

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Public Opinion on Efficiency of Drugs and Magic Remedies Act, 1954 in Present Indian Scenario

GOWRI MANOHARI P.¹ AND AKSHITA B. N.²

ABSTRACT

Media has a profound effect over the masses to shape and mould the ideas regarding any product. Thus it is an essential tool for mass awakening and welfare of the public at large. But regarding drugs this tool of advertisement should be very meticulous. If the pharmaceutical companies are permitted to publicize the medications, at that point it prompts self prescription and the general public needs to confront the threat of adverse impacts for a long lasting time. The main objective of this study is to understand the effectiveness of Drugs and Magic Remedies Act and to interpret the significant difference between the influence of magic remedy advertisements and age of the respondents. For the purpose of this study empirical research is used to accurately portray the public opinion on efficiency of drugs and magic remedies Act, 1954 in present Indian Scenario. 506 samples have been collected using a convenient sampling method. Independent variables used in the research are age, educational qualification, occupation and marital status. Dependent variables used in the research are awareness of drugs and magic remedies Act, frequency of advertisement, influence of drugs and magic remedies, superstitious beliefs, social influence, other's experience, advertisements. The statistical tools used in the research are graphical representation and correlation. The findings of this study suggest that advertising plays a crucial part in consumer preference. A potential advertisement would impel the buying need by techniques for pulling in the purchaser's consideration. Regardless of the current enactment prohibiting the advertisement of drugs in certain diseased conditions, worthwhile advertisements of drugs and magic remedies are openly streaming in the Indian broad communications now-a-days. These advertisements charm the helpless consumers in this way expanding the danger of self medication in the society.

Keywords: *Advertisement, Misleading, Consumers, Consumer Behavior, Celebrity Endorsement.*

¹ Author is a student at Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences (SIMATS), Saveetha University, Chennai, Tamilnadu, India.

² Author is a student at Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences (SIMATS), Saveetha University, Chennai, Tamilnadu, India.

I. INTRODUCTION

In the recent past, countless Objectionable promotions identifying supposed remedies for venereal infections, energizers and conditions particular to men and women have been published in different papers and magazines. Because of unawareness, ignorant people get into the snare of deception and not just wind up losing enormous sums of money yet additionally experience the ill effects of huge damage and substantial injury. Individuals associated with promoting such exercises can be a genuine hazard to the general public whenever kept unobserved and therefore deserve severe censure and penalty. So as to control the advertisement of drugs in specific cases and to preclude the commercial for cures claimed to have magic remedy characteristics and to accommodate matters associated therewith, the Drugs and Magic Remedies (Objectionable Advertisement) Act was established in 1954. The principle goal of DMR Act is to control the advertisement of drugs in specific cases and to preclude the advertisement associated with drugs asserted to have magic remedy characteristics and to provide for matters connected therewith. Under the DMR Act, the meaning of “Magic Remedy”³ includes a talisman, mantra, kavacha and any other charm of any kind which is alleged to possess miraculous powers for or in the mitigation, treatment, diagnosis, cure or prevention of any disease in human beings or animals or for affecting or influencing in any way the structure or any organic function of the body of animals or human beings. Be that as it may, in the present situation the law is to some degree out displayed and obsolete. While it prohibits misleading health claim advertisements in the print media; it has no provision to tackle the advertisements that may appear on the internet or the television. That there has not been a law specifically to prosecute those who make false spiritual claims and deceive people. As such there is an urgent need not only to impose a strict law but also of a strict vigil on the various claims made by unscrupulous practitioners about their alleged abilities to treat various illnesses, and to punish defaulters appropriately.

(A) Objectives:

- To determine if there is a difference in the level of awareness towards drugs and magic remedies Act between the educated and uneducated respondents.
- To find which age group of respondents have seen the maximum number of magic remedy advertisements.

³Section 2(c), THE DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT, 1954

- To compare and estimate the influence of magic remedy advertisements between teenagers and adults.
- To identify the level of preferability towards curing diseases through magic remedies.

