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Persuasion of Vulnerable Child in the Infinite Cyber Space: Subliminal Advertising Hijacking Young Mind.

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Abstract

Catch them young' is the motto of the advertisers. In psychology, it is proven that what is embedded into a child's mind carries throughout adulthood. It can influence the be an essential part of the character formation of the child. The intention 'catch them young' strategy of the marketing is to create a customer base without being protested. The child is unaware of being exploited. Unfortunately, the parents who are supposed to protect from all the threats are unaware of the existence of such a threat because of the very nature of SLA. The threshold determined by the society to classify an ad to SLA is not applicable to children because of the feebleness of young minds, especially children below the age of 14. Crores of rupees are diverted to the research in this sector for exploring the possibility of hijacking a young mind to create a potential buyer. In the process, the privacy of a child is compromised and exploited for commercial purposes. Many countries like the UK, USA, Europe, Australia, New Zealand, has effective regulations in their legal system at least to protect the children from being exploited. Unfortunately, in India, there is absence of judicial notice. Hence the scope of exploitation is limitless because in absence of law it remains to be a topic in the domain of morality rather than law. Media's right to advertise is often conflicting with the individual right to privacy. So far in India, the right to advertise prevails over the right to privacy. It is time for the legal system to rethink whether we should protect our children from exposure to ads and programs in cyberspace having subliminal messages. The survey conducted among the adults gave a hint that many have experienced the effect of persuasion but are unable to identify or attribute it to the subliminal persuasion. This may be because of the lack of awareness of the subject itself. By the secondary data available from three studies, it is evident in India that the young mind can be hijacked through the frequent exposure to SLA. In absence of law, there is nothing we can do unless and until the legislature and judiciary of India take notice and act upon. It is hereby concluded that vulnerable children are exposed to various threats from the cyber space and SLA is one of them. This conditioning of mind, if not stopped, has serious repercussions including fundamental rights, national interest and security of the state.

Keywords

Subliminal, Advertising, Globalisation, Persuasion, Mind Control, Media, exploitation,

INTRODUCTION

Globalisation in its idea promotes advancement of humanity and promotion of human values. Unfortunately there are inherent threats to such a leap in human evolution. What could be best for human development is misused to exploit and condition the human mind which is a serious deviation from the core principles of freedom. Television (TV) becomes our prerogative in our assessment of enrichment of life. Technological advancement later made it a companion in the form of smart phones. Moreover, nowadays, TV itself has cyber connectivity. One of the threats from gadgets including TV, desktops, tabs and smartphones are excessive exposure to the advertisement (ads) from it. Some of these ads are direct and useful marketing tools. Unfortunately, some ads are hidden and have evil intentions to the greedy marketing. One such practice is the tools of 'subliminal messages' (SM). These messages are in varied forms like audio, visual or a combination of both. What makes it dangerous is the mixing of other tools like binaural beats, neuro linguistic programming (NLP) etc. Such ads with precision target the viewers without their awareness leading to consumer slaverism. TV was first introduced to public use in the USA. Within a decade, the threat of 'subliminal advertising' (SLA) was noted by Vance Packard in his book 'the Hidden Persuaders'. Even though the book did not use the word SLA, the author was successful in bringing the awareness of such danger. The newspaper responded to this evilness by saying 'now our mind was breached'. This employment of SM in the ads intended to deceive the conscious mind amounts to the intrusion to individual privacy. The citizens have the right to know whether they are being exploited without awareness of the same. Various studies carried out have mixed results about its effectiveness. This led to the argument of dangerous intrusion of privacy on one part which was countered with the ridiculed denial of effectiveness. However many nations came forward with certain control over SLA, especially those targeting the children. Europe, the United Kingdom, Saudi Arabia, Australia, New Zealand, Russia and many other countries have taken proactive steps to regulate and prohibit SLA to a certain extent. The motto of the advertiser is to "catch them young". Strangers dealing with children especially in physical abuse or exploitation is a felony in the USA. However SLA is widely used by advertisers in their marketing strategy around the globe. Children are vulnerable in many ways. Children below the age of 7 are considered as 'doli incapax'. Between 7 and 14 years, their analysing skill depends on their maturity of mind to perceive things and consequences of their actions. The lack of their mental capacity to know the consequence of their action makes them vulnerable. To make them aware of these dangers is a perfect impossibility. For that the adult who is the guardian has to act on their behalf. Ironically, the adults are equally unaware of their own vulnerability. A person unaware of their own danger cannot protect others from the same vulnerability. Hence the challenge is on the legal system to protect our children who have to be moulded for the national interest rather than commercial exploitation. "Cyberspace is defined as a virtual and dynamic environment consisting of electronics and communication devices over various networks to store and utilize electronic data ". To bring the glimpse about SLA, the research requests the attention of adults to this image 1 below.

