical advertisement in both 1972 and 1974 included sale prices and comparative "regular" prices for numerous items. Since the advertised "regular" price was not the usual price of the item prior to the sale, the actual savings were less than the comparison advertising implied, a clear case of deception.

To prove the charge that the "regular" price was fictitious it was necessary to determine prices normally charged by the discount drug chain when items were not on sale. The federal price freeze that was in effect during June 1973 provided the opportunity to determine actual selling prices on advertised

items by consulting the published list of ceiling prices. Thus, the complaints to the FTC and the state Division of Consumer Affairs were based on the price comparisons listed in Table 2.

For 48 items studied, the advertised “sale” prices were 46% lower than advertised “regular” prices but only 29% lower than ceiling prices.

Identical complaints were sent to the FTC and the state agency. The FTC responded that it lacked jurisdiction because all stores of this retail drug chain were within the state of Delaware. The FTC, therefore, referred the complaint to the Delaware Division of Consumer Affairs, thus recording it twice at that agency. The division handled this complaint expeditiously. Within a month, the authors received a letter indicating that the owner had agreed to “clarify his advertisements by substituting ‘manufacturer’s suggested retail price for the denotation regular. the advertiser subsequently made the change and the case was closed. It should be noted that the advisability of this substitution is questioned in both the FTC “Guides Against Deceptive Pricing” and the 1973 edition of the BBB “Code of Advertising.” Both documents discourage the use of manufacturer’s list prices because they tend to mislead consumers.

TABLE-2

PRICE COMPARISONS FOR THE FORMAL COMPLAINTS AGAINST THE DISCOUNT DRUG CHAIN

Product	Price		
	Ceiling	Regular ^a	Sale ^a
Binaca Mouthwash, 15 oz	\$1.17	\$1.50	\$.89
Scope Mouthwash, 24 oz.	1.43	2.05	.99
Coppertone Suntan Lotion, 5 oz.	1.89	2.39	1.59
Johnaon's Baby Oil, 10 oz.	1.19	1.39	.79
Bromo Seltzer, 9 oz.	1.77	2.29	1.19
White Rain Hair Spray, 13 oz.	1.09	1.49	.79
Off Insect Repellent, 5 oz.	.97	1.19	.77
Micrin mounthwash, 18 oz	1.17	1.59	.69
Body All Deodorant, 8 oz.	1.57	1.9	.99

^a As advertised June 14,21, or 28, 2000.

TABLE 3

PRICES OF THE ADVERTISED TELEVISION SET CITED IN THE
 FORMAL COMPLAINTS AGAINST THE APPLIANCE CHAIN

Date(2000)	Price	Type of Sale (Headline)
May 23	\$229	Stock Reduction Sale, Thurs, & Fri. 10-9:30
May 25	229.88 ^a	Memorial Day Sale , Sat. 10-9:30, Sun. 11-5
June 1	229.88	June Jubilee, Sat. 10-9:30 Sun. 11-5
June 5	228. ^b	6-Hour Spectacular, Wed, only, 3-9 p.m.
June 8	229.88	Super Saturday, Sat. 10-9:30, Sun.11-5
June 19	236 ^c	Dollar Day, Wed, only 10-9:30
June 27	237.	Portable TV, two big days to save
July 3	229.88 ^c	6 Hours only, July 4 th , 10-4

Special designations:

^a Sale price

^b Color TV specials

^c Dollar day price

^d 6-hour sale

Appliance Chain

The misuse of the term sale precipitated the complaint against the Pennsylvania-based appliance chain that advertised in the publisher's papers twice a week on the average. The specific complaint to the federal and state agencies was against the practice of continually advertising the same item as a sale item. One model of a portable color television set illustrates this practice. While its ceiling price was \$259.88 the set was advertised during a six-week period in 2000 at the prices indicated in Table 3.

Deception occurs because the typical consumer tends to look at an advertisement on the day he is considering buying a color television set. Thus, he is likely to believe that there is a significant saying to be made by buying during the "sale". In reality, the set frequently sells at the advertised price or an even lower one. The Bureau of Consumer Protection of the FTC agreed with this interpretation and stated that the retailer would be notified that its price advertising violated the 1964 FTC "Guides Against Deceptive Pricing" and would be required to comply with them (Angelone 1974)

Follow-up investigation showed, however, that the deceptive advertising practices were continuing, and this was brought to the attention of the FTC attorney. He responded that FTC enforcement proceedings were being held in abeyance until the 1974 "Proposed Revised Guides Against Deceptive Pricing" were approved by the commission James 1974.

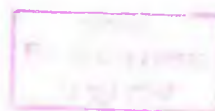
This was expected to happen by late 1974, but the revised guides were still awaiting final approval in December 1975. A subsequent letter reiterated that the retail chain in question "has been informed that their activities may be in violation of the FTC Act and have promised to abide by the new guidelines

The identical complaint was filed with the Delaware Division of Consumer Affairs. The division agreed that these advertising practices seemed to violate the Delaware Code. This led to a meeting between the office of the Delaware Attorney General and the general counsel of the advertiser. At this meeting the advertiser "agreed to curtail from future advertising such instances of apparent misrepresentation Angelone (1975), FTC intends to follow through with its own investigation when and if the revised guides become effective. When we questioned the Delaware consumer affairs investigator as to precisely what the advertiser had agreed to do or not do, we were told that the information is confidential and were referred to the

Justice Department. An attorney in the Civil Division of the Delaware Justice Department also declined to describe the state's action in this case (Robert Graham, 1975.) Thus, both federal and state government units have brought independent actions against the advertiser and have been assured cooperation by the advertiser, but at this writing the advertising practices in question do not seem to have changed.

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Chapter -06

OBJECTIVES OF THE STUDY

The aim of this study to indentify and evaluat the present deceptive practices and policies prevailing in the national and/or multinational manufacturing companies and business firms through their advertising in Bangladesh. The specific objectives are:

- ✚ To examine the basic concepts of deceptive advertising.
- ✚ To find out and analyze deceptive marketing practices of some selected firms.
- ✚ To find out what steps have private citizens, legislators and government agencies taken to cub deceptive advertising.
- ✚ To suggest and recommend some implications of the findings.

In order to achieve the objectives, the study of the firms were selected purposively taking into consideration the cost, convenience and time. All the sample firms Head office are located in Dhaka. The study is based on mainly secondary data collected. Few primary data also collected from executives of the sample firms through personal interview and telephone calls. The qualitative data analysis method were used.

This study is consists of 7 section. The basic concepts and matters of deceptive advertising in Bangladesh are discussed in the 2nd section. Procedures of finding deceptive ads are discussed in section 3. The sample firms and their deceptive advertising patterns are discussed in the 4th section. Section 5 includes the sample firms and governments strategies is taken to decrease the deceptive advertising. In the 6th section includes few recommendation and suggestion to reduce deceptive marketing activities in Bangladesh.

LIMITATIONS OF THE STUDY

Every work has some limitations. It is difficult to perform a task according to the plan due to various limitations. So, my study is also not free from limitations that are given bellow:

- ❖ A first limitation of this study is the criteria for finding of deceptive advertising. The limitation is the concern about whether the experimental task affords success e.g. whether it is possible to detect the fraud or deception at all. I have proposed evidence that supports the conclusion that it is possible to detect the deception in our experiment.
- ❖ The second limitation of the study is that the subjects are not aware of the deception or fraud. The subjects were motivated by given incentives or motivation. About 10 percent of the subjects did not become suspicious about the deception of Bangladesh.
- ❖ The third limitation, as discussed above, subjects in my study are experienced producers and shoppers. They have done it for a relatively long time. It should be noted that the logic of our argument is based on studying subjects that are not arguably well equipped to detect deceptions.
- ❖ It is not clear whether the results on ads jacking/ proofing extend to other forms of consumers deception. Social exchange theory and other theories would predict a much better ability to detect when consumers can apply what they have learned about detecting deception in traditional business transactions, and that our results extend only to the form of deception. Research is needed to identify more such forms of

consumer deception and provide better estimates of their frequency and delectability than currently available.

- ❖ The fourth limitation is that researchers, lawyers, and regulators need a single, comprehensive, unambiguous, work-able guide-line for determining whether an advertisement is or is not, deceptive. But there is no statutory definition of deceptiveness (Ford and Calfee, 1986). It is found in Bangladeshi aspect that the researchers have no interest in developing such definition. Therefore, the only goal of this study to suggest a definition that combines what researcher know about deception in advertising into a concise statement.

Finally, I have not obtained enough and specific information because there is a lack of previous research reports in Bangladeshi aspects. I have also some personal limitations i. e. economical and time problems. Furthermore, our investigation focused on the cognitive phenomena.

Chapter -07

METHODOLOGY

The study was based on mainly secondary data. Required data for this study were collected from different magazines, newspapers, journals and some specialized publications. Some informations and relevent data also collected through personal visit to various sources, such as, Consumers Association of Bangladesh (CAB), Bangladesh Standered and testing institutions (BSTI) etc. Some of the relevent data were collected through personal interview with the related agencies like, National Tobacco Control Committee, ADHUNIK (Amra Dhumpan Nibarón Kori) and from the customers directly. To make a concptual definition of deceptive advertising and to compare the relevent legislatiore agencies of Bangladesh along with other countries, specifically with USA some on-line sources also used to collect data. Moreover, helpful informations were also used from the articles that published in the journal of Universities of home and abroad. The primary and secondary data were dollected through observation method to the rail shops, interviewing with the relevent customers, viewing of the exparts on the based of some related journals collected from Dhaka University and down-loaded from internet.

This study consist of the following section. The basic issues and matters of deceptive advertising are disussed in the 2nd section. Section 3 includes the deceptive practices of Bangladesh and abroad. Analyses of some selective ads claims and their deceptive issues are discussed in the 4th section and the final section few suggestions and recommendations are made to improve the conditions.

7.1 Sample Area

Ten ads were selected for as a sample for testing that were taken from popular dailies including the daily Ittefaq, the daily Prothom Alo and the daily Star. Some other sample ads were also selected through the labels & packets of the related products from the nearby grocery shops to examine. The ads were chosen to represent a wide variety of products.

Fifty labels and 12 leaflets of the relevant products also were collected to evaluate whether the misleading claim and in an important legitimate claim exists or not.

Ten expert consumers and viewers were selected from Dhaka city to justify the ad claims of the selected products. Some Sub-urban social organizations were also selected as sample area. They were instructed to read and evaluate the entire advertising message. They were then answered questions designed to assess belief in the misleading claim and in an important legitimate claim. Responses to these questions from the evidence on which misleadingness were to be identified.

