Protecting the consumer from false commercial advertising and misleading in Algerian law

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Abstract

In light of the rapid and significant development that the world is witnessing today in the field of marketing and commercial advertising, consumers have become exposed to an increasing number of advertising practices that may involve deceit, falsehood, or misleading information. Advertising, despite its positive role in stimulating economic activity and directing demand towards products and services, can sometimes turn into a means of harming consumer interests by providing incorrect or misleading information about the nature, quality, or origin of goods and services.

From this standpoint, the Algerian legislator has given special attention to protecting consumers from false and misleading advertising by enacting legal provisions aimed at ensuring transparency of information and accuracy of data presented in commercial advertisements, in order to uphold the principle of credibility and trust in commercial transactions.

This study seeks to analyze the legal framework for consumer protection against false and misleading commercial advertising in Algerian legislation, by clarifying the concept of commercial advertising, identifying prohibited types of advertisements, examining the legal and regulatory mechanisms adopted to combat this phenomenon, and attempting to evaluate the effectiveness of the current texts in protecting the Algerian consumer.

Keywords

Commercial Publicity;
Consumer protection;
False advertising;
Misleading Advertising;
Means of advertising.

حماية المستهلك من الاشهار التجاري الكاذب والمضلل في القانون الجزائري

ملخص

في ظل التطور المتسارع و الكبير الذي يشهده العالم اليوم في مجال التسويق والإشهار التجاري أصبح المستهلك عرضة لعدد متزايد من الممارسات الإعلانية التي قد تنطوي على الخداع و الكذب أو التضليل. فالإشهار، رغم دوره الإيجابي في تحفيز النشاط الاقتصادي وتوجيه الطلب نحو المنتجات والخدمات، قد يتحول أحياناً إلى وسيلة للمساس بمصالح المستهلك من خلال تقديم معلومات غير صحيحة أو مضللة حول طبيعة السلع و الخدمات أو جودتهما أو مصدرهما. ومن هذا المنطلق، أولى المشرّع الجزائري عناية خاصة بحماية المستهلك من الإشهار الكاذب والمضلل، فسنّ أحكاماً قانونية تهدف إلى ضمان شفافية المعلومات وصحة البيانات المقدمة في الإعلانات التجارية، تحقيقاً لمبدأ المصداقية والثقة في المعاملات التجارية.

تسعى هذه الدراسة إلى تحليل الإطار القانوني لحماية المستهلك من الإشهار التجاري الكاذب والمضلل في التشريع الجزائري، من خلال بيان مفهوم الإشهار التجاري، وتحديد صور الإعلانات الممنوعة، والوقوف على الآليات القانونية والرقابية المعتمدة لمكافحة هذه الظاهرة، مع محاولة تقييم مدى فعالية النصوص الحالية في حماية المستهلك الجزائري.

الكلمات المفتاحية

الاشهار التجاري؛
حماية المستهلك؛
الاشهار الكاذب؛
الاشهار المضلل؛
وسائل الاشهار.

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I- Introduction :

The economic opening of the Algerian market to foreign products came as an inevitable result of the establishment of the principle of trade and industrial freedom, which had numerous repercussions, including the emergence of competition among producers and service providers to market their products and services through various means and methods, the most important of which is commercial advertising.

So, commercial advertising of products and services is considered a manifestation of legitimate competition, as well as a factor in marketing and promotion, in addition to the role it plays in informing the consumer public about the goods and services available in the market.

However, when this advertisement is false or misleading, it exceeds its objectives and violates competition rules, especially when it advertises products or services of a competing entity. It also infringes on the consumer's right to receive truthful advertisements and information about goods and services, which constitutes an undesirable aspect. This has led to the imposition of restrictions on advertising to protect consumers and ensure they receive truthful information about the products and services they wish to purchase.