(B) Literature review

Evaluated false or misleading advertisements have, in the recent past, increased as a result of businesses seeking to compete for customers. Information provided must be precise and fully disclosed as it is crucial for marketing and the end users expect the same to make decisions. **(Mohammed T. Nuseir 2018)** Discovered that a normal watcher at home in the United States (US) looks upwards of nine medication commercials for each day and around 16 hours out of every year, far surpassing the time a normal individual goes through with his/her essential consideration doctor. **(Natasha Parekh, William H. Shrank 2018)** Said that the global problem of advertising of drugs that possess magic remedies can be tackled only when the governments take radical steps. Quicker and severe execution of the rules other than improving the coordination at each level is the best need of great importance. **(Ravishankar Ayyanar, Mehul Shankar, Manaswitha Boyangari 2017)** Examined that drug marketing is a big business, and companies are willing to spend a lot of money to offer you an easy solution to a health problem you may or may not have. From 2012 to 2015, yearly spending on professionally prescribed medication promoting in all news sources (with the exception of digital) rose from \$3.2 billion to \$5.2 billion, and that figure is relied upon to just go up. **(Harvard Health Publishing 2017)** Examined that the pharmaceutical makers spend hundreds of millions of dollars each year on marketing activities that include catchy direct-to-consumer (DTC) television ads for prescription drugs, physician-targeted promotions and other strategies. Critics contend that this aggressive marketing is a threat to public health because companies overemphasize a drug's benefits and downplay potentially dangerous side effects. The industry responds that its marketing promotes awareness of treatments for chronic conditions and helps generate revenue for research. Federal regulators have collected more than \$20 billion in settlements from drug companies accused of trying to inflate sales by marketing their products "off-label," or for purposes not approved by the U.S. Food and Drug Administration. **(Arlene Weintraub 2017)** Described that misleading advertisement affects the consumer's belief. Consumers buy products believing the advertisements which they see. **(Bhushan Patwardhan 2016)** Examined the advertisements appearing from September 2012 to November 2012 in 10 newspapers comprising English and Hindi dailies, and covering Southern and Northern India, were gathered and examined dependent on the arrangement of the two enactments. The

investigation of 82 ads demonstrated that they were about sexual delight prescriptions, menstrual issues, joint inflammation, hair issues, thinning, weight reduction, infertility in male, tallness gain, growth of breast and for leucoderma. 77 of the 82 advertisements abused the Drugs and Magic Remedies Act and provisions of Schedule J of Drugs and Cosmetics Act. **(Akram Ahmad, Isha B Patel, S Parimalakrishnan, Guru Mohanta 2015)** Found that unethical advertising, misleading information or deception and stereotyping advertising impact on Customer purchase intention with mediating effect of word-of-mouth (WOM) in Pakistan. **(Najeeb Ullah, Mustansar Hussain 2015)** Discussed that advertising of prescription drugs is currently allowed only in the USA and up to year 2005 in New Zealand. The European Parliament has emphatically opposed advertising to patients in line with the “precautionary principle”. The Internet transcends country boundaries and it is more difficult to control and regulate. So there is an urgent need to increase vigilance with respect to any inappropriate use of Direct To Consumer Advertisement on the internet. **(Satin Kalidas, Vipul, Nilesh, Jaydeo Laxman Borkar 2014)** Found that pharmaceutical advertising has an important effect on drug consuming behaviour of patients. It was seen that advertisements featuring health tonics and supplements, antacids, creams and analgesic tablets, digestives and antiflatulents, tablets and cold rubs as well as cough syrups had a high recall value (>50%). It was seen that patients were keen on buying the drugs after an exposure to DTCA. **(Canna Ghia, Rajesh Jha, Gautam Rambhad 2014)** Discussed that fairness cream ads try to depict that only a fair person has a good chance to succeed in life. Energy drinks portray as if they provide superhuman powers to the consumer. Some even suggest that their children will not grow up properly if they do not consume their chocolate-flavored milk powder or the addition of these powers help in absorbing more calcium. The worst culprits are celebrity endorsements. The celebrities never use the product, but they appear in advertisements of products that promise consumers the same skin & hair of the celebrity. In all cases, the glow on the skin of the actress is due to the skills of the makeup artist. **(Imran Sayed 2014)** Discovered that most Americans are familiar with seeing prescription drugs advertised on television, but few realize how direct-to-consumer (DTC) advertising has become so widespread. In 1997, the U.S. FDA eased its agency’s advertising regulations. This made it more reasonable for manufacturers to broadcast prescription drug advertisements legally. **(Kevin M. Fain, G. Caleb Alexander 2014)** Evaluated that Pharmaceutical companies use direct to consumer advertising to influence the consumers easily. **(Issac, Avinandan, Yam B. Limbu 2013)** Described that consumers and their organizations must assert their rights against dishonest businessmen indulging in such a practice and bring such cases to the notice of the enforcement group, which in turn have to play the role of a