7.2 Data Collection

The researcher had to rely on verifiable claim-fact discrepancy. Because he had no special testing facilities to verify product claims. So he had to rely on publicly available criteria and legislations of the government, such as Consumer Right Protection Act, 2009; Breast Milk Substitutes Ordinance 1984; the Bangladesh Standard and Testing Institution Ordinance 1985; the Trade marks Act, 2009 etc. and Judgement of the expert viewers. We focused on and tested a possible relationship between each consumer's level of product interest and the likelihood of a false belief held by a consumer

did or did not see in an ad. We did try to find out a major thematic claims whenever possible through an ad; through its pictorial and verbal content.

7.3 Analyzing The Data

The selected consumers were shown at first the regulation of the government and then a series of some selected ads and some collected leaflets & labels of related products were seen. Their tasks were to read and comprehend the entire advertising message and evaluate the products ad claims. To assure that the entire message was perceived and understood, the respondents were asked a sample factual question immediately after seeing each Ad. The ads and labels of each kind of products were chosen to satisfy several criteria. No rigorous statistical tools were used to analyse the data. Instead, the simple average, charts and tables are used. Since statistical data are not sufficient, descriptive method is mainly used to analyze the data.

7.4 Testing The Data

Participating consumers were shown a series of ad claims, labels and/or package of products. Their tasks were to read and comprehend the entire advertising message, and evaluate the claims of the advertising messages of the selected products. The ads were chosen to satisfy several criteria. No rigorous statistical tools are used to analyse the data. Instead, they have to rely on the consumers' beliefs & attitudes towards the ad claims comparing with actual products features and its benefits. The data were tested and interpreted through content analysis method. Simple average charts and tables were used. As statistical data were not sufficient, descriptive method is mainly used to analyze the data.

A booklet of Consumers Association of Bangladesh (CAB) and some other research reports were shown to the selected customers. The experts as well as the researcher could find out some examples of unfair and deceptive trade practices in Bangladesh. Consumer Rights Protection Act, 2009 does not specifically define the term '*unfair trade practice*'. But this is such a term which is judged by reasonable parlance. If the average person of reasonable thinking would consider a practice unfair or deceptive, it probable is. Here are some specific examples of actions that are considered unfair and deceptive:

1. False advertising and other misrepresentations advertising and statements which have the tendency to mislead are illegal, i.e. actual false statement in advertisements about a product's quality, ingredients or effectiveness.
2. Use of prices in advertisements that are not the real price of the merchandise described.
3. Deceptive statements of guarantees in advertisements- the statement must identify the nature of the guarantee and who is offering it (the manufacturer, the seller or someone else). What parts of the product are covered and what is required of the consumer to make a claim under the guarantee.
4. Claiming that the item is on sale by untruthfully pretending the product usually sells for a price higher than its normal price.
5. Advertising an item at a very good price to induce customers to come in and then only selling the item at that price if the purchaser also buys another more expensive product.
6. Using the terms "*special price*" or "*priced for sale*" or "*clearance price*" or similar terms when the items are not being sold at reduced prices and without clearly disclosing the actual former price or the percentage reduction from the former price that is actually being offered.

7. Charging for products or services at higher rates than the marked, published or advertised price.

From the booklet of Consumers Association of Bangladesh (CAB) we could find some examples of fair Trade Practices in Bangladesh. An advertising claim would be fair if features are included the message of the advertisement:

- ❖ The seller must ensure products are packaged properly during the sale of commodities. Four indispensable details must be mentioned clearly on the packaging:
 - ❖ The maximum retail price of the item
 - ❖ The date of production.
 - ❖ The date of packaging.
 - ❖ The date of expiry.
- ❖ The seller must hang the price list of goods in a place easily visible to consumer.
- ❖ The price of product cannot be more than the maximum retail price, which must be clearly written on the packet.
- ❖ The seller should be careful and avoid adulterated goods, such as food and medicines.
- ❖ Anything formidably dangerous to human life or health cannot be mixed with food item, (e.g Unsafe colouring dye mixed with food or medicine.)
- ❖ The quality and the measurement of the goods must be accurate; this means the seller cannot sell the goods with a weight lower than the promised weight during sale of the goods.
- ❖ The measuring scale must be maintained and be visible. In case of necessity, the measuring scale is to be recalibrated.
- ❖ The adulteration of goods is to be avoided at all cost.

- ❖ The seller shall abstain himself from selling expired items.
- ❖ The neglect or unconcerned attitude of the seller should never be the reason of loss of life or ill health of the purchaser such as, if there is possibility of side effect in using product, the seller must intimate the effect to the consumer.
- ❖ No statement with false promise can be advertised.

Two potentially confounding effects were evaluated and were found to be absent. Beliefs were unaffected by the ads' construction, which was below professional quality. Different interest levels in purchasing a product the likelihood a misleading belief.

Bangladesh Gazet of October 13, 2008 includes its section 20(d) that those who will deceive the people or customers through fraud or misleading advertising for product or service sales will be treated as "*Anti Consumer right activities.*"

Section 20(b) of this ordinance are included that if anyone offers to sale any product or medicine with adulteration will also be considered as unfair or deceptive. To evaluate the consumer Right Production Act 2009, the research was initiated an investigation of 50 ads on some health-related products of Bangladesh. The researcher also selected three important consumer products for all kinds of people. The first one was baby food which is the most protectable. Because a nation will depend on its children. The another product the researcher choose to focus on is the cigarette. As cigarette is directly related to public health.

The research also investigated the ads of the herbal medicines which is mainly related to sexual health. The research work was done mainly based on justifying the customers attitude towards the consumers' perception of the ads claims. The research also investigated the regulations and how the

regulations protect the customers as well as the general public from deceptive claims of the Ads.

7.8 Some Sample Ads And Their Deceptive Claims

In this section, the ad claims of some firms were selected for evaluation. The firms were selected relating to the aims and justification issues of the research work which includes baby foods, tobacco, students migration and herbal products.

Case-1: DECEPTION KID'S ADVERTISING

Eighmey (1974) may have been the first to explore deception among children and advance the thesis that restraints in advertising oriented to children should be different than those focused on adults (Eighmey, 1974). He called for a "reasonable basis" standard to be developed in second form for children. Problem areas cited by Eighmey included:

1. Premium distracting attention from the product;
2. Brevity of commercials- insufficient comprehension;
3. Comparative advertising may leave deceptive impressions;
4. Stereotyping;
5. Excessive use of emotions;
6. Reliance on nonsense without product information;
7. Similes taken too literally;
8. Deceptive juxtaposition of products with contexts or persons;
9. Unfamiliar terms and phrases; and
10. Global uniqueness claims (Eighmey John 1974).

Examples of deception and unfairness in children's advertising are provided by Cohen (1977) who suggested that ads showing children engaging in

dangerous activities like watching a hot pot cool off or watching a spokesman pick and eat wild edibles can be deemed unfair.

In this section, some baby foods related ads from TV ads, News paper ads and 45 packates from the different brands of baby food products were selected to examine. The claims of the selected ads were examined relating with the customers attitude, Regulations of the Customer Protection Law-2009 and other national and international publications as a standerd evidence. The ads were also choosen to represent a wide variety of baby food products. The Ads were selected to satisfy several crifteria. Firtst, there had been a verifiable claim-fact dicripancy. Because the researcher had no special testing facilities to verify product claims. He had to rely on publicly reliable criteria and/or my own judgement. The public criteria were decions of the “Breast milk sustitutes (Regulation of marketing) ordinace, 1984 trade regulation, rule on the use of nutrated and other claims in the baby food advertising.”

DANO

DANO is one of the most familier brand in Bangladehi baby food products. DANO Full Milk podwer claims in its packet at the aim of pursuing its target customers the following words. “*Dano Full milk Powder is naturally rich in calcium*”. “strong teeth and Bones” “Calcium is particularly needed in childhood. Most of the calcium that makes teeth and Bones strong has been stored in the body by age of 17. DANO milk has very high calcium content”. “*We had added Vitamin D that helps the body to absorb calcium*”.

It also claims “*Get tall and Strong*” Profein is very important building block for children and adults. Protein helps the body build and repair muscles. DANO Full cream milk power has a very high proteim contem. “*DANO Quality- Gurranted!*” “DANO milk comes from Aria Foods-the

leading dairy company in Europe”. “*Only the best fresh cow’s milk is used for DANO*”. “This has made the DANO taste famous.” The only cautionary sentence is “*Like liquid cow’s milk DANO has not been modified for instant feeding.*”

The milk is processed at the most modern facilities with strict hygienic standards.” It also claims in Bangla word highlighting “More Calcium” “More Vitamin D” and “More Protein.” There are also a baby’s picture with his smiling mother on the cover of the package. According to the legislation of Breast Milk Substitutes (Regulation of Marketing) Ordinance Bangladesh, 1984 the ads claims is partially deceptive. Because, there is a prohibition – “Neither of the containers nor any literature kept inside the container shall have any picture of infant or such other picture or writing which may idealise the use of any breast-milk substitute.” (A booklet on consumer protection in Bangladesh page-30). According to experts here the word “More calcium” “More Vitamin D” and “More Protein” are also Gamic or misleading or deceptive. Because “Advertising and statements which have the tendency to mislead are illegal” (A booklet on consumer protection in Bangladesh page-33). There is also a cartoon type picture stating mother, father and two little children. In the Breast milk substitutes regulation of marketing ordinance Bangladesh, 1984, has a prohibition that no offers should be given which persuade the customers to buy that baby food product. But a package of the “DANO” (in 2010) offers the customers a lot of gift items including cars, motorcycles, Laptop, LCD TV, Home theatre, Superkid Costume and another 500 items of gifts in a week. No doubt that these kinds of promotional activities of baby food violate the ordinance of baby food products.

COMPLAN

Complan is another the most promoting baby food products brand. At present, the company is promoting at least more than one advertising in several tv channels daily. Complain brand also was selected as sample of baby food products. The packaging of the complan brand persuaded the target customers. Ten packages and ads were collected to examine as sample. Most of the ads claims provided message that "Grow Faster with Complan". "Now proven." The package also includes the message targeting the mother "Maximise your child's Growth Potential." According to the participants & experts and legislation of Breast milk Substitutes (Regulation of Marketing) ordinance 1984, there are many misled and/or deceptive claims. Because the advertising and statements which have the tendency to mislead about a product are illegal.

There is also a picture of growth rate within 12 month stating from January to December symbolizing that within the time (12 months) a child's height may increase 3 inches. There also is a word stating "Not to scale". There are also statement "23 vital Nutrients."