All of this led to the idea of the necessity of establishing a legal framework for commercial advertising to mitigate its negative effects, which is what most countries in the world have done by setting regulations for it. It is worth noting that the Algerian legislator has not yet issued any law regulating advertising and protecting consumers from it, despite its necessity. The only provision introduced by the legislator is Article 28 of Law 04-02, which defines the rules applicable to commercial practices.

Accordingly, considering that commercial advertising is an inevitable necessity to activate competition among participants, and due to the violations committed by these participants through false and misleading advertisements, and in light of the absence of a specific legal text regulating advertising that defines the rights and obligations of those involved in it, to what extent has the Algerian legislator provided legal protection to consumers from these false and misleading advertisements? And is it sufficient in light of the developments and changes that advertising media are witnessing today?

Accordingly, we decided to address this research in two sections: in the first section, we will discuss the nature of commercial advertising, while in the second section, we will address the legal protection against false and misleading advertising.

Consumer Protection from False and Misleading Commercial Advertising in Algerian Law Section One: The Nature of Commercial Advertising

As a result of the industrial and technological development our world is experiencing today, there has been a significant increase in production volume, which has led to an increase in advertising and commercial promotion to market these products by encouraging consumers to purchase them, especially in a liberal economy based on free competition among economic agents within the consumer market.

We will attempt, through this study, to clarify the meaning of advertising in the first section and distinguish between false advertising and misleading advertising in the second section.

II - Definition of advertising

There are two definitions of advertising: a jurisprudential definition and a legislative one, and we will address each of these definitions as follows:

II .1.1. Juridical Definition:

Advertising is defined as a notification carried out by a professional with the intention of introducing a specific product or service by highlighting its advantages and praising its merits, with the aim of leaving a favorable impression on the targeted audience, which leads to their acceptance of the advertised products and services[1].

It is also defined as: the art of directly influencing the consumer psychologically to engage in a contract for commercial purposes or with the intention of making a profit. This is what merchants and others do by publishing it in newspapers, on vehicles, in special bulletins that are hung on walls or distributed to people, and anything they want to announce to promote it. It is also a set of means used to introduce an industrial or commercial project or to praise a product[2].

It is also defined as a communication process aimed at promoting certain ideas or facilitating communication within an economic framework between specific individuals who offer goods and services, and others who are likely to use these goods and services[3].

By mentioning these definitions, it becomes clear to us that advertising is one of the factors of marketing and promoting goods and products specific to the intervenor and directed towards the consumer, in order to increase the volume of demand for them, which allows for achieving significant commercial profits.

II .1.2. Legislative Definition

The Algerian legislator defined publicity in the text of Article 2 of Executive Decree 90-39[4] related to quality control and fraud suppression, it refers to all suggestions, advertisements, offers, announcements, publications, or instructions prepared to promote the marketing of a product or service through visual or audiovisual means.

Through this definition, it becomes clear that the Algerian legislator attempted to highlight the advertising methods and the means used to implement them. This is a flaw because, at present, it is impossible to encompass communication methods due to their rapid development. The legislator addressed this flaw in Article 03 of Law 02-04, which defines the rules applicable to commercial practices, stating that it aims, directly or indirectly, to promote and sell goods or services regardless of the location or communication means used[5].

We would like to point out here Law 90-07 related to the media law, which was repealed by Law 12-05. Article 100 of it exempted advertising from its scope of application and referred us to the issuance of a special text that has not been issued. All of this was not mentioned by the legislator in the new law.

II .2.1 - False and misleading commercial advertising

We will attempt in this section to address both false commercial advertising, highlighting its content and the methods used by the advertiser to embody it, as well as misleading commercial advertising.

II .2.2. False Commercial Advertising:

Lying and deception in commercial advertising are among the most significant sources of harm that can befall consumers[6].Accordingly, false advertising refers to advertisements that contain untrue information in a manner that misleads the audience.

II .2.3. Misleading Commercial Advertising

In addition to what has been previously mentioned about illegal advertising being akin to lying, it is also akin to misleading. Despite their similarity in the resulting outcome, which is deception and harm to the consumer and their interests, misleading advertising has its own specific system.