Aim of the study - To create an awareness of the threat from SLA and demand for effective law to protect children from their helpless vulnerability.



An adult may see image 1 as 'making love'. Children, especially under 7 years of age often see dolphins in it. Question is can adults see and hear what a child is seeing and hearing. An adult mind gives importance to the superior priority of sex in this image whereas a child is interested in the intriguing curiosity generated by the dolphins in a vase. It is explained that the *doli incapax* mind has not attained the maturity to understand the complexity of sex.

Human emotions, desires, fear, anger, anxiety, stress, sentiments etc., are now targeted by the advertisers for marketing purposes. Children exposed and addicted to the gadgets viewing the ads are also targeted. Often a child finds the ads more interesting than the program itself because of this persuasive SLA and similar tools employed in the ads. The curiosity of the child is often exploited and adults should act to their demands even though it does not make any sense to them. The perception of children and adults differs. The use of senses by the adult and child obviously differs. When a child perceives things because of vulnerability which the adult cannot perceive, the adult will be helpless to protect from such vulnerability. The adult cannot defend the child legally because of lack of awareness in them. The question to whether SLA exist in India, the researcher like to highlight on three thesis awarded in India¹. In the marketing perspective it is an efficient tool. In the legal sense, it never existed and hence not effective. Acknowledging advertising as a fundamental right of media, there is an obvious undeniable conflict with the privacy of citizens in India. Fundamental right of 'freedom of speech and expression' mentioned in Article 19 (1) (a) of Indian Constitution is used to violate the another fundamental right of 'privacy'; an extended right of 'right to life and liberty' guaranteed under Article 21. This research demands to save our vulnerable children from the 'catch them young' policy of media, marketers and advertisers.

METHODOLOGY

The research demands for a doctrinal study. But, due to the lack of knowledge in the public about the subject matter, an empirical study with the secondary data available on the previous studies in India is also taken into consideration. It is highly essential to bring perfection to this research and in understanding the concept of subliminal advertising.

Nature Of Child Vulnerability Catch Them Young

Image 1 gives a glimpse of impact. The children see the dolphins whereas adults see male and female. What is aimed at the children cannot be perceived by the adults. Due to this variance in the awareness, many messages targeted to the children are not processed by the adult mind. Hence the adult cannot defend the children or claim on

behalf of the children. The ads tried to hurt or trigger the ego of a child. For example, in an advertisement for 'tiger' biscuits, a child gave a statement as follows 'children know who is the king of tiger biscuits'. If we check the statement, the question arises is related to the authenticity of the statement. Whether the child is capable of making such a statement. Their analytical skills have not been developed yet. The purpose of this statement is to trigger the child's ego that they know everything. If a parent gives freedom to choose between two biscuits, they are attracted to the 'tiger' brand even though they don't eat it. In another ads related to another biscuit called 'Oreo', the visual representation is related to licking the biscuits. Licking is the natural instinct of a child. The ad triggers this basic instinct of a child. Nowadays, ads are marketing the products focused on children by the ads of gifts inside the packet of the product. Those gifts are of low quality and do not meet the story stated in the ads. Children are interested in the game or character in movies or videos. The substandard products are thus compelled to be purchased by the parents due to the childish demand made by children. Many parents might have noted this compulsive behaviour of the children to demand for certain products. But the parents are helpless to know why the child is demanding such a product. This means that the parents have experienced the effect of persuasion of the children even though they are unaware about the reason.

Claim by A Feeble-minded Child

Psychologists agree that the mind matures through the ages. Mind of a child under the age of 4 years has not been bifurcated into conscious and unconscious minds. It is one single mind and there is no partition. Slowly by the age of 7 years they start to get separated in an intangible realm and carry different functions. Full analytical skill developed only after 14 years. Immaturity to differentiate good and evil continues till the age of 18 years. This is the legal reason behind the exempting child action from adult actions. Children especially under the age of 14 will accept the statements as instructions and follow them blindly. The ads which are statements of certain patterns or instructions which challenge their curiosity will be taken blindly by them and followed. This is highly dangerous to their health of mind and character formation. Feeble-mindedness in the ads are accepted in a child's mind where meaning is given by its experiences. This hallucinated reality may end up in consumer slavery. If a child claims that 'he knows which brand is the king of biscuits' (tiger biscuits), primarily they don't mean what they say. Secondly, young mind is moving towards consumer slavery by its blind acceptance. Difficulties arise to understand the subliminal in children. We don't know whether the conscious mind is separated from the unconscious mind or vice versa.