There is another claim that research conducted on more than 800 children proved that the children who consumed complan milk grew faster than the set of children who did not consume it.

The packaging of the complan brand persuaded the mothers as the target customers- "Your child may be a fussy eater which may lead to nutrition gaps in his/her diet."

The ads also claims, "Complan has 23 Vital Nutrients in planned proportions along with 18g of 100% milk protein. Complan provides your children

balanced and adequate nutrition, which bridges key nutrition gaps in their diet. Con. Helps them achieve their MAXIMUM GROWTH POTENTIAL and ensures your children grow faster”. “Guaranteeing complete bacteriological purity”.

According to the legislation of Breast Milk Substitutes (Regulation of Marketing) Ordinance Bangladesh, 1984 the ads claims is partially deceptive. Because, there is a prohibition – “Neither of the containers nor any literature kept inside the container shall have any picture of infant or such other picture or writing which may idealise the use of any breast-milk substitute.”

Case-2: Tobacco related Ads:

At present, one of the most significant event in Bangladesh is tobacco marketing. It is very dangerous for both smokers as well as the non-smokers. Tobacco related ads in Bangladesh is protected by Smoking and Use of Tobacco Goods

(Control) Act, 2005: Advertisement of tobacco products has been prohibited by this law. The statutory caution to the effect that smoking is harmful for health etc is to be legibly printed on the packet of tobacco products. A research was initiated an investigation in January, 2009 of 25 packets and labels of various brands of Bangladeshi cigarettes and display advertisements by retailers in Dhaka city and nearby areas.

The smoking and Tobacco use of Tobacco Goods (Control Act, 2005 of Bangladesh furnished the criteria for determining whether or not an advertisement was false, misleading, illegal or deceptive. In all, 45 packets ads 95% of which were found to be clearly in violation of one or more of the prohibition of the tobacco control act, 2005.

In summary, the initial investigation indicated that on an average all most advertisements of the products packets violated to write the statutory caution to the effect that smoking is harmful for health. Instead they wrote only part of the sentence very small words. In some cases the word of the packet is too small to read at all. Although advertisement of tobacco products has been prohibited by smoking and use of tobacco goods (control) act 2005,5 of investigated products ads were found in the sample area. Among them "BRISTOL" brand is one that ad claims was "100% satisfaction" (in Bengali words-Sholo Ana Tripli). In some other display ad of the retail shops claims at "Zosh Tan, cigurat AKKln." And with "100% Tripti".

Above example is only a sample of violating the prohibition of tobacco control act, 2005. There is also regulation that the statutory caution to be legibly printed on the packet of tobacco products which will coverage $\frac{1}{3}$ (one third) of the total are of the package. But violationg the rules 100% of the companies making their products' packetes. The researcher found the following products violation of the tobacco package.

The following figure indicates the present situation of tobacco control activities:

INFRASTRUCTURE FOR TOBACCO CONTROL

National Tobacco Control Previsions

Tobacco Bans and Restrictions	Banned	Restricted	Not Regulated	Unknown
Advertising in certain media		×		
Advertising to certain audiences				×
Advertising in certain locations				×
Advertisement content or design				×
Sponsorship or promotion for certain audiences				×
Sponsorship advertising of events	×			
Brand stretching				×
Sales to minors	×			
Sales by minors				×
Place of sales				×
Vending machines				×
Free products				×
Single cigarette sales			×	
Misleading information on packaging				×
Smoking in government buildings (incl. worksites)		×		
Smoking in private worksites			×	
Smoking in educational facilities	×			
Smoking in health care facilities	×			
Smoking on buses		×		
Smoking on trains	×			
Smoking in taxis		×		
Smoking on ferries		×		
Smoking on ferries				
Smoking on domestic air flights	×			
Smoking on international air flights				×
Smoking in restaurants				×
Smoking in nightclubs and bars				×
Smoking in other public places			×	

Other Provisions	Yes	No	Unknown
National tobacco control committee	×		
Tobacco control education/ promotion	×		
Anti-smuggling provisions			×
Litigation enabling provisions			×

Tobacco Reguirements amd Regulations	Required	Regulated	Not Regulated	unknown
Advertisinghealth warnings/messages	×			
Age verification for sales				×
Manufacturing licensure	×			
Package health warning/message	×			
Lebel design on packaging				×
Ingredient/constituent information on package label			×	
Amount of tar				×
Amount of nicotine				×
Amount of other ingredients/constituents				×
Product constituents as confidential information				×
Product constituents as public information				×
Constituent disclosure by brand				×
Constituent disclosure in the aggregate				×

Source: National tobacco control committee, 2005

Some of the tobacco companies continue their advertisement campaign all year round. They change their ad claims accordance with occasions. For example, NAVY (A brand of Dhaka Tobacco) ad claims at last Eid occasion "Elo Eid, Elo Khushir Zoyar." It also pusuded customers adding claims on the cover "Limited Edition." Another liflet (collected from a retail shop) claims different slogon "Desher Seemana Perice Ekmatro Tobacco Brand." (Across the country border only Tobacco brand). Another more liflet was collected from the some retail shop. The ad claim contained the slogon in Bangla word – "Dunia Matano Flabour" and also claims "Desher Seemana Perie Ekmatro tobacco brand."

MARSE Special Blend is (T.C of England) claims its Ad, "Triptitee Sera." All of the above claims are deceptive and also illegal.

Name of brand	Name of company	Ad claims	Using encouraging words	Packet Size	Printed area of cautions		Remarks
					Should be	Accually done	
Bristol	Abul Khair tobacco com ltd	Cigarate akkhan, jhosh Tan	100% satisfaction (SholoAna Tripti)	8.8 cm	2.93 cm	2.5 cm	Caustionay area is very small
Pall Mall	British American tobacco	Naturally sun Reopened Tobacco	More taste	8.8	2.93	2.5	Caustionary area is very small
Pilot	Wills Briston	"they will get 100% satisfaction and also will get 100% utility".	"Poisa Ushul"	8.8 cm	2.93 cm	2.5 cm	Caustionary area is very small
NAVY	Dhaka Tobacco	"Desher Seemana Perice Ekmatro Tobacco Brand."	"Dunia Matano Flabour"	8.8 cm	2.93 cm	2.5 cm	Caustionay area is very small
STAR	British American tobacco	"Durdanto STAR asee, Durdantoo Notun Packet-a	"Star Uzzolotar Natun Digantee."	8.8 cm	2.93 cm	2.5 cm	Caustionay area is very small

Source: Primary Data.

Another brand “Pilot” (W.D.& H.O Wills Briston & London) claims its ads in Bangla word; “*Poisa Ushul*” die. The advertiser wanted to persuade the customers that “*they will get 100% satisfaction and also will get 100% utility*”. No doubt that the (according to criteria of deceptive and misleading previously discussed above ad claims are deceptive and unlawful. CASTLE brand claims its ad. “Adventure Begins. It also wrote its their ad claims “*Full Flavour.*”

STAR another brand of cigarette at present, advertising through big and small sized leaflets. The brand claims its an, “*Durdanto STAR asee, Durdantoo Notun Packet-a*” It also distributing very attractive “*sample packs*” All the packs contains Gammic and attractive slogans such “*Star Uzzolotar Natun Digantee.*”

[N.B: Here Bangla words are used to describe the ad claims clearly in bangladeshi aspects].

Case -3: Harval Products Ad claims deceiving customers

The most prominent and renewed ad claims now-a-days that deceiving the customers are herbal products. The researcher collected 10 Ad claims of herbal products from local market to examine and found that among collected 10 Ads almost all ads used deceptive words. All of the Ads claims “100% Natural.” The them of these ads are that they contain “no additives and no preservative.” A barval products company named, “Kolikata Herbal” located at shanire Akhra, Dhaka. Bangladesh continues Ads campaigns the mass media like Tv and newspaper Ads. Like other companies it also continuously using deceptive, unlawful, misleading words, such as “100% challenge” “100% money back guarantee” According to the exports all the Ad claims collected by the researcher are “Bait” advertising. According to Dray Administration Authority of Bangladesh all of the advertising were

found to be clearly in “violation” of legislation. What are doing the Dug Administration Authority against these deceptive activities? Answering a question, the authority said that they are taking action against the firms. He also added that they have also sent legal notice to the authority to stop the “Bait” advertising.

Case-4: Students Migration related Ads

In this section, a student migration related report (by Penilope Anthias,2002) of the Refugee And Migratory Movements Research Unit (RMMRU) that was collected from on line and was also selected to examine. The report was prepared on the basis of claims of the selected workshop and several interviews, returned and current Uk students were asked about their experiences of studying and living in the UK. The study found that there was a high incidence of fraudulence and deception at various stages of the process of applying for study in the UK:

Charging Fees

As noted above, private counseling agencies are funded directly by the UK colleges and universities they represent, and receive a commission for every student that takes up a place. According to their agreement with universities, they are not supposed to charge students any fee for thair services, as was verified by discussions with university representatives. However, this study found that in the vast majority of cases, agents do charge fees. Agency fees were found to vary depending on both the agency and the student’s perceived ability to pay. For example, two students interviewed had paid respectively 50,000 and 70,000 taka to the same agency for the same service. In most cases, money would be required at various stages of the application process. Initial advice and information sheets from different institutions would be given at no cost, although in a few cases a minimal registration fee

was charged. Often, 5,000-10,000 taka would be charged for a university offer letter, then a proportion of tuition fee may be taken, followed by an additional fee for visa processing; up to approximately 25,000 taka at well-known agencies. Examples were found of students paying anything from 15,000 to 50,000 taka. According to those interviewed, agency fees have risen considerably over the last decade. Many students interviewed assumed that paying such fees was an unavoidable part of applying for UK study and were unaware that applying to universities and receiving offer letters was in most cases free of charge.

Cunning Students Out of Money

The study discovered that, in some cases, students who have paid large sums of money to agencies receive no further information and are effectively being conned by supposed counseling agencies. One agency owner described the process as follows: the agency takes Taka 10-20,000 in agency fees, then one or two months later, produces a false offer letter and asks for tuition fees of Taka 5,000-10,000 a proportion of which they would keep and a proportion of which would go to a UK college. In many cases, students would then be told nothing about their application for several months, until later they would be given some reason as to why their application was unsuccessful. In most cases, no receipt was given and students were not refunded their money.