And we will clarify below the definition of misleading advertising and explain its elements:

II.2.4 : Definition of misleading advertising

If advertising is a permissible means to promote the sale of goods or the provision of services, this permissibility may exceed the limits of applicable commercial customs, thereby affecting consumer interests. Therefore, there arose a need to establish regulations to prevent the abuse of commercial advertising.

For reference, the Algerian legislator did not provide a specific definition for misleading advertising, but it can be defined through the concept of deception. Deception is anything that contradicts the truth and affects the principles and honor of dealings, integrity, and honesty within the framework of competition with the intent to mislead or acquire customers.

Law 04-02, under Article 28, which defines the rules applicable to commercial practices, considers misleading advertising as an unfair commercial practice when.

1. It includes statements, data, or representations that can mislead by defining a product or service, its quantity, availability, or features.
2. It includes elements that can lead to confusion with another seller or with their products, services, or activities.
3. It pertains to a specific offer of goods or services while the economic agent does not have a sufficient stock of those goods or cannot guarantee the services that should typically be provided compared to the magnitude of the advertisement.

II.2.5: The subject of misleading advertising

Deceptive advertising occurs when one or more elements of the service or product being advertised are misleading, and the deception is related to the product or service itself on one hand and to external and independent elements on the other[7]. We will clarify it as follows:

1. Advertising and misleading in the same products and services

Deceptive advertising affects elements of the product or service, and these elements can be either essential or secondary, which we will clarify as follows:

A. Essential elements

It is a deception that affects the totality of the essential elements of the product or service. These elements are defined as the qualities that the item possesses and upon which the true value of the goods is based from the contractor's perspective. It is sufficient for them to be one of the motivating factors, as the item does not remain the same when stripped of these characteristics or some of them[8]. We will address it as follows:

- Nature of the product: It consists of a set of distinctive elements of the product that constitute its physical nature.
- Product components: These are all the elements involved in the production. Advertising the components of a certain substance contrary to its actual elements is considered misleading advertising.
- The existence of the advertised product or service, as misleading advertising may target products that do not actually exist. The existence of the product or service is essential for the consumption process, and Law 04-02 stipulates this in Article 28, Paragraph 03.
- The results that advertising entails
- Origin and source of the product
- Date of manufacture .

B. Secondary elements:

They are defined as elements that do not primarily affect the consumer's decision, meaning they only play a secondary role in prompting the consumer to make a consumption decision. However, when they interact with each other, they have their material value, and they can be summarized as follows:

- Quantity and amount.
- Method of preparation.
- Type (category).

2. Misleading advertising unrelated to the products and services

And it is the advertisement that may focus on

A. Sale conditions: The misleading information in this context pertains to three matters: the price, delivery, and warranty.

B. Sale motivations: Like misleading consumers into thinking they will receive exceptional terms when purchasing the product or service, such as advertising price reductions, only to have additional fees added at the time of contracting.

C. The extent of the obligations of the advertiser:

And this is like when the deception is about delivery and warranty, for example, the car dealership owner advertises that delivery is immediate, but upon contracting, it turns out that it is not immediate[9].

D. Data related to the advertiser:

The advertiser resorts to impersonating a character that supports their credibility and encourages trust in them. This is done when they claim to have international certificates and awards or describe themselves with attributes and titles that they do not possess[10]. Which leads to consumer deception.

III : Legal Protection for Consumers Against False and Misleading Advertising

The Algerian legislator has established legal protection for consumers of goods and services against false and misleading advertisements. This protection is divided into two types: criminal protection and civil protection. We will discuss each of them in detail below:

III.1 : Criminal protection for the consumer from false and misleading advertising

The legislator has criminally protected consumers of goods and services from false and misleading advertisements through the general provisions of the Penal Code, specifically through the crimes of deception, fraud, and swindling, which we will address in the first section of this requirement. As for the second section, we will dedicate it to explaining the protection established by the legislator under the Commercial Practices Law.