Subliminal Message and Nature

Subliminal messages mean those messages either in visual or audio form which are well below the conscious perception. There is practical difficulty in applying the concept of subliminal messages in children. If the entire mind behaves like a subconscious mind, SM is well applicable. What is sneaked into a child's mind will be recorded and influence its future actions and even behaviours. Ads explore this opportunity in children to condition to the ads so that it is effortless when they become major. SLA are seeds that grow in a child with the development of their mind. The harvest of these seeds sowed can be enjoyed lifelong without the notice even if the adult mind perceives the danger in future. 'Catch them young' is the motto and it also means exploiting the vulnerable child.

Law in Foreign Countries

In the US, even though there is no specific statute to deal with the SLA, various indirect remedies are available like constitutional rights, claims against misleading advertising etc. Moreover, the Federal Communication Commission has criticised the application of SLA in ads and has the power to take action against it. Common law countries like the UK, Australia, New Zealand, South Africa etc. have effective regulation against SLA. The European Union has its directives to the member state to ban SLA. The World health organisation has concerns regarding the effect of SLA and obesity among children. There

are very limited ads in Islamic and socialistic countries. It is proved by various authorities and presence of law that developed nations have awareness against SLA. Some of the developing countries also have managed to regulate SLA. India being a developing country and the largest democracy should create effective regulation to control the SLA in India

Constitutional Law

The concept of SLA infringing the privacy of individuals is a matter of conflict of two fundamental rights mentioned under Indian constitution. Ads are rights of media which falls under Article 19. Privacy of individuals is part of the right to life and personal liberty. If the state violates any fundamental right it shall rectify such mistake and has legal obligation to rectify it. But the issue is that the media does not fall under the definition of state as mentioned under article 12. Thus, the state is neither in violation and nor acknowledged by the SLA to voluntarily protect from it.

Data Analysis

The secondary data available on the three main thesis in India awarded with PhD. Sunayana Shukla studied on the impact of subliminal advertising on select consumer products. It was found by the researcher that after the SLA stimuli was presented, there are significant differences in emotion of the consumers. Moreover, the consumer perception has also changed significantly about the goods such as furniture, home appliances and gold jewellery. The major part of this study shows the vulnerability of women compared to men. However, the study agrees that the purchase intention has not changed considerably. This can be because of the purchasing power or financial strain that varies from rich to the poor. The researcher agreed that the awareness is at the minimum and has to be improved. B.V. Jayanthi studied persuasive marketing in the consumer socialization process of adolescence in Chennai and Hyderabad. The study concluded with the similar result of Sunayana Shukla. The researcher noted that the purchase intention of the consumers varies from region to region. The reason assumed was that it may be the influence of culture and the religious influence. It was also noted that the people exposed to the SLA stimuli have a higher chance of creating confusion resulting in taking irrational purchase decisions. Apart from this, both Jayanthi and Sunayana have identical findings about the significant difference in emotion and perception of the goods. Shakeel Ahamed & Sofi studied about the [mpact of subliminal messages in TV advertisement on consumer behaviour among the youth in Kashmir Province of Jammu and Kashmir state. The researcher while monitoring the 'personality affection cognition' and effects in their buying tendencies found that in youth SLA results in the impulsive buying behaviours. All the three studies also prove the helplessness of the legal system to prohibit the practice of SLA. This is because of the mixed response in proving or disproving the capability of SLA. It works well in youth, children and women because they are vulnerable. It fails to have significant change in men and adults because of the maturity of mind or hesitation to the boring practice of shopping.

Suggestion and Recommendation

India as a sovereign state has to follow those state practises especially of western developed countries. The legal system in India has to appreciate the multiple options available to the people of the US community. Moreover, India has to take judicial notice of the concept of SLA as part of misleading advertising as adopted by the UK legal system. A proactive step has to be also taken following the European Union directive. Or at the least, has to follow Brazil to protect the children, especially below the age of 14. Consumer Protection Act, 2019 has to be amended to this effect to prohibit SLA and the additional power has to be given to the collector of each district to investigate in the matter of allegation of SLA.

CONCLUSION

The Indian legal system has to take judicial notice of the subject. SLA has to be prohibited both by enactment and judicial decisions.. The scope of application of SM in other areas like surrogate advertising, trademark violation and objectionable companies name also has to be regulated to effectively fight against SLA. By the analysis it is proved that the effect of SLA has been experienced by many. Due to the lack of awareness, they cannot attribute such infringement to SLA. Privacy shall be declared as supreme and derogation from media right for the purpose of infringement shall be declared as against right protected under Article 21. If necessary, the exception to right of speech and expression under article 19 (2) shall include 'privacy of individual'.

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