Several students interviewed reported that they or someone they knew had had such an experience, although the amount of money lost varied. For example, one person had gone to an agency on the suggestion of a university representative at an Education Fair and subsequently lost Taka 7,500 in agency fees. Another person reported that, in 2004, many people had been conned by the same agency in Eastern Plaza, which after 6 months had

closed their office and opened in another location under a different name. In yet another case, it was reported that a group of students went back to an agency to demand a refund of fees and received violent threats. Although it is clearly not all agencies that engage in such dishonest and exploitative practices, research suggested that many prospective students in Bangladesh were having similar experiences.

Fraudulent Practices

This study found that there is a high incidence of fraudulence at various stages of the process of applying for study in the UK. It should be emphasized that this does not necessarily involve overseas study counseling agencies; in some cases, applicants may provide inaccurate information or obtain forged documentation by their own devices. For example, as a recent article in the daily Star newspaper pointed out, producing certificates has become easy with the availability of high quality scanners, printers, papers and software and they can also be bought from many locations ('Forged Certificates Vorry parents' 1 Feb 2006). However, it appears that in a great many cases, agencies are involved in fraudulent practices and it is often for this reason that applicants seek their help, often at a high cost. The following list is not exhaustive but covers what appear to be the most common malpractices.

Firstly, many applications for student visas are submitted with forged bank statements. It has already been noted that meeting financial requirements constitutes the major obstacle to most Bangladeshi applicants. Because of the obvious potential for forgeries, the amount of money in the account must also be verified by the bank manager, which is done via a phone call from an ECO in the British High Commission. As a way around this, a common

practice of many agencies is to bribe a Bank Manager to answer the phone and verify the false information provided by forged bank statements.

The high incidence of forged bank statements was verified by ECOs at the British High Commission, who deal with these forgeries on a daily basis. ECOs also reported that in some cases, bank statements were genuine but did not belong to the sponsor named. Those connected with agencies or experienced in dealing with them also reported that supplying forged bank statements and bribing bank managers was common practice. This appeared to be common knowledge among others involved in student migration, with the exception of UK universities. Those interviewed claimed that these practices are possible in many banks in Bangladesh, although exceptions mentioned were HSBC, Standard Chartered and Dhaka Bank.

According to the British High Commission, students sometimes provide false information about their relationship with the person sponsoring them. Although there is no formal requirement that applicants must be sponsored by a relative, it is well-known that the British High Commission looks more favourably upon applicants sponsored by a close relative, who is deemed a more credible and reliable source of funding. According to one ECO, many applications falsely claim that their sponsor is an Uncle. Although it is generally impossible for the British High Commission to confirm or dispute, there have been cases which revealed that the said 'Uncle' bore no relationship to the applicant in question.

In other cases, a phone call to the sponsor revealed either ignorance of the applicant's course of study or college fees, or the sponsor has never heard of the applicant. In the latter case, applicants may be using the name of a wealthy person as their sponsor without their consent. In other cases, the sponsor may be a personal contact of the applicant, but the relationship

claimed is untrue. Another scenario is that the sponsor is a person unknown to the applicant who is being bribed to fulfill the role of sponsor, which includes answering a phonecall from the British High commission. Information from students that had used agencies and people from agencies suggests that some agencies have a list of such people, who they pay to act as sponsors for applicants.

In addition to financial documents other forged documents that may be supplied by agencies include offer letters, degree certificates or grade transcripts, English Language certificates and letters stating receipt of tuition fees. An ECO even reported that one particularly ingenious student had forged a student visa refusal letter, sent it to a college and received a refund of tuition fees, then proceeded to travel to the UK on a student visa. It is difficult to get an exact idea of the incidence of these types of practices, but there is evidence that they are widespread. In addition to the information about forgeries and malpractices received by the British High Commission, students and others, a number of agencies in Gulshan and Banani were visited in order to investigate these claims. These visits were made with a Bangladeshi (an ex-agency worker himself) posing as a student, while this researcher presented herself as a potential sponsor. Of six agencies visited, three offered upfront to arrange forged documentation in order to fulfill financial requirements for student visa, or to provide contacts who could arrange this. It is also noteworthy that an advertisement placed in the Daily Star for agencies to advertise at no cost on a new RMMRU website received no response.

Misleading Genuine Students About Quality of Institutions

This study also found that, in many cases, information that agencies give regarding the nature and quality of educational establishments and courses offered is extremely misleading. Clearly, because agencies receive a commission from universities and colleges, one would not expect them to offer objective advice on study options. For example, they will only promote the universities or colleges they represent, sometimes favouring those institutions who pay the highest commission. Even so agents can potentially provide useful and accurate information on the colleges and universities they do represent, which students are free to compare against other information sources.

Yet, research revealed that information on specific colleges is often inaccurate or misleading. For example, students may be told that a little-known and third-rate establishment is one of the UK's most prestigious and reputable colleges. Attractive promotional materials and websites are also used to create a false impression about the nature of colleges. In other cases, inaccurate information may be given regarding the courses running at a certain college.

As the previous section described, the quality of educational establishments in the UK is one of the areas that Bangladeshis are least informed about. As a consequence of misleading information from agencies, some students end up at colleges that do not suit their needs, provide the quality of education or run the course that they hoped to get from the UK. Interviews and discussions revealed a number of examples where a student had been disappointed with their college on arrival in the UK and had returned to Bangladesh. For example, one student interviewed arrived at his college to discover that the department he sought to do his studies in did not exist. In

other cases, students arrived to find that no proper courses were running at all.

This suggests that there are a number of bogus colleges in the UK, which are not really running the courses they claim. The phenomenon has received some attention in the UK media in the last few years and has been the subject of debate in the Home Office and UK education sector. The nature of these colleges and their role in facilitating labour migration is discussed below.

For genuine students, arriving at such a college disappoints their expectations of UK education and creates a dilemma about what to do next. Those who wish to remain in the UK are unable to complain to anyone that they are not attending a proper college as they may risk deportation. While some do return to Bangladesh and others may succeed in changing college, it seems likely that some who find themselves in this situation having paid considerable money to get there may decide to remain in the UK and work. If this is the case, then it may be that through this deception, genuine students are being transformed into irregular labour migrants, adding to the numbers of those who are intentionally seeking to work on a student visa.

Student Migration as a Route to Labour Migration

In addition to those who genuinely want to study in the UK, student migration in Bangladesh is also used as a route to getting to the UK in order to work. From discussions with those involved in the student migration process, it appears that a large number of Bangladeshis attempting to migrate as students to the UK may be intending to work on arrival. A number of agencies, the British Council and London Metropolitan's counseling service all reported this and said that their first task when meeting a prospective student is to assess whether or not they are genuine.

The use of student migration as a route to labour migration must be understood in the context of the restrictive nature of the UK's current immigration policy in particular, the lack of avenues for unskilled and semi-skilled labour migration to the UK. Aside from finding an irregular migration route, which often involves high risks, student migration currently provides the easiest avenue for unskilled labour migrants to enter the UK.

For those involved in processing applications for UK study, such as the British Council, British High Commission and UK colleges and universities, distinguishing genuine students from labour migrants is a daunting task. It is not always possible to know someone's intentions; even a student with a good academic background applying with genuine documents may be intending to work on arrival. In other cases, the decision to work may be taken once a student is in the UK.

While it may be impossible to prevent people intent on working in the UK applying as students, it is important to acknowledge the instrumental role played by both dubious UK colleges and Bangladeshi agencies in facilitating irregular labour migration. It has already been noted that some genuine students are ending up at hogs or substandard colleges in the UK after receiving misleading information from agencies. However, in other cases, students are applying to the same low grade colleges and intending to work on arrival. In fact, students who intend to work are often looking for a college which has low entrance requirements and does not insist on proper attendance. The past decade has seen the emergence of numerous hogs colleges which meet this demand. Mostly located in East London and sometimes consisting of just a few small rooms, these colleges are not proper educational establishments, but are really businesses which issue offer letters and degree certificates in exchange for tuition fees, thus facilitating labour migrants to gain entry to and remain in the UK on student visa. Tuition fees

at such colleges can be as low as 1000 GBP. Those interviewed from the British High Commission, British Council and public universities were well aware of the existence of such colleges. One person at the British High Commission reported that he had himself observed international students going into one of these colleges, registering attendance, and then walking across the street to work in a fast food restaurant.

There are indications that many colleges being marketed by agencies are of this nature. According to one agency representative, some agencies who also deal in labour migration will even suggest entering the UK on a student visa in order to work (SEDA UK EF). The British High Commission is well aware of this problem and doubts regarding applicants intentions to study is one reason for rejection of a number of student visa applications. There is also a high number of applications to small and little-known colleges, as opposed to public universities. In fact, one ECO estimated that 90 percent of student visa applications they received were to this type of college, even though the vast majority of students were applying for bachelor's or Master's level courses rather than vocational qualifications. This was confirmed by several hours spent with the ECO examining current student visa applications. All applications looked at were for obscure colleges in East London who were charging tuition fees around 1,500 GBP.

Clearly, it is not possible to assume that colleges are not genuine because they have low entrance requirements or charge low tuition fees, and the British High Commission cannot reject applications on mere suspicion. Investigation of such colleges in the UK is required to ascertain which are running proper classes of an acceptable standard. However, there are indications that some of these colleges may not be genuine. For example, websites often offer unconvincing and incomplete information, and entrance requirements seem unrealistic for the courses offered. When examining

student visa applications, it was noted that several applicants had obtained an offer letter from the college even though they did not have an adequate level of English. For example, in a few cases, the applicant only had a certificate for an unrecognized English course of one month, but had been accepted for Master's level study with the explanation that they would be required to complete an intensive English course on arrival. It should also be pointed out that there is not necessarily a clear line between bogus and real colleges, just as there is no clear line between bogus and real students. It may well be that some colleges do run courses of a very low standard but simply turn a blind eye to non-attendance. It also seems likely that some students attend some classes, while also working more than the permitted hours. In such cases, whether colleges are accountable for students activities becomes a grey area.

Aside from those who receive offers from cheap low grade colleges, it is also common practice for students to take up a place at a reputable institution, then to drop out and change to a low grade or bogus college on arrival. In some cases, this may be because an application to a public university stands a higher chance of success for obtaining a student visa; in other cases, the decision to drop out may be made later. This creates a problem for public universities in the UK; a number of university representatives interviewed at the UK Education Fair (2006) reported very high drop-out rates for Bangladeshi students, in some cases as high as 50 percent (Nottingham Trent). Some would only attend for the first week or so, while others would not show up at all. In fact, the Home Office estimated in 2005 that in the last year, 17,000 non-EU students had failed to take up a place at university after accepting an offer. This has motivated many universities to demand a proportion of tuition fees in advance, in order to try to filter out the non-genuine students. For example, London Metropolitan University requires students to pay a bank draft of 2000 GBP in order to

apply for a student visa, an arrangement which they set up with the British High Commission. Many other universities have taken similar steps. Dundee University charges 30 percent of the tuition fees in advance, and Nottingham Trent now demands a deposit of 50 percent of tuition fees.