watchdog of public interest. **(Priyanka 2012)** Evaluated that the Central Drugs Standard Control Organisation is expected to protect the citizen from the marketing of harmful pharmaceuticals. The discoveries of the 59th report of the Parliamentary Standing Committee on Health and Family Welfare are an uncover of the incredibly remiss measures adhered to by this purported gauges association, the easygoing methodology taken in confirming medications available to be purchased, and the unscrupulous and unlawful advances taken by some pharmaceutical organizations and clinical experts in pushing for the presentation of specific medications in the market. **(S Srinivasan 2012)** Found that advertising and deceptive advertising must have competitive or predatory effects, increasing market share of the deceptively advertised product at the expense of rivals. **(John Cawley, Rosemary, Matthew 2011)** Assessed that the ongoing "paradigm shifting" inquire about in purchaser conduct managing reconstructive memory forms proposes that promoting can apply an amazing retroactive impact on how buyers recall their past encounters with an item. **(Kathryn, Michael 2009)** Found that Proponents of DTCA argue that it helps to inform the public about available treatments and stimulates appropriate use of drugs for high-priority illnesses (such as statin use in people with ischemic heart disease). Critics contend that the data in the promotion is frequently deceptive and one-sided, and that DTCA raises endorsing costs without net proof of medical advantages. **(Elizabeth, Randall, Richard, Peter 2006)** Said that deceptive advertising is defined as a firm misrepresenting to the consumer the attributes of the advertised product. **(Nagler 1993)** Found that an advertisement is misleading if an exposed group holds more false beliefs than a comparison group. When ten allegedly misleading advertisements were tested, two were identified as incrementally misleading, and four others were shown to be exploitive misleading. **(Edward, Barbara 1981)**

(C) Methodology

The current study is based on empirical research. It consists of the scientific frame of research. It began with the finding of research problems based on the review of literature. The major contribution of the study is to collect the legal facts of a particular area and to test the hypothesis of a cause and effect relationship between variables. The research design is exploratory and experimental. It explored the problem tested with hypotheses and provided the solution from the analysis. Convenient sampling method is used (Non probability sampling). The sample size is 506. Data is collected through online sources. Questionnaire is used as the primary data collection and the articles, journals, reports, newsletters are considered as the secondary sources. The analysis is carried out for demographic statistics (Age, Educational Qualification, Occupation and Marital Status) and graphs are used.

(D) ANALYSIS

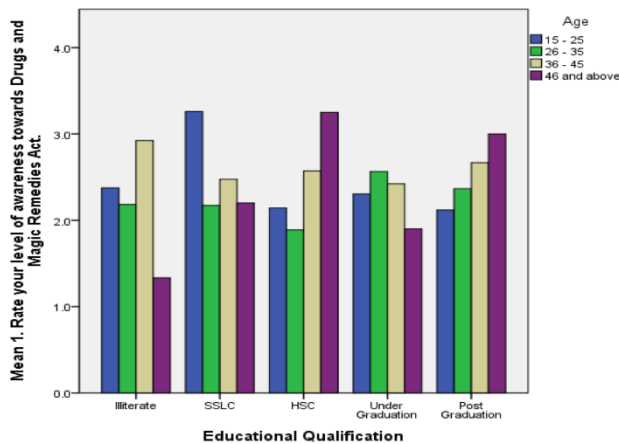


Figure 1

Legend: The various educational qualification groups pertaining to age of the respondents and their level of awareness towards drugs and magic remedies Act.