III.1.1 : Protection from Fraud Crime

Article 429 of the Algerian Penal Code stipulates punishing anyone who attempts to deceive the consumer.

The Algerian legislator has added more clarity and detail to this crime through Article 68 of Law 09-03, which states:

"Anyone who deceives or attempts to deceive the consumer by any means or method regarding the quantity of delivered products shall be punished with the penalties stipulated in Article 429 of the Penal Code."

* The quantity of the delivered products.

* Delivery of products other than those specified in advance.
* Usability of the product.
* Product expiration date or shelf life.
* The expected results from the product.
* Methods of use or necessary precautions for using the product.

To study this crime, we must clarify the concept of deception and outline its elements as well as the penalties prescribed for it.

III.1.2 : The Concept of Deception

The rate of fraud crimes is continuously increasing day by day due to the greed of the interveners who care only about increasing their profits at the expense of consumer rights. It is worth noting that the Algerian legislator has not addressed the definition of fraud either in the Consumer Protection Law or in the Penal Code. Therefore, it is the legal scholars who have addressed its definition based on the relevant legal texts.

It is defined as: **"the act of performing deeds and lies that misrepresent the true nature of something or present it in a manner that contradicts its actual state and reality[11]."**

It is also defined as: **"the act of telling some lies or using some simple tricks that would show the subject of the contract in a manner contrary to the truth.[12]"**

Through these previous definitions, it becomes clear to us that deception is achieved when the intervenor engages in false and misleading advertising, leading the consumer to a mistaken belief that the advertised product or service possesses certain advantages and qualities, while in reality, they do not exist at all.

III.1.3: Elements of the Deception Crime

The crime of consumer deception is only realized with the presence of two essential elements: the material element and the moral element. We will discuss each of them as follows:

III.1.3.1: The material element:

The material element of the consumer deception crime is present when one of the means specified in Article 68 of the Consumer Law is available, which includes:

* The quantity of delivered products.
* Delivery of products other than those specified in advance.
* Usability of the product.
* The date or shelf life of the product.
* The expected results from the product.
* Methods of use or necessary precautions for using the product.

And also the cases mentioned in Article 429 of the Algerian Penal Code, which are:

* Deception regarding the nature of the goods.
* Deception in essential characteristics.
* Deception in the composition of the product.
* Deception in the type and category of the goods.
* Deception in origin or source.
* Deception in quantity, measure, and number.

So, it is sufficient to use any of the aforementioned means for the crime to be committed, whether the consumer was deceived or not, with the aim of imposing criminal penalties on the interveners to protect consumers.

We note here that the protection provided by Article 68 of Law 09-03 is broader and more comprehensive than the protection stipulated by Article 429 of the Penal Code, because the first article protects the consumer whether they are contracting with the intervenor or not, while the second article's text only protects the contracting person, thus protecting a smaller number of consumers.

What we conclude from these two texts is that the Algerian legislator has broadened the scope of consumer protection to avoid any attempt to deceive the consumer, regardless of its nature.

III.1.3.2: The mental element

Fraud is considered an intentional crime[13]. If it is proven that the perpetrator knew that the means they used would lead to deceiving the consumer, and their intention was to commit the criminal act without coercion, meaning they performed the physical act while being aware and conscious of the intent to deceive, this requires the malice to be proven by all means of evidence. The knowledge of the law criminalizing deception is presumed for the intervenor and cannot be denied, but the knowledge of the reality is not presumed and must be proven, with the burden of proof falling on the public prosecution[14].

The perpetrator in the crime of deception is anyone who deceived or attempted to deceive, whether the perpetrator is a producer, distributor, wholesaler, or retailer. The crime can be committed by a single perpetrator or multiple perpetrators.