In addition to facilitating the entrance of non-genuine students, there is evidence that bogus UK colleges also play a role in facilitating overstay, either by putting students in contact with agents that help secure visa extensions or by enrolling students who have completed their studies at another institution. In 2004, an investigation was conducted by a journalist of the *Guardian* newspaper into the possibility of enrolling at London colleges for the purpose of obtaining a visa extension without attending regular classes. She discovered that one college would enroll her on an MA in Business Administration for 700 GBP and she would only have to attend two classes a week, while another recommended a computing course which would only require her to sign in once a month (*The Guardian*). One person interviewed in this study had also managed to remain in the UK by this means, on completion of his MA, he had enrolled on another MA at a bogus college in London.

As this illustrates, the problem of student visa abuse is not specific to Bangladeshi students but a product of the UK's growing and unregulated market in overseas education. As described in another recent article in *The Guardian*, 'The business of bringing students and educators together has spawned hoards of agents across the globe of varying degrees of competence, to recruit overseas student to UK universities and colleges. It has also simulated a massive British education bazaar where offerings range from the glittering qualifications of elite universities to classes in small backstreet offices (*The Guardian*, 'Systematic Abuse' September 2005). According to the same article, out of 12,000 colleges inspected in 2005, 300

were found to be unfit to take foreign students, while the Home Office estimated 5,000 a year were abusing the student visa system.

The Home Office has made various efforts to address the problem of student visa abuse. Most significantly, in 2004 it set up a joint Education Taskforce to monitor student visas at a group of institutions, in order 'to work out patterns of abuse and take appropriate action to clamp down when people don't report for study.' This taskforce was made up of UK universities, the Association of Colleges, Independent Higher Education Providers and English UK, who advertise UK education abroad. Under the project, the Home Office informed universities about visas issued and universities informed the Home Office about students who failed to enroll or ceased to attend.

It appears from research that many student receiving countries may be facing similar problems regarding visa abuse. Education scams are not only a problem in the UK's private education sector, but are a feature of the booming international market in student migration. Although the scale of the problem remains unknown, this study found examples in Australia and Canada of take colleges misleading genuine students and facilitating labour migration.

In summary, it seems that the process of student migration from Bangladesh to the UK is not being governed or regulated effectively at either end, but is dominated by bogus colleges in the UK and unscrupulous agents in Bangladesh representing them, who profit from misleading genuine students and assisting prospective labour migrants to enter the UK on student visas.

Experiences of UK study

Through a workshop and several interviews, returned and current UK students were asked about their experiences of studying and living in the UK. In particular, they were asked what they had gained from the experience and what difficulties they had encountered, regarding academic study, social life, British culture and paid work.

For the majority of students interviewed, studying in the UK had been a positive experience. Academically, students said they had benefited from the critical mindset of UK education, which differed from public universities in Bangladesh. Students also felt that they had gained a different Students' geographical location also impacts on their ability to access information. For students outside of Dhaka, particularly those in rural areas, getting information from the British Council or from the Internet is more difficult. There is also a lack of awareness that these resources exist, or that it is possible to apply for UK study independently. Most of the information regarding overseas study options comes through private counseling agencies, who advertise extensively in the press and can be found in many locations throughout Bangladesh. In this respect, it is not necessarily the case that people are unable or unwilling to use other resources to obtain information, even if accessing these may require effort or travel. It is simply that overseas agencies have reached far more Bangladeshis through their advertising than any other source, including the British Council. Clearly the British Council does not have the resources to penetrate all areas of Bangladesh and it is the lack of other sources of free and objective information which is a problem. In particular, universities, colleges and schools were found to provide inadequate information on overseas study. Few of them provide any counseling on this and teachers and other staff are often uninformed themselves.

Chapter -08

FINDINGS OF THE STUDY, SUMMARY UP, CONCLUSION AND RECOMMENDATIONS

In this section, the researcher tried to find out the result of the study accordance with objectives and recommended the study for the next researchers. The aims were to examine and evaluate some selected ads from national dailies and some products labels & packets collected from local markets. The research work was also conducted to evaluate whether any deceptive activity occurs or not and if occurs then how the existing rules and regulation protect the consumers being deceived especially, in the field of baby food, tobacco and herbal products. The research was done mainly based on secondary data. From the above discussion and analysing the selected cases it indicates that deceptive activities are increasing in Bangladesh. Most of the deception spread through misleading, illegal and/or deceptive ads. No doubt, it is difficult to find out and differentiate between the misleading ad claims and the deceptive ad claims. It found that there is a lack of monitoring agencies in Bangladesh. The consumer protection in our country is still in its infancy stage. The positive side is that the government has instituted some laws, namely, the Consumer Rights Protection Act, 2009, Breast Milk Substitutes (Regulation of Marketing) Ordinance 1984, Smoking and use of Tobacco Goods (Control) Act 2005, Bangladesh Standard Weight and Measures (Labeling of Goods) Rules 2007. Some other positive sides are that among others, Consumer Association of Bangladesh (CAB) has been working to protect the deceptive ads.

8.1 Findings

The Registration of Breast Milk Substitute, 1984 (Next 1990) article 4/A includes “No breast-milk substitute of any kind shall be imported, distributed, marketed, stored, sold, offered for sale or be locally manufactured for sale unless it is registered under this ordinance.” But it is a matter of sorrow that the most of the importers and distributors are violating these ordinance and marketed the baby foods in deceptive ways.

According to a survey report conducted by the Consumers Association of Bangladesh (CAB) in 2006, (in local market of Dhaka city area) indicated that among the 45 brands of different baby food products 37.78% did not have any registration. Promotion of Breast-milk Substitute (article 4/A) also prohibited - “No person shall promote any breast-milk substitute either by advertisement or by offering or giving any gift, prize, discount coupon, or other free items or by any other means.” But Violating this ordinance, most of the baby food importers or distributors were marketing their products. Among the them DANO, My boy, Dldogrow, Compain, Nido fortified and some others products’ advertising are promoting through mass media (i, e, television and news papers).

There is a prohibit of using photographs of any infant on the label of any brands baby foods or any items for the baby. But there are also violation of this rules till now. Most of the baby food producers or importers were technically using infants’ photographs on the products label. They who did not use infants picture directly, they were using babies carton on the products label. They were using not only infants pictures or cartons but also the mothers’ photographs. Among the collected items 48.89% brands label were using this techniques.

There are also a prohibition in the ordinance of Break-milk Substitute (article 4/A) “ Neither the container nor any literature kept inside the container shall have any picture of infant or such other picture nor writing which may idealise the use of any breast-milk substitute.” But according to the survey report, violation of this ordinance was a common matter for baby food items in our country. The showed that 48.89% of baby food item’s label contained one or more feeders.

There is a clear indication in the Ordinance of Break-milk Substitute,1990 that baby foods container must includes clearly the statutory caution to the effect that there is no alternative or substitute or similar to breast-milk to be printed legibly printed to the packet of baby food products. Most of the company also violated the prohibition. Although some company wrote the the statutory caution in short sentence, but many of the companies used technical words and deceiving the consumers. They only have written a part of the sentence unclearly such as “There is no alternative of breast-milk.” “There is nothing equivalent of breast-milk.” Among the items of baby food products 32.56% clearly wrote only the part of the part of the sentence technically. Almost 100% of the baby food items used encouraging languages persuading the parents of the children or other influencers. About 100% labels of baby food items includes the production dates, expired dates, weights, preparation guide lines, indications, maximum retail price and production elements. But 11.63% of the label did not included the doctor’s advice and 11.18% of them did not includes the preparation or using process.

Serial No	Brand Name	Manufacturer	Importer	Registration	Ingredients	Infant Picture	Feeder	B & F Language	Supplementary Language	Encouraging Lang.	Doctor's Inst.	Age wise Instruction	Instruction of use & storage	Production Date	Expire Date	Net Weight	Max. R. Price	Local Add		Labeling lang.	
																		Yes	No		
1	Babelac-1	PT Nutritia, Indonesia	HRC	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E	
2	Babelac-2	PT Nutritia, Indonesia	HRC	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
3	Biomil-1	EU Faska, SA EU	×	✓	✓	×	✓	✓	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
4	Biomil-2	EU	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
5	Biomil-Cereal	Faska, EU	×	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
6	Nestle Cereiac (W& F)	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
7	Nestle Cereiac (Rice)	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
8	Nestle Cereiac	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
9	Nestle Lactogen 1 (paper box)	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
10	Nestle Lactogen 2	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
11	Nestle Cereiac (R & M)	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
12	Nestle al 110	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
13	Nestle NAN	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
14	Nestle Cereiac (W&M)	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
15	Nestle Lactogen 1	Nestle, Netherlands	Nestle, Bang	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	B&E
16	My Boy Eligrow (>)	Friesland Nutrition	×	✓	✓	✓	✓	✓	✓	✓	✓	From 1	✓	✓	✓	✓	✓	✓	✓	✓	B&E