Result: Respondents between the age group of 15-25 who have completed SSLC and respondents belonging to age group of 46 and above have higher level of awareness towards drugs and magic remedies Act. Whereas respondents belonging to age group of 46 and above and illiterate respondents have lesser level of awareness towards drugs and magic remedies Act.

Discussion: From the survey it is found that people belonging to the age group of 15-25 and 46 and above have higher awareness towards drugs and magic remedies Act. Illiterate respondents lack behind in the level of awareness.

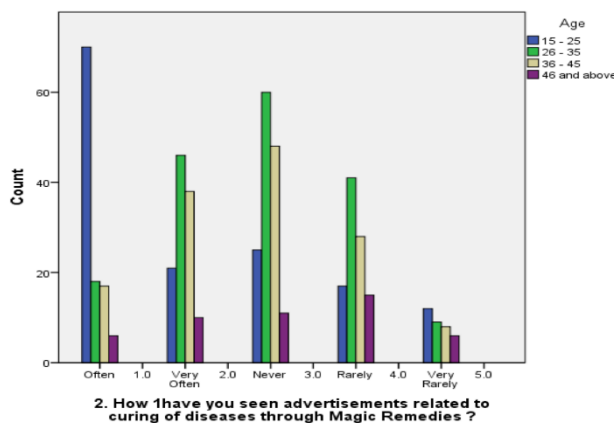


Figure 2

Legend: The age distribution of the respondents and how often they have seen advertisements related to curing diseases through magic remedies.

Result: Respondents between the age group of 15-25 have seen more number of magic remedy

advertisements.

Discussion: From the survey it is found that the respondents between the age of 15-25 have seen more number of magic remedy advertisements. This might be because these categories of people have greater accessibility to social media and they are exposed to television advertisements of this kind.

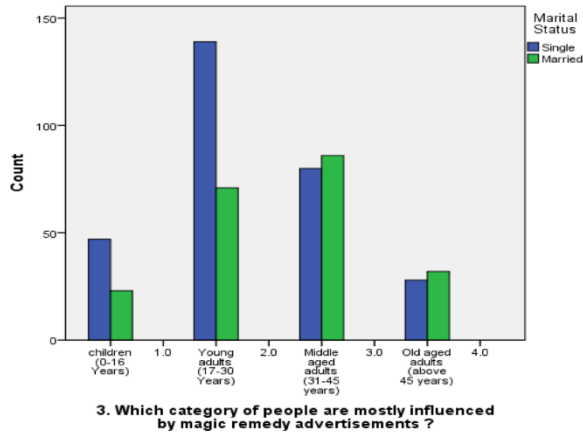


Figure 3

Legend: The marital status of the respondents and which category of people are mostly influenced by magic remedy advertisements.

Result: Respondents who are single state that young adults between the age group of 17-30 years are influenced by magic remedy advertisement.

Discussion: From the survey it is found that respondents who are single stated that young adults between the age group of 17-30 years are influenced by magic remedy advertisements. This is because young adults want a cure for every problem easily. They are easily influenced by such advertisements and they are the target for the advertisers.