III.1.3.4: The Penalty for the Crime of Deception

Article 68 of Law 09-03 concerning consumer protection and the suppression of fraud refers us to Article 429 of the amended and supplemented Penal Code, which punishes anyone who deceives or attempts to deceive the consumer with imprisonment from two months to three years and a fine ranging from 2,000 to 20,000 Algerian Dinars, or with one of these penalties.

The Algerian legislator has increased and intensified this penalty under Article 69 of Law 09-03 to reach five years of imprisonment and a fine of five hundred thousand Algerian dinars (500,000 DZD) if the perpetrator deceives or attempts to deceive by various means.

And these penalties are supplemented by the punishment stipulated in Article 82 of Law 09-03 mentioned above, which consists of the confiscation of products, tools, and all means used in committing the crime.

And we note that despite the judiciary's efforts to expand the definition of fraud to include false and misleading advertisements, it does not provide sufficient protection, as the advancement of communication technologies has made it difficult for lies and deception to fit into the specific forms outlined in the fraud crime.

III.1.4 : Protection from Fraud and Deception Crimes

The Algerian legislator did not define the crime of fraud within the provisions of the Penal Code, specifically in Article 372.

Some legal scholars have defined fraud as: "A deception orchestrated by the perpetrator intentionally to mislead the victim into making a mistake that leads them to hand over something they do not own.[15]"

That is, the crime of fraud consists of the perpetrator unlawfully seizing someone else's property through deceitful means.

III.1.4.1: Applying the provisions of fraud and deception crimes to false and misleading advertising

In the absence of a law criminalizing false and misleading advertising, except for the provisions of Article 28 of Law 04-02, one can resort to the provisions of the fraud crime as stipulated in Article 372 of the Penal Code, as there is no difference between the two crimes since they share the same methods and means.

III.1.4.2: The elements that must be present in the advertisement for it to be considered fraud or deception

In order for the advertisement to be considered fraud, the elements of fraud as required by the Penal Code must be present, which are the material and moral elements.

1 : The material element

The existence of the material element is a prerequisite for the commission of the crime of fraud and deception, which consists of three elements:

A. The use of a means of fraud

To commit the crime of fraud, one must use one of the methods specified in Article 327 of the Penal Code, which are exhaustive and include:

*Using false names and titles.

* Using fraudulent maneuvers.
* Deceiving people with the existence of fake projects.
* The illusion of a fictional authority.
* The illusion of having a fictional financial dependency.
* Creating hope for winning anything.
* Creating hope for the occurrence of a fictitious incident or event, or the fear of something happening.

B. Seizing someone else's property and dealing with it:

This seizure is the expected criminal outcome of the fraud crime.

C. The causal relationship between fraudulent means and the appropriation of someone else's property

It is required for the crime of fraud and deception, like other crimes, to have a causal relationship between the appropriation and the fraudulent means used.

2 : The mental element

The crime of fraud is considered an intentional crime if it is proven that the perpetrator was aware that the means used would mislead the consumer, and that their intention was directed towards committing the criminal act without coercion, meaning they performed the physical act while being aware and conscious of the intent to commit fraud. This requires the proof of bad faith by all means of evidence. Knowledge of the law's criminalization of fraud is presumed for the perpetrator and cannot be denied, but knowledge of the reality is not presumed and must be proven, with the burden of proof resting on the public prosecution.

3 : The penalty for the crime of fraud and deception

Article 372 of the amended and supplemented Penal Code stipulates that any party who deceives and defrauds the consumer shall be punished with imprisonment for a period of at least one year and not exceeding five years, and a fine ranging from 500 to 20,000 DZD.

We conclude from the aforementioned that despite the importance of the penalties for fraud and deception crimes in deterring those involved in advertising in the absence of a specific legal text for advertising, their provisions are insufficient to keep pace with the rapid development of false and misleading advertising methods and their inability to keep up with its techniques and means.