Serial No.	Product Name	Manufacturer	Distributor	Registration	Ingredients	Infant Picture	Feeder	BF language	Supplementary Language	Encouraging Lang.	Doctor's Inst.	Age wise Instruction	Instruction of use & storage	Production Date	Expire Date	Net Weight	Max. R. Price	Local Add.		Labeling lang.	BSTI Mark	
																		Yes	No			
1	Biomil-1	Fasika SA Belgium	Dauphin Ubique Trade Ltd	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2	Biomil-2	Fasika SA Belgium	Do	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3	Biomil-Cereal Rice + Milk	Fasika SA Belgium	Do	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
4	Pre- Biomil	Fasika SA Belgium	Do	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5	Biomil Soy	Fasika SA Belgium	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
6	Biomil Wheat Milk + 3 Fruits (Fasika R.S.A)	EU	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
7	Biomil Cereal	FASIPKA, France	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
8	Biomil Cereal Wheat+3 Fruits & Milk	FASIPKA EU	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
9	GASTRO-FIX Special Intact	Fasika, Belgium	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
10	Nestle Cereals (R+W&M)	Nestle, Netherlands	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
11	Nesturn baby Cereal Rice	Nestle, Bangladesh Ltd.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
12	Nestle Cereals Wheat Dal Palank	Nestle, India Ltd.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
13	Nestle Lactogen 1	Nestle, India Ltd.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
14	Nestle Lactogen 2	Nestle, India Ltd.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
15	Nestle al 110	Nestle, Netherlands by b.v. Amsterdani	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
16	Nestle NAN-1	Nestle, Netherlands	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
17	Nestle Cereals (W&M)	Nestle, Bangladesh Ltd.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
18	Nestle Pre Lactogen	Nestle, Netherlands	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
19	Nestle Cereals Rice & Milk	Nestle Bangladesh Ltd	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
20	Nestle Cereals Wheat Milked Vegetable	Do	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
21	Nestle Cereals Chicken & Rice	Nestle Sri Lanka	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
22	Nestle Cereals Wheat Mixed Fruits	Nestle India	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
23	My Boy Elborin-3 (1-3Y)	Friesland Nutrition Holland	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
24	My Boy Elborin-1	Friesland Nutrition Holland	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Sl. No.	Brand Name	Country of Origin	Local Distributor	Product Type	Sample Size (N)	Violated	Not Violated	Percentage Violated (%)	Percentage Not Violated (%)	Mean Score	Standard Deviation	Significance Level	Conclusion	
1	My Boy Edson-2	Freight Myanmar, Holland	-	-	28	45	87	22	44	45	06	04	45	B/E
2	Mead Baby-care	Mead Dairy, Korea	-	-	42	100	13	100	0	13	04	45	B/E	
3	Mead Baby-care (M)	Mead Dairy, Korea	-	-	42	100	13	100	0	13	04	45	B/E	
4	Mead Baby-care-1	Mead Dairy, Korea	-	-	42	100	13	100	0	13	04	45	B/E	
5	Mead Baby-care-2	Do	-	-	42	100	13	100	0	13	04	45	B/E	
6	Mead Baby-care-3	Do	-	-	42	100	13	100	0	13	04	45	B/E	
7	Mead Baby-care-4	Do	-	-	42	100	13	100	0	13	04	45	B/E	
8	Mead Baby-care-5	Do	-	-	42	100	13	100	0	13	04	45	B/E	
9	Mead Baby-care-6	Do	-	-	42	100	13	100	0	13	04	45	B/E	
10	Mead Baby-care-7	Do	-	-	42	100	13	100	0	13	04	45	B/E	
11	Mead Baby-care-8	Do	-	-	42	100	13	100	0	13	04	45	B/E	
12	Mead Baby-care-9	Do	-	-	42	100	13	100	0	13	04	45	B/E	
13	Mead Baby-care-10	Do	-	-	42	100	13	100	0	13	04	45	B/E	
14	Mead Baby-care-11	Do	-	-	42	100	13	100	0	13	04	45	B/E	
15	Mead Baby-care-12	Do	-	-	42	100	13	100	0	13	04	45	B/E	
16	Mead Baby-care-13	Do	-	-	42	100	13	100	0	13	04	45	B/E	
17	Mead Baby-care-14	Do	-	-	42	100	13	100	0	13	04	45	B/E	
18	Mead Baby-care-15	Do	-	-	42	100	13	100	0	13	04	45	B/E	
19	Mead Baby-care-16	Do	-	-	42	100	13	100	0	13	04	45	B/E	
20	Mead Baby-care-17	Do	-	-	42	100	13	100	0	13	04	45	B/E	
21	Mead Baby-care-18	Do	-	-	42	100	13	100	0	13	04	45	B/E	
22	Mead Baby-care-19	Do	-	-	42	100	13	100	0	13	04	45	B/E	
23	Mead Baby-care-20	Do	-	-	42	100	13	100	0	13	04	45	B/E	
24	Mead Baby-care-21	Do	-	-	42	100	13	100	0	13	04	45	B/E	
25	Mead Baby-care-22	Do	-	-	42	100	13	100	0	13	04	45	B/E	
26	Mead Baby-care-23	Do	-	-	42	100	13	100	0	13	04	45	B/E	
27	Mead Baby-care-24	Do	-	-	42	100	13	100	0	13	04	45	B/E	
28	Mead Baby-care-25	Do	-	-	42	100	13	100	0	13	04	45	B/E	
29	Mead Baby-care-26	Do	-	-	42	100	13	100	0	13	04	45	B/E	
30	Mead Baby-care-27	Do	-	-	42	100	13	100	0	13	04	45	B/E	
31	Mead Baby-care-28	Do	-	-	42	100	13	100	0	13	04	45	B/E	
32	Mead Baby-care-29	Do	-	-	42	100	13	100	0	13	04	45	B/E	
33	Mead Baby-care-30	Do	-	-	42	100	13	100	0	13	04	45	B/E	
34	Mead Baby-care-31	Do	-	-	42	100	13	100	0	13	04	45	B/E	
35	Mead Baby-care-32	Do	-	-	42	100	13	100	0	13	04	45	B/E	
36	Mead Baby-care-33	Do	-	-	42	100	13	100	0	13	04	45	B/E	
37	Mead Baby-care-34	Do	-	-	42	100	13	100	0	13	04	45	B/E	
38	Mead Baby-care-35	Do	-	-	42	100	13	100	0	13	04	45	B/E	
39	Mead Baby-care-36	Do	-	-	42	100	13	100	0	13	04	45	B/E	
40	Mead Baby-care-37	Do	-	-	42	100	13	100	0	13	04	45	B/E	
41	Mead Baby-care-38	Do	-	-	42	100	13	100	0	13	04	45	B/E	
42	Mead Baby-care-39	Do	-	-	42	100	13	100	0	13	04	45	B/E	
43	Mead Baby-care-40	Do	-	-	42	100	13	100	0	13	04	45	B/E	
44	Mead Baby-care-41	Do	-	-	42	100	13	100	0	13	04	45	B/E	
45	Mead Baby-care-42	Do	-	-	42	100	13	100	0	13	04	45	B/E	
46	Mead Baby-care-43	Do	-	-	42	100	13	100	0	13	04	45	B/E	
47	Mead Baby-care-44	Do	-	-	42	100	13	100	0	13	04	45	B/E	
48	Mead Baby-care-45	Do	-	-	42	100	13	100	0	13	04	45	B/E	
49	Mead Baby-care-46	Do	-	-	42	100	13	100	0	13	04	45	B/E	
50	Mead Baby-care-47	Do	-	-	42	100	13	100	0	13	04	45	B/E	
51	Mead Baby-care-48	Do	-	-	42	100	13	100	0	13	04	45	B/E	
52	Mead Baby-care-49	Do	-	-	42	100	13	100	0	13	04	45	B/E	
53	Mead Baby-care-50	Do	-	-	42	100	13	100	0	13	04	45	B/E	
54	Mead Baby-care-51	Do	-	-	42	100	13	100	0	13	04	45	B/E	
55	Mead Baby-care-52	Do	-	-	42	100	13	100	0	13	04	45	B/E	
56	Mead Baby-care-53	Do	-	-	42	100	13	100	0	13	04	45	B/E	
57	Mead Baby-care-54	Do	-	-	42	100	13	100	0	13	04	45	B/E	
58	Mead Baby-care-55	Do	-	-	42	100	13	100	0	13	04	45	B/E	
59	Mead Baby-care-56	Do	-	-	42	100	13	100	0	13	04	45	B/E	
60	Mead Baby-care-57	Do	-	-	42	100	13	100	0	13	04	45	B/E	
61	Mead Baby-care-58	Do	-	-	42	100	13	100	0	13	04	45	B/E	
62	Mead Baby-care-59	Do	-	-	42	100	13	100	0	13	04	45	B/E	
63	Mead Baby-care-60	Do	-	-	42	100	13	100	0	13	04	45	B/E	
64	Mead Baby-care-61	Do	-	-	42	100	13	100	0	13	04	45	B/E	
65	Mead Baby-care-62	Do	-	-	42	100	13	100	0	13	04	45	B/E	
66	Mead Baby-care-63	Do	-	-	42	100	13	100	0	13	04	45	B/E	
67	Mead Baby-care-64	Do	-	-	42	100	13	100	0	13	04	45	B/E	
68	Mead Baby-care-65	Do	-	-	42	100	13	100	0	13	04	45	B/E	
69	Mead Baby-care-66	Do	-	-	42	100	13	100	0	13	04	45	B/E	
70	Mead Baby-care-67	Do	-	-	42	100	13	100	0	13	04	45	B/E	
71	Mead Baby-care-68	Do	-	-	42	100	13	100	0	13	04	45	B/E	
72	Mead Baby-care-69	Do	-	-	42	100	13	100	0	13	04	45	B/E	
73	Mead Baby-care-70	Do	-	-	42	100	13	100	0	13	04	45	B/E	
74	Mead Baby-care-71	Do	-	-	42	100	13	100	0	13	04	45	B/E	
75	Mead Baby-care-72	Do	-	-	42	100	13	100	0	13	04	45	B/E	
76	Mead Baby-care-73	Do	-	-	42	100	13	100	0	13	04	45	B/E	
77	Mead Baby-care-74	Do	-	-	42	100	13	100	0	13	04	45	B/E	
78	Mead Baby-care-75	Do	-	-	42	100	13	100	0	13	04	45	B/E	
79	Mead Baby-care-76	Do	-	-	42	100	13	100	0	13	04	45	B/E	
80	Mead Baby-care-77	Do	-	-	42	100	13	100	0	13	04	45	B/E	
81	Mead Baby-care-78	Do	-	-	42	100	13	100	0	13	04	45	B/E	
82	Mead Baby-care-79	Do	-	-	42	100	13	100	0	13	04	45	B/E	
83	Mead Baby-care-80	Do	-	-	42	100	13	100	0	13	04	45	B/E	
84	Mead Baby-care-81	Do	-	-	42	100	13	100	0	13	04	45	B/E	
85	Mead Baby-care-82	Do	-	-	42	100	13	100	0	13	04	45	B/E	
86	Mead Baby-care-83	Do	-	-	42	100	13	100	0	13	04	45	B/E	
87	Mead Baby-care-84	Do	-	-	42	100	13	100	0	13	04	45	B/E	
88	Mead Baby-care-85	Do	-	-	42	100	13	100	0	13	04	45	B/E	
89	Mead Baby-care-86	Do	-	-	42	100	13	100	0	13	04	45	B/E	
90	Mead Baby-care-87	Do	-	-	42	100	13	100	0	13	04	45	B/E	
91	Mead Baby-care-88	Do	-	-	42	100	13	100	0	13	04	45	B/E	
92	Mead Baby-care-89	Do	-	-	42	100	13	100	0	13	04	45	B/E	
93	Mead Baby-care-90	Do	-	-	42	100	13	100	0	13	04	45	B/E	
94	Mead Baby-care-91	Do	-	-	42	100	13	100	0	13	04	45	B/E	
95	Mead Baby-care-92	Do	-	-	42	100	13	100	0	13	04	45	B/E	
96	Mead Baby-care-93	Do	-	-	42	100	13	100	0	13	04	45	B/E	
97	Mead Baby-care-94	Do	-	-	42	100	13	100	0	13	04	45	B/E	
98	Mead Baby-care-95	Do	-	-	42	100	13	100	0	13	04	45	B/E	
99	Mead Baby-care-96	Do	-	-	42	100	13	100	0	13	04	45	B/E	
100	Mead Baby-care-97	Do	-	-	42	100	13	100	0	13	04	45	B/E	
101	Mead Baby-care-98	Do	-	-	42	100	13	100	0	13	04	45	B/E	
102	Mead Baby-care-99	Do	-	-	42	100	13	100	0	13	04	45	B/E	
103	Mead Baby-care-100	Do	-	-	42	100	13	100	0	13	04	45	B	