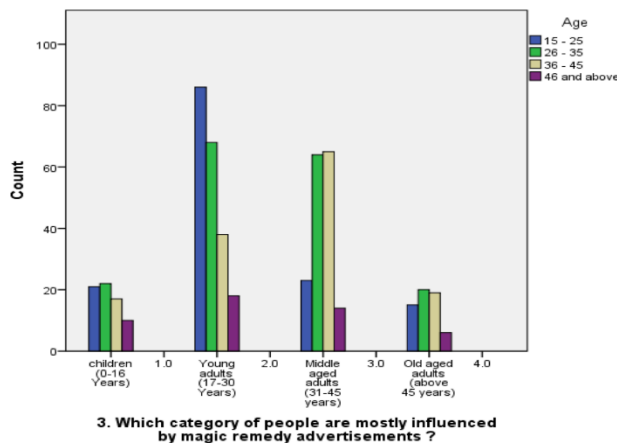


Figure 4

Legend: The age distribution of the respondents and which category of people are mostly influenced by magic remedy advertisements.

Result: Respondents between the age group of 15-25 state that young adults between the age of 17-30 years are influenced by magic remedy advertisements.

Discussion: From the survey it is found that respondents between the age group of 15-25 state the same that young adults are influenced by magic remedy advertisements.

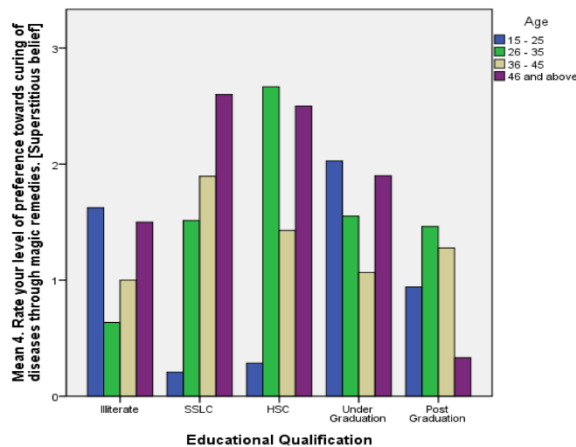


Figure 5

Legend: The various educational qualification groups pertaining to age of the respondents and their preference towards magic remedy. (Superstitious Beliefs)

Result: Respondents between the age group of 26-35 who are pursuing HSC stated that they prefer magic remedies due to their superstitious beliefs.

Discussion: From the survey it is found that the respondents between the age of 26-35 who have completed HSC stated that they prefer magic remedies due to their superstitious beliefs. This is because they are elderly people when compared to 15-25 age group respondents. They might have some superstitious belief and think that they can find a solution to a problem through magic remedies.

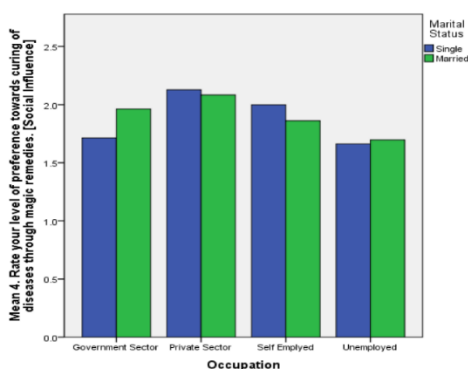


Figure 6

Legend: The various occupational groups pertaining to marital status of the respondents and their preferability towards magic remedy. (Social Influence)

Result: Respondents who are working in the private sector stated that they prefer magic remedies due to the social influence.

Discussion: From the survey it is found that single respondents who are working in the private sector stated that they are preferring magic remedies due to social influence. This is because they can be influenced by their co-workers in their organization and they can be influenced by the friends and relatives.

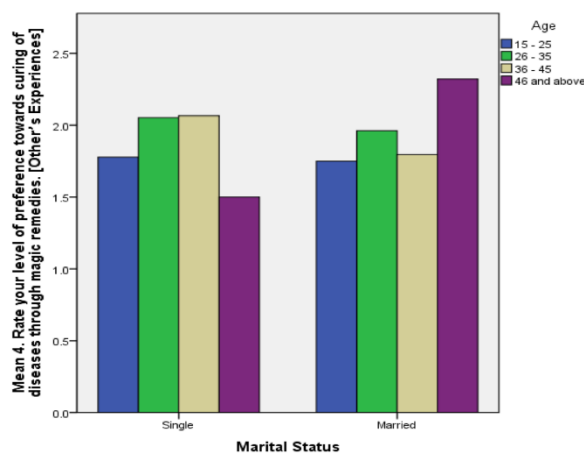


Figure 7

Legend: The various age groups pertaining to marital status of the respondents and their preferability towards magic remedy. (Other's Experience)

Result: Respondents belonging to the age group of 46 and above who are married stated that they prefer magic remedies due to other's experience.

