

SLANDER OF GOODS IN THE DIGITAL AGE: REGULATING FAKE REVIEWS

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INTRODUCTION

In today's digital marketplace online ratings and reviews have a significant effect on businesses. They are a significant influence on consumer decision making and the formation of the reputation of the brand in the network. In a way, they contribute to the transparency. However, when fake and misleading reviews are involved, their presence can lead to financial damage. In many cases, these are proven practices of unfair competition, which in turn can lead to loss and damage the consumer's trust. This phenomenon is called a slander of goods; that is, a deliberate or accidental publication of false information causing the decline in the reputation of the product or company. With the increasing reliance of businesses on the digital world, the issue of malicious reviews, fake testimonials, and competitors' negative campaigns has become an area of serious legal concerns. Addressing these challenges will create a strong regulatory framework, balancing the right to freedom of speech with the protection against commercial reputation damage.

Indian law provides legal recourse against the derogation of goods through defamation provisions under Sections ⁸²²499 and 500 of the Indian Penal Code (IPC)/ Indian law provides legal recourse against the derogation of goods through defamation provisions under Section ⁸²³354 and Section 356 of the Bharatiya Nyaya Sanhita, 2023, the ⁸²⁴Consumer Protection Act, 2019, and the ⁸²⁵Information Technology Act, 2000. Judicial precedents, like ⁸²⁶Dabur India Ltd.

v. Colortek Meghalaya Pvt. Ltd. (2009) and ⁸²⁷Reckitt Benckiser India Ltd. v. Hindustan Unilever Ltd. (2021), highlight the significance of preventing trade libel and protecting the right to fair competition. This paper provides a critical examination of the current legal framework, enforcement challenges, and the interpretation of judicial courts regarding the concept of slander of goods in the context of online ratings and reviews to assess how e-

commerce businesses are protected in India from the defamatory statements.

ISSUE

1. Whether false, misleading, or exaggerated online reviews constitute slander of goods under Indian defamation, consumer protection, and competition laws, particularly in cases of unfair trade practices.
2. Whether online platforms hosting defamatory reviews can be held liable under intermediary liability laws, and whether existing legal provisions, including competition law frameworks, adequately address digital defamation and unfair competition.

ANALYSIS

the growing popularity about E-Commerce and Digital Platforms has raised the necessity to understand how consumers behave in a certain and why, hence making online ratings and reviews extremely vital for any business to sustain. There lies a menace in false and deceptive reviews that give way to slander of the goods, wherein the victimization of a business entity through a false or deceptive statement

⁸²² Indian Penal Code 1860, ss 499–500

⁸²³ Bharatiya Nyaya Sanhita 2023, ss 354, 356

⁸²⁴ Consumer Protection Act 2019

⁸²⁵ Information Technology Act 2000

⁸²⁶ Dabur India Ltd v Colortek Meghalaya Pvt Ltd (2009) 40 PTC 88 (Del)

⁸²⁷ Reckitt Benckiser India Ltd v Hindustan Unilever Ltd (2021) SCC OnLine Del 3516

damages its reputation and finances. Now, within the purview of Bharatiya Nyaya Sanhita of 2023, defamation is governed by Section ⁸²⁸354, which states that "Defamation is the act of discrediting a business entity." ⁸²⁹Section 356 in turn provides for criminal liability. Now, while generally speaking, those provisions are for a general defamation, they do not expressly state that false commercial statements or trade libel constitute defamation, hence the case of slander of the goods needs to be carried under competition law, consumer protection law, and intermediary liability laws.

⁸³⁰Consumer Protection Act, 2019 in Section 2(47) defines unfair trade practices so misleading advertisements that mislead consumers are included. Also, ⁸³¹Section 21 empowers the Central Authority to investigate and take corrective action against all such false representations. This is because online reviews significantly affect the market position of the business, hence false reviews can constitute an anti-competitive practice under ⁸³²Section 3 and 4 of the Competition Act, 2002. This is because it is a legal requirement that all agreements not manipulate consumer choice or use their dominant position to deceive when trading. Finally, the ⁸³³Indian Contract Act, 1872, in Sections 17 and 18, recognizes fraudulent misrepresentation as a ground for legal action, particularly in disputes involving e-commerce platforms. The Information Technology Act, 2000, is applicable to digital platforms. Especially Section 79 of the Act confers the protection upon intermediaries such as Google and Yelp, while at the same time making them liable if they neglect to act upon complaints of defamation. Section 8 of the Digital Personal Data Protection Act, 2023, imposes on data fiduciaries to stop the spread of wrong information. Moreover, under the Indian Evidence Act, 1872, section 65B, companies may

make use of electronic records as evidence to prove instances of financial and reputational damage. These provisions may be invoked in *Dabur India Ltd. v. Colortek Meghalaya Pvt. Ltd.* (2009) and *Reckitt Benckiser India Ltd. v. Hindustan Unilever Ltd.* (2021), in which instances the courts granted injunctions to restrain such damaging statements in favor of the Plaintiff. The next section will discuss judicial interpretations and enforcement problems relative to disparagement of goods in online ratings and reviews.