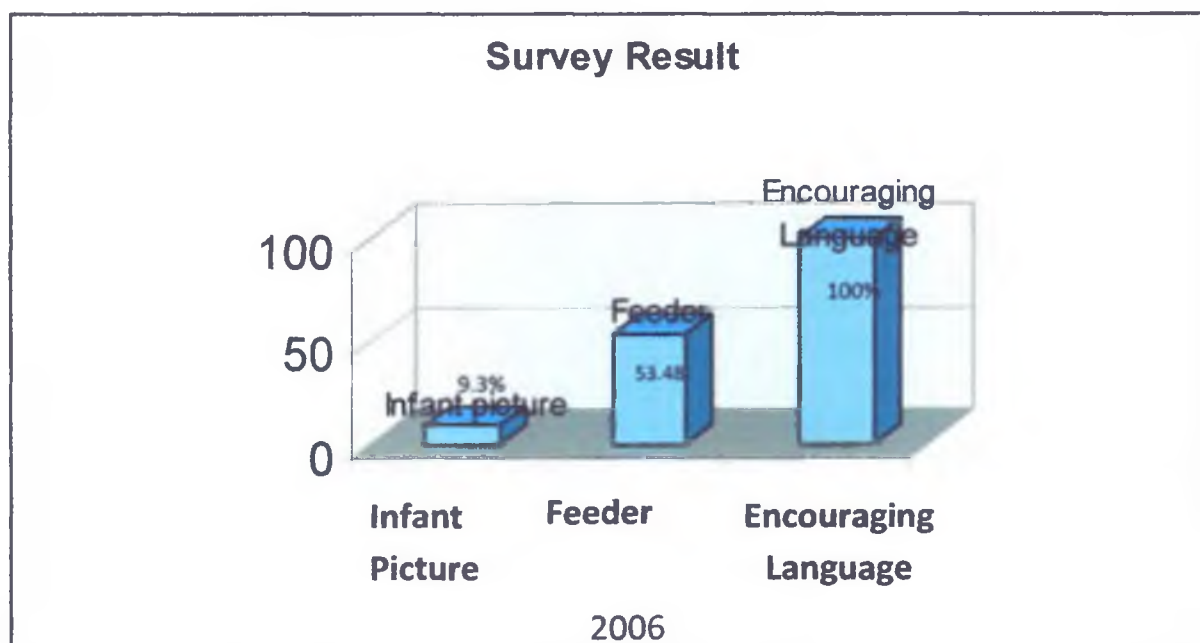
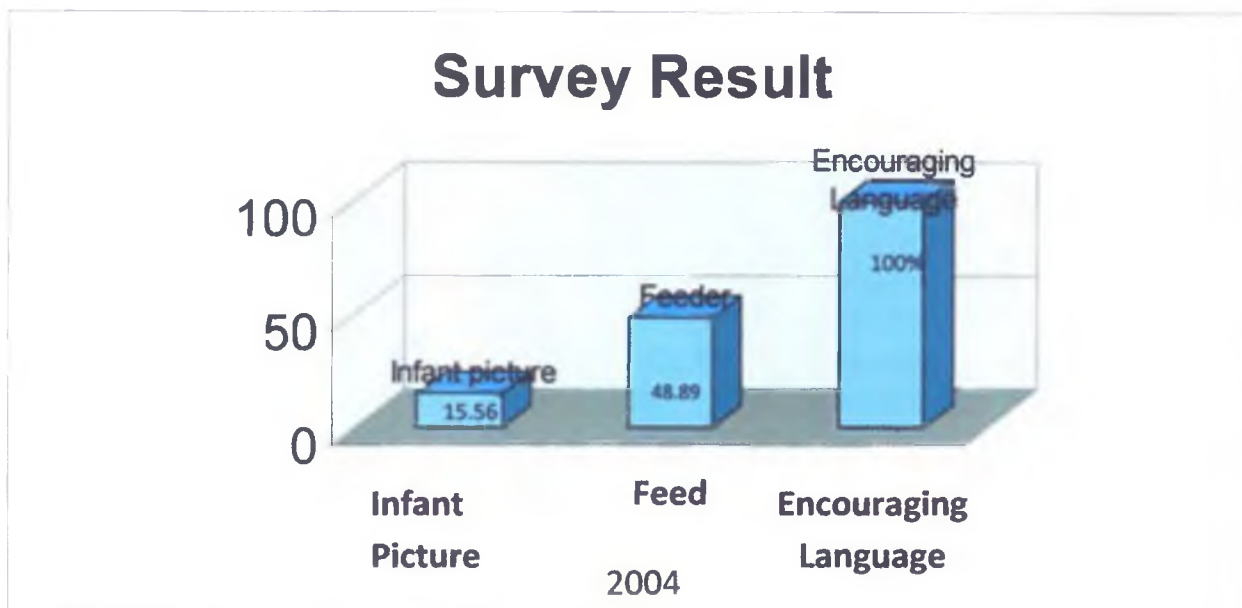


Figure: Comparative Survey Result on Violation of
BMS Code August, 2004 & 2006

According to the survey report of CAB among 45 items of baby food products 67.44% had no address of the importer 16.28% of the baby food products label used other language than both Bangla and English. The Registration of Breast Milk Substitute, 1984 (Next 1990) article 4/A includes -“No breast-milk substitute of any kind shall be imported, distributed, marketed, stored, sold, offered for sale or be locally manufactured for sale unless it is registered under this ordinance.” But it is a matter of sorrow that the most of the importers and distributors are violating these ordinance and marketed the baby foods in deceptive ways.

On the other hand, according to another same survey report were conducted by the Consumers Association of Bangladesh (CAB) in 2003, (in local market of Dhaka city area) indicated that among the 44 brands of different baby food products 44.12% did not have any registration. Promotion of Breast-milk Substitute (article 4/A) prohibited - “No person shall promote any breast-milk substitute either by advertisement or by offering or giving any gift, prize, discount coupon, or other free items or by any other means.” But Violating this ordinance, most of the baby food importers or distributors were marketing their products. Among them DANO, My boy, Dldogrow, Compain, Nido fortified and some others products’ advertising are promoting through mass media (i, e, television and news papers).

There is a prohibition of using photographs of any child on the label of any brands baby foods or any items for the baby. But there are also violation of this rule till now. Most of the baby food producers or importers were technically using infants’ photographs on the products label. They who did not use infants picture directly, they were using babies cartoon on the products label. They were using not only infants pictures or cartoons but also

the mothers' photographs. Among the collected items 54.54% brands labels were using this techniques.

There are also a prohibition in the ordinance of Break-milk Substitute (article 4/A) " Neither the container nor any literature kept inside the container shall have any picture of infant or such other picture nor writing which may idealise the use of any breast-milk substitute." But according to the survey report, violation of this ordinance was a common matter for baby food items in our country. The showed that 54.54% of baby food item's label contained one or more feeders.

There is a clear indication in the Ordinance of Break-milk Substitute 1990 that baby foods container must includes clearly the statutory caution to the effect that there is no alternative or substitute or similar to breast-milk to be printed legibly printed to the packet of baby food products. Most of the company also violated the prohibition. Although some company wrote the the statutory caution in short sentence, but many of the companies used technical words and deceiving the consumers. They only have written a part of the sentence unclearly such as "There is no alternative of breast-milk." "There is nothing equivalent of breast-milk." Among 44 items of baby food products 11.37% did not write the B. F language. Many of the importers wrote only the part of the sentence technically. Almost 46.36% of the baby food items used encouraging languages persuading the parents of the children or other influencers. About 100% labels of baby food items includes the production dates, expired dates, weights, preparation guide lines, indications and production elements. But 23.53% of the label did not included the doctor's advice and 11.18% of them did not includes the preparation or using process.

According to the survey report 2003 among 44 items of baby food products 67.44% had no address of the importer and 16.28% of the baby food products label used other language than both Bangla and English. The researcher could find out some deceptive and misleading advertisements accordance with the prior studies and the participants opinions.

Name of the brand	Manufacture/importer	Content of claim
Medi consult Ltd		"Our medical service is quite free"
Kazal Brother Ltd.	Kazal Brother Ltd.	"100% Guaranteed of common; 100% accurate and for all broods."
Marvelon		"Enjoy Hair Protein, Enjoy Hair wash" "100% Natural."
Lalita Herbal Co.	Lalita Herbal Co, Dhaka	"100% Guarantee. Using Lalita Herbal the skin must be spotless bright and fair within 7 days.
Maggi Noodles	Nestle	"It makes children taller, stronger and sharper"
La spagnola	Uttaran International (overseas) Ltd	"0" cholesterol and 100% soya bin in your city"
Kalkata Herbal		"100% challenge" "100% money back gaurantee"
Bristol Cigarate	Abul Khair Tobacco Ltd	100% satisfaction (SholoAna Tripti)

After all most of the companies were taking unlawful, misleading, puffy or other deceptive activities in their marketing policies. Baby food items are very important for a healthy, meritorious and better nation. But comparing the survey report of 2003 and 2006 it is found that the rate of deceptive activities in babyfood products are comparatively increasing day by day. Although Promotion of breast-milk substitute prohibit – "No person shall promote any breast-milk substitute either by advertisement or by offering or giving any gift, prize, discount coupon, or other free item or by any other means." But it was found that some of the baby food producers or importers were violating the legislation. They were taking a technical marketing promotional activities on the sly. They were persuading the doctors, nurses, health workers by offering variety of gift items. Among them, sending mobil

cards or cash money to the mentioned person is a new technique. Some of the baby food companies broadcast their attractive ads through mass media like newspapers and TV.