Discussion: From the survey it is found that the respondents belonging to the age group of 46 and above and who are married stated that they prefer magic remedies due to other's experience.

(E) Limitations

The major limitation of the study is the sample frame. Time is also a major factor limiting the study. The sample frame is collected in beaches and parks so it acts as a minor constraint for collecting samples.

II. SUGGESTIONS

In order to protect consumer interest, the government should establish an independent broadcast regulator who will draw up a strict code of practice particularly for telemarketing services so that only those products and gadgets that do not go against Drugs and Magic Remedies Act and

have proven significance are allowed to be endorsed in the media. As for other advertisements that are found to be false or misleading, corrective advertisements are the best solution. Another option is to revitalize the Monopolies and Restrictive Trade Practices Commission (MRTPC) as the Unfair Trade Practices Commission with the definite purpose of checking illegal advertisements. When dishonest businessmen engage in such a practice, consumers must stand up for their rights and alert the competent forums, which in turn must function as a watchdog of the public interest.

III. CONCLUSION

From the research it is found that illiterate people lack awareness regarding drugs and magic remedies Act. Whereas literate respondents have some level of awareness. Nearly 50% of the respondents between the age of 15-25 have seen more magic remedy advertisements. Young adults between the age group of 17-30 years are easily influenced by magic remedy advertisements. They become prey to these kinds of advertisements. Social influence, Superstitious belief and other's experience influence the people and these acts as a major factors for preferring magic remedies. From the research it is also found that when the level of awareness is high, preference towards magic remedies is low.

IV. REFERENCE

1. Ahmad, Akram, Jongwha Chang, Haechung Chung, Guruprasad Mohanta, Sundararajan Parimilakrishnan, and Isha Patel. 2013. "The Role of Pharmacoeconomics in Current Indian Healthcare System." *Journal of Research in Pharmacy Practice*. <https://doi.org/10.4103/2279-042x.114081>.
2. Ayyanar, Ravishankar, Manaswitha Boyanagari, and Mehul Shankar. 2018. "Enforcement of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, in the State of Andhra Pradesh: Situational Analysis and Lessons Learnt." *Journal of Pharmaceutical Health Services Research*. <https://doi.org/10.1111/jphs.12207>.
3. Dyer, Clare. 2016. "Nurofen Advertisement Was Misleading, Says Watchdog." *BMJ*. <https://doi.org/10.1136/bmj.i3669>.
4. Faerber, Adrienne E., and David H. Kreling. 2014. "Content Analysis of False and Misleading Claims in Television Advertising for Prescription and Nonprescription Drugs." *Journal of General Internal Medicine*. <https://doi.org/10.1007/s11606-013-2604-0>.
5. Fain, Kevin, Matthew Daubresse, and G. Caleb Alexander. 2013. "The Food and Drug Administration Amendments Act and Postmarketing Commitments." *JAMA*. <https://doi.org/10.1001/jama.2013.7900>.
6. Feather, Kenneth R. 1990. "Persantine Advertisement: Artistic License or Misleading Implication?-Reply." *JAMA: The Journal of the American Medical Association*. <https://doi.org/10.1001/jama.1990.034440050052021>.
7. Ghia, Canna, Rajesh Jha, and Gautam Rambhad. 2014. "Assessment of the Impact of Pharmaceutical Advertisements on Patient's Drug Consuming Behavior: A Questionnaire Based Survey." *Journal of Young Pharmacists*. <https://doi.org/10.5530/jyp.2014.2.9>.
8. Giaquinto, Marcus. 2007. "Mental Number Lines I Thank Brian Butterworth, Susan Carey, Peter Carruthers, Robyn Carston, Stephen Laurence, Richard Samuels, Gabriel Segal, and Elizabeth Spelke for Helpful Comments." *The Innate Mind: Volume 2: Culture and Cognition*. <https://doi.org/10.1093/acprof:oso/9780195310139.003.0008>.
9. India. 1964. *The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954: No. 21 of 1954 : (as Modified Up to the 1st April, 1964)*.
10. Kannan, K. 2014. "Cosmetic Enhancement and Magic Remedies." *Medicine and the*