THE DARK SIDE OF DIGITAL REVIEWS:

HOW FALSE RATINGS UNDERMINE

MARKET INTEGRITY

The impact of false and misleading online reviews on businesses has escalated significantly with the rise of digital marketplaces. The spread of such defamatory content can lead to slander of goods, where businesses face severe reputational harm and financial losses due to unverified or malicious reviews. The Bharatiya Nyaya Sanhita, 2023, under ⁸³⁴Section 354, recognizes defamation but does not expressly cover commercial defamation or trade libel. This legal gap creates ambiguity in addressing slander of goods, necessitating reliance on consumer protection laws, competition laws, and intermediary liability provisions. The ⁸³⁵Consumer Protection Act, 2019, particularly under Section 2(47) and Section 21, defines unfair trade practices and empowers authorities to take action against misleading statements affecting businesses. Additionally, online platforms play a crucial role in moderating content under ⁸³⁶Section 79 of the Information Technology Act, 2000, but their liability is often limited unless they fail to act on complaints. The need for a comprehensive regulatory approach is essential to counteract the adverse effects of false reviews while ensuring a balance

⁸²⁸ Bharatiya Nyaya Sanhita 2023, s 354.

⁸²⁹ Bharatiya Nyaya Sanhita 2023, s 356

⁸³⁰ Consumer Protection Act 2019, s 2(47)

⁸³¹ Consumer Protection Act 2019, s 21

⁸³² Competition Act 2002, ss 3–4

⁸³³ Indian Contract Act 1872, ss 17–18

⁸³⁴ Bharatiya Nyaya Sanhita 2023, s 354. (n7)

⁸³⁵ Consumer Protection Act 2019, ss 2(47)-21

⁸³⁶ Information Technology Act 2000, s 79

between consumer expression and business interests.

Slander of goods legally actionable under various statutory provision including the Competition Act, 2002, by virtue of Sections 3 and 4. These provisions prohibit deception in trade, which has the effect of injuring competition in a market. The statute targets businesses that contrive false reviews, which distort the market perception of goods or services. Additionally, the ⁸³⁷Indian Contract Act, 1872, under Sections 17 and 18, address fraudulent misrepresentation, which can be extended to false online reviews. The Indian ⁸³⁸Evidence Act 1862, Section 65B, allows electronic records to be presented in legally proceedings. This enables the proof of financial losses resulting from defamatory content, particularly in cases such as ⁸³⁹Reckitt Benckiser India Ltd. v. Hindustan Unilever Ltd. (2021), where false reviews distort the market perception of goods or services. However, enforcement remains a challenge due to the lack of clear definitions in online transactions.

Broad framework pertaining to the defamation of goods in online ratings and reviews needs to be fortified and defined statutorily. The existing laws including the ⁸⁴⁰Consumer Protection Act, 2019, the ⁸⁴¹Competition Act, 2002, and the ⁸⁴²Information Technology Act, 2000 provide for remedies but fail to address digital defamation in totality. The ⁸⁴³Digital Personal Data Protection Act, 2023 under Section 8 requires online platforms to prevent the dissemination of false information, but the mechanisms of its enforcement are weak. The enactment of the new law or amendments in the existing laws that specifically target the commercial defamation online are required. Trade libel is increasingly being recognized in the precedents of courts, but the scope of the

enforcement of such laws remains very limited. With the increasing number of AI-generated fake reviews and groups orchestrating defamatory campaigns, it is critical that stronger intermediary liability, higher penalties for false reviews, and a special regulatory authority must be put in place to prevent businesses from being economically or reputationally harmed by the defamation of goods.

FAKE REVIEWS, UNFAIR COMPETITION, AND LEGAL UNCERTAINTY: THE BATTLE FOR BUSINESS INTEGRITY

Growing dependence on online reviews as a primary decision-making factor for consumers has led to an emergence of new form of market manipulation. While firms use authentic reviews to build trust, competitors and illegitimate entities often misuse these platforms by placing false ratings to deceive customers. This does not only distort fair competition, but also undermines trust to digital marketplaces. Unlike direct defamation that includes false statements about harmed individual or firm reputation, false online reviews create economic damage due to the influence of purchasing decisions. The absence of statutory regulation of digital slander of goods makes businesses have no legal tools to use in this situation. Courts and regulatory bodies only attempt to define the deception, thus resulting in unpredictable implementation and not the legal clarity.

The legal framework of India regulates elements of false advertising, misleading trade practices, and intermediary liability through the ⁸⁴⁴Competition Act, 2002, the ⁸⁴⁵Consumer Protection Act, 2019, and the ⁸⁴⁶Information Technology Act, 2000, however, none deals explicitly with fraudulent online reviews. Thus, the ⁸⁴⁷Competition Act, 2002,

⁸³⁷ Indian Contract Act 1872, ss 17–18 (n12)

⁸³⁸ Indian Evidence Act 1872, s 65B

⁸³⁹ Reckitt Benckiser India Ltd v Hindustan Unilever Ltd (2021) SCC OnLine Del 3516. (n6)

⁸⁴⁰ Consumer Protection Act 2019

⁸⁴¹ Competition Act 2002

⁸⁴² Information Technology Act

⁸⁴³ Digital Personal Data Protection Act 2023, s 8

⁸⁴⁴ Competition Act 2002

⁸⁴⁵ Consumer Protection Act, 2019

⁸⁴⁶ Information Technology Act 2000

⁸⁴⁷ Consumer Protection Act, 2019

prohibits anticompetitive practices