III.2 : Protection from false and misleading advertising according to the law that defines the rules applicable to commercial practices

The Algerian legislator issued Law 04-02 with a direct aim of regulating competition among economic operators, ensuring that such competition is fair and transparent through its provisions. However, it also has an indirect aim of protecting consumers from various offenses specified in the law, including the crime of false and misleading advertising as per Article 28. This crime has several foundations, which we will outline below

III.2.1 : The Elements of the Crime of Misleading Advertising According to Law 04-02

For the crime of false and misleading advertising, its elements are similar to those of other crimes, which are:

III.2.1.1 : The Material Element

The material element here refers to the totality of behaviors and actions carried out by the intervenor to harm other intervenors. Law 04-02 was enacted to address unfair competition among intervenors; however, this law also protects consumers when their interests are affected. The legislator has identified three aspects of behavior, mentioned as examples but not limited to, in which advertising may be false and misleading, which are:

1. Including in advertisements statements, data, and formations that can lead to misleading definitions of the product or service, in quantity, abundance, or features.
2. Including elements in the advertisement that can lead to confusion with another seller or with their products, services, or activities.
3. The advertisement should relate to a specific offer of goods or services, while the economic agent does not have a sufficient stock of those goods or cannot guarantee the services that should typically be provided in comparison to the magnitude of the advertisement.

III.2.1.2 : The Mental Element

The intended meaning of the moral condition in the crime of false and misleading advertising is the consumer's signing in confusion and diverting the public of consumers from the products and services of a certain entity to the products and services of a competing entity.

The moral condition in this crime is an implied condition on the intervenor to prove their good faith, contrary to the consumer's claims.

III.2.2: Penalties stipulated by Law 04-02

The law punishes the intervenor who makes false and misleading advertisements and presents them to the public with a fine ranging from fifty thousand (50,000) to five million dinars (5,000,000 DZD) according to Article 38 of Law 04-02.

III.2.3 : Civil protection against false and misleading advertisements

The provisions of the civil code do not contain any specific text for consumer protection against false and misleading advertisements. However, there are indirect provisions for his protection, such as those related to fraud. False advertising is akin to fraud in that the intervenor uses deceptive means to mislead the consumer and induce him to contract, as stipulated in Article 86 of the Algerian Civil Code.

The term "fraudulent deceptive methods" refers to the means used by the deceiver to push the consumer into contracting, leading them into a mistake that is an illusion in the mind of the contracting party, causing them to believe something that is not true[16].The intent to deceive is considered the fundamental element of fraud. Therefore, false advertising is fraud in its positive form, where the advertiser uses tricks that affect the recipient of the advertisement. In its negative form, fraud is the silence and concealment when the advertiser fails to mention all the product's features and only mentions some of them[17].

The application of the provisions of fraud here allows us to protect the consumer through the action for the enforcement of the contractual obligation, the action for annulment, and the action for compensation. We will address all these actions as follows:

III.2.3.1 : The Action for Specific Performance of Contractual Obligation:

The Algerian legislator introduced Articles 164 and 166, paragraph 2 of the Civil Code to obligate the debtor (the intervenor) to fulfill their obligation, and this is after their admonition according to Articles 180 and 181 to perform their obligation in kind whenever possible.

Article 166, paragraph 2, also added that: ".....If the debtor fails to fulfill their obligation, the creditor may obtain the same type of item at the debtor's expense after obtaining the judge's permission, and they may also demand the value of the item without prejudice to their right to compensation."

What can be inferred from the above, considering that civil law serves as the general law, is that the provisions of the aforementioned articles can be applied to false and misleading commercial advertisements. This can be done by the consumer filing a lawsuit against the intervenor, obliging them to fulfill their obligation as stated in the advertisement in kind, as long as the circumstances allow it. Otherwise, the consumer is entitled to obtain the advertised item or its value[18].