- Law. <https://doi.org/10.1093/acprof:oso/9780198082880.003.0012>.
11. Malik, Vijay, and Elizabeth Verkey. 2013. *Law Relating to Drugs and Cosmetics: Containing Drugs and Cosmetics ACT, 1940, Drugs and Cosmetics Rules, 1945, Along with Drugs (Prices Control) Order, 2013, National Pharmaceuticals Pricing Policy, 2012 (NPPP-2012), Pharmacy ACT, 1948, Poisons ACT, 1919, Drugs and Magic Remedies (Objectionable Advertisements) ACT, 1954, and Other Allied Acts and Rules Etc. with Information on Herbal Formulations, Cosmetics and Extracts, Etc.*
 12. Michael, S. 2002. "Undermarketed! Why Some Operators Short Themselves on Advertising." *The Cornell Hotel and Restaurant Administration Quarterly*. [https://doi.org/10.1016/s0010-8804\(02\)80032-5](https://doi.org/10.1016/s0010-8804(02)80032-5).
 13. Mukherjee, Avinandan, and Yam B. Limbu. 2013. "Pharmaceutical Direct-to-Consumer Advertising: Past, Present, and Future." *International Journal of Pharmaceutical and Healthcare Marketing*. <https://doi.org/10.1108/ijphm.2013.32407caa.001>.
 14. Mutalik, Gururaj, Girish Tillu, and Bhushan Patwardhan. 2019. "AyurYoga, the Confluence of Healing Sciences: A Call for Global Action." *Journal of Ayurveda and Integrative Medicine* 10 (2): 79–80.
 15. &na;, and &NA;. 2012. "The Indian Central Drugs Standard Control Organisation (CDSCO) Has Finalised It's Guidelines on Recall and Rapid Alert System for Drugs." *Reactions Weekly*. <https://doi.org/10.2165/00128415-201214320-00005>.
 16. Nuseir, Mohammed T. 2018. "Impact of Misleading/false Advertisement to Consumer Behaviour." *International Journal of Economics and Business Research*. <https://doi.org/10.1504/ijebr.2018.10016066>.
 17. Parekh, Natasha, and William H. Shrank. 2018. "Dangers and Opportunities of Direct-to-Consumer Advertising." *Journal of General Internal Medicine*. <https://doi.org/10.1007/s11606-018-4342-9>.
 18. Park, Chang Hee, and Manoj K. Agarwal. 2018. "The Order Effect of Advertisers on Consumer Search Behavior in Sponsored Search Markets." *Journal of Business Research*. <https://doi.org/10.1016/j.jbusres.2017.11.003>.
 19. "The Critical Appraisal of Drug Advertisement Directly to Consumers: A Mockery of Drugs and Magic Remedy (objectionable Advertisements) Act." 2014.
 20. Ullah, Najeeb, Faculty of Management Sciences, International Islamic University, Islamabad, Federal, Pakistan, Mustansar Hussain, et al. 2015. "Impact of Unethical

Advertising, Misleading Information or Deceptive Advertising on Customer Purchasing Intention with Mediating Effect of Word of Mouth: Case of Pakistan.” *International Journal Of Innovation And Economic Development*.
<https://doi.org/10.18775/ijied.1849-7551-7020.2015.14.2005>.