8.2 Summary up

A report headlined “Adulterated food floods markets in Tangail” published in the daily Star as on 12 March prepared by the own Correspondent of Tangail indicates the evidence of deceptive and illegal practices in the local markets of Bangladesh: “The sale of unhygienic and adulterated food is on the rise in almost all twelve upazila markets in Tangail causing health hazards, according to locals. The Tangail district civil surgeon, Abdul Basit, said above 50 lath people of the district were on risk in health hazards due to consuming adulterated food. They were suffering on gastro-enteritis, jaundice, liver diseases, allergy and many others diseases, he said. Lutfor Rahman, a resident of Thana para in Tangail municipality, told New Age that all the essential commodities such as rice, atta, flour, sugar, salt, edible oil, ghee and pulses were sold after being adulterated in the markets of the district.

Rice was being sold after mixing it with small stones, bricks granules, colors and low quality rice, he said. Sometimes rice was whitened with urea fertilizer during processing, he alleged. Shelly Akter, a house wife of Adalot Para in Tangail town, told that atta was being adulterated after mixing it with fine brand of maize and pulses which were being adulterated with different varieties of cheap pulses.

Elahi Box, a consumer of Soyani Bazar in Tangail municipality, told New Age that different variety of khesari pulses and seeds grasses were mixed with Mosur, Mugh pulses. The local sugar was being contaminated by

mixing it with poor quality Indian sugar and a type of sands, he said. Jewel Hossain, owner of Hotel Pyasi in the town, told that mustard oil was being sold after mixing it with soybean oil and giving it an artificial flavor and color. On the other hand, ghee was being adulterated with dalda and butter oil. Different brands of iodized salt selling in the markets hardly contained any iodine, locals said. Beef was being sold after mixing it with meat of buffalo, they alleged.

The Tangail municipality sanitary inspector, Shafiqul Islam, told New Age that it was very difficult to visit every spot of the town. 'We have no enough staff to visit the every market and open place of slaughtering cattle,' he said. According to district revenue department, there are 205 hats and bazaars in twelve Upazilas of the district. The district sanitary inspector, Nasrin Akter, told that sometimes they conducted mobile court to curb adulteration, but shortage of manpower was seriously hampering the drive. *'We have collected adulterated foods sample from the market and sent it to Dhaka Public Health Laboratory for test,'* she said. After confirming the report they would take necessary action against the responsible persons for food adulteration, she said."

The above report represents the present common scenario of Bangladeshi deceptive activists. Another three reports were collected from a reputed journal through on-line also an evidence of deception promotion in Bangladesh. The published report was as follows:

"GlaxoSmithKline and Nestle have felt the heavy hand of the Advertising Standards Authority (ASA) after accidentally showing two advertisements in the UK that were supposed to target children in Bangladesh. Two TV ads, for Horlicks and Maggi Noodles, have been banned by the watchdog for making misleading health claims that are not relevant to the

UK audience and do not abide by the nutritional regulations of Ofcom. Nepali TV in the UK broadcast the Horlicks and Maggi Noodles ads, which were only meant to air in Bangladesh, without the knowledge of the brand owners as part of a rebroadcast deal. The TV ad for GSK-owned Horlicks, which is promoted as a health drink in some foreign markets, featured a number of claims including that it makes children "*taller, stronger, sharper*", while Nestle's ad for Maggi Noodles claimed that the product makes children's muscles and bones strong. GSK said that its claims were accurate for "*children in that part of the world*" and that Horlicks complied with the regulatory requirements of Bangladesh. Nestle added that its campaign also complied with regulations in Bangladesh and had been approved for broadcast in that region.

The ASA reminded Nepali TV of its Ofcom licence obligations and of the requirement to have adequate compliance procedures and was concerned that Nepali TV ran the ads without explicit permission.

The advertising watchdog ruled ad must not be broadcast again in the UK in its present form and the product should not be advertised without adequate substantiation for the claims made for it". [On- line, Oct 22, 2008]

A Southern Comfort TV advert showing a group of friends socializing with the alcoholic drink has been banned by the ASA. The advertising watchdog said the advert, created by Arnold Worldwide, implied that the party atmosphere among friends depended on the presence of Southern Comfort and that the drink would create the perfect night. The ASA concluded that the 'Between Friends' ad suggested the success of the social occasion depended on the presence and consumption of alcohol, breaching advertising rules. Four complaints were received by the ASA. Two viewers felt the commercial implied alcohol was essential to the success of a social occasion,

while another two complained that the ad suggested alcohol could contribute to a person's popularity "Sister brand of Innocent Drinks", This Water, has been found guilty by the ASA of misleading consumers after the watchdog ruled that manufacturers failed to mention the 42g of sugar in some of its "natural" This Water range.

The ASA received a complaint that the water, which is advertised with the strap line "Simple, natural, refreshment," made no mention of the added sugar, although it highlighted it was made with water and fruit. This Water, owned by Fresh Trading, defended itself by saying that the water range was "simple" because it only contained three ingredients, and the campaign did not ignore the sugar but promote the main ingredients of fruit and water.

This Water told the ASA that sugar could be deemed a natural ingredient, a claim that was rejected by the watchdog which said that the sugar was "refined, white and granulated." [On-Line, Oct 15, 2008]

From the above discussion it is clearly found that the rate of deception in Bangladesh is increasing continuously in every national & international manufacturing companies and business firms. The researcher found that all most all kinds of deceptive and misleading Ad claims are occurred in every sector in Bangladesh. Some of them are violating the rules and regulations of the government, some of them used misleading of deceptive Ad claims, Some of them were "Bait" advertising. Some of them Violated copy of standard in accuracy of descriptions, accuracy of illustration using the terms, "100% Natural," "100% Guarantee," "100% Satisfaction," "Save or savings," "clearance sale," "Inventory reduction," "Special purchase," "Manufacturer's closeout" and so on. According to Better Business Bureau Copy stands all these terms are violations of legislation and also deceptive.

8.3 Recommendations

From the above discussion, it is found that most of the marketers and importers of baby food products are deceiving the customers. Not only the baby food producers, but also every manufacturing (national or multi-national) companies are also involved in deceiving the customer. They deceiving the consumers in products, prices and promotions. Among them, deceptive advertising is more sensitive. Because, advertising is the mode of communicating the customers. The research indicates that the rate of deception in Bangladesh is increasing day by day.

In our country, consumers awareness is very low. There are many rules and regulations in the developed countries of the world like the USA, the UK, Japan and/or China. But it is a matter of sorrow that there are a clear lack of proper monitoring agencies to follow up those who are violating the rules and regulations through their deceptive ads claims. There is also a lack of rules regulation and law- enforcement agencies to support the customers.

The government is trying to protect consumers. The implementation of the consumers protection Act, 2009 that can reduce the deceptive business activities as well as deceptive advertising from Bangladesh. Moreover, the following measures should be taken to protect the consumers from deceiving activities:

1. To create public and private awareness against the deceptive activities (i.e. deceptive products, deceptive price and deceptive advertisements).
2. To create awareness of consumers protection Acts and right to safety (i. e. protection from hazard our unsafe products and services).

3. To generate awareness amongst the consumers on their internationally recognized rights and responsibilities as consumers through seminar and symposium.
4. The conception of consumer rights cannot be separated from the human rights perspective because consumer rights are regarded as a facet of “Social Justice”.
5. The people who dominate the market or run business are in a more advantageous position than the customers, today. The customers are often put into a disadvantage and unequal bargaining situation. So, the customers need to be protected.
6. To overcome the venomous circle of fraud, every customer must remain vigilant and be assertive of their right and be aware of their responsibilities.
7. To have a monitoring agency for monitoring the market price when the price of the product is fixed.
8. Consumers can be protected by increasing the provisions for consumer education and concurred remedy of civil and criminal redress.
9. After all, the civil society as well as the Government must be aware to protect the consumers and general public from the deceptive ads.

8.4 CONCLUSION:

Our research also suggests that marketers should strive to develop concrete strategies for dealing with distrustful consumers in the marketplace, and we offer some guidance for doing so. Despite the defensive bias that participants who continued to differentiate between products with strong benefits and those with weak benefits. This implies that superior products, whose benefits are clearly explained to consumers, still confer a relative advantage, even in the face of defensive consumers. Marketers should also seek alternative means of communicating with consumers who are skeptical of advertising or hold general negative stereotypes about marketing, such as viral marketing aimed at increasing positive word of mouth among consumers themselves.

Finally, it is said that awareness is the key weapon of a consumer. As this paper has demonstrated, deceptive advertising is an ongoing ethical, and in some cases, controversial issues. What may appear to be a harmless advertisement to one person or a group, it may be misleading to another. With the increase of technology and the ever-increasing use of the internet, consumers remain prime targets for deceptive advertising and marketing practices. Fortunately, the laws and monitoring agencies continue to improve, and will continue to protect the consumer from the deceptive advertising and other unethical marketing practices.

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APPENDIX

Synopsis

Title: Deception of Advertising in Bangladesh-An Empirical Investigation.

Introduction: Advertising consists of non-personal of communication conducted through paid sponsorship. Its objectives are to inform, pursued and remained products benefits and organizations to position products in consumers' mind. Marketers sometimes accused of “Deceptive” practices in their advertisement. So, I am interested to study in this field.

Whit is Deceptive Practices: Marketers are sometimes accused of “Deceptive practices” that lead consumers to believe they will get more value than they actually do (such as false & misleading advertising.)

Kinds of deceptive Practices: Deceptive practices fall into three groups-

- (i) Deceptive pricing,
- (ii) Deceptive promotion and
- (iii) Deceptive packaging.

Objectives of the study: Objectives of my study would be-

- ✚ To find out and observed what kinds deceptive advertising are practiced.
- ✚ To examine the social effects of deceptive advertising.
- ✚ To find out what steps have private citizens, legislators & government agencies taken to curb deceptive advertising.
- ✚ To find out what steps have enlightened companies taken to carry out socially responsible and ethical advertising.

Research Methodology: In order to prepare a research report. I would like to follow the proper methodology.

Sample Area: Sample area would Dhaka and its nearby districts of Bangladesh.

Sample size: At least 50 (fifty) customers and 20 (twenty) organizations (Advertisement) from healthcare, education and CGMC sectors that are directly involved in the interacting process would be selected as sample area.

Techniques of data collection: Primary data would be collected through questionnaire method by personal & telephone interviews.

Secondary data would be collected from internet, business journals, University publications and govt. annual reports.

Interpret and reporting of the findings: Relevant data would be properly analyzed in order to interpret and reporting of the findings.

Reference Books: The systematic extensive literatures would be reviewed in the area of advertising, consumerism and ethical issues of marketing as reference book.