The implementation of these two articles puts an end to the lies and deception of the intervenor by making them aware that if their advertisement is false, they are obligated to fulfill it, which gives some power to the consumer in facing them. The protection reaches its peak with the legislator's insistence on not holding the consumer liable for any possible loss, as follows:

- In the case where the intervenor delays in fulfilling their advertised obligation, the consumer has the right, in case of use, to obtain the same type of item at the intervenor's expense.
- The determination of the consumer's right to compensation whenever warranted, in addition to their right to obtain the object of the obligation.

III.2.3.2: The Consumer's Right to Request Contract Annulment:

The annulment of the contract for fraud is considered one of the means introduced by the legislator to enable the consumer to confront the false and misleading advertising carried out by the intervenor.

The consumer's action to annul the contract allows the contracting parties (the intervenor and the consumer) to return to the state they were in before the contract. Article 86 of the Algerian Civil Code states: "The contract may be annulled for deceit if the tricks used by one of the contracting parties or their representative were so significant that without them the other party would not have entered into the contract." Silence about a fact or circumstance is considered deceit if it is proven that the deceived party would not have entered into the contract had they known about that fact or circumstance.

By analyzing the content of this article and comparing it with the subject of our study, which is false and misleading advertising and consumer protection from it through the annulment of the contract for fraud, we find that this comparison can be applied in two cases:

The first case is stipulated in the first paragraph of Article 86, which is the severity of the tricks used by the fraudulent party.

As for the second case, it is stipulated in the second paragraph of Article 86, which is the case of fraudulent silence.

III.2.3.4 : The Consumer's Right to Compensation

The consumer harmed by false and misleading advertising has the right to file a compensation lawsuit against the advertiser based on Article 124 of the Algerian Civil Code. The advertiser is considered to have committed an error by employing tricks that misled the consumer, such that without these tricks, the consumer would not have contracted with the advertiser.

Compensation, although it does not erase the damage, helps to rectify what has happened as much as possible. Additionally, compensation aims to provide the affected consumer with a counterbalance for the loss suffered and allows for restoring the situation to what it was before the contract.

We would like to point out that the consumer can claim compensation for the damages caused by false and misleading advertising before the judiciary, but he must prove the elements of the advertiser's liability. As for the method of compensation, according to what the Algerian legislator stipulated in Article 132, which states: ".....the judge may, depending on the circumstances and upon the request of the aggrieved party, order the restoration of the situation to what it was, and rule, as compensation, by granting some allowances related to the unlawful act." Therefore, the judge has the discretionary power to choose the appropriate method for that.

Moreover, according to Article 132 of the Civil Code, the judge may order the cessation of false and misleading advertising.

IV . Conclusion:

Commercial advertising has become an inevitable necessity for companies and commercial institutions in order to promote their products and services. It is at present a basic pillar upon which the economic system of any country is built, and it has led to the creation of competition between companies and commercial institutions in the market.
It also represents an essential tool for introducing consumers to products and services, and increasing demand for them, which contributes to increasing sales and enhancing the profitability of commercial institutions.

Results:

In general, the Algerian legislator’s intervention to protect the consumer from false and misleading advertising was decent if it did not degrade all aspects This is in the absence of a special legal text, despite the necessity of it. Rather, before prohibiting false and misleading advertising under Article 28 of Law 04-02, the legislator had to lay down foundations for it and must respect it by those involved under penalty of severe penalties.
We note here that despite the absence of a special advertising law to protect the consumer, it is possible to rely on the general rules stipulated in the Criminal Code, such as the crime of fraud and deception, and the Civil Code, such as the lawsuit for specific performance, and the lawsuit for annulment. Compensation claim

Recommendations :

1. The necessity of enacting a special law on advertising through which the rights of consumers are protected
2. Giving a protective dimension to the consumer in light of the peculiarities of Algerian society in light of the globalization that the world is experiencing today.
3. Activating the role of the bodies to which the legislator has assigned consumer protection, such as the authority to control the media and the National Council for Consumer Protection.
4. The necessity of establishing ethics for advertising professionals in light of the intense competition in the market between stakeholders who sell goods and providers of services that would benefit the public Consumers in terms of quality and price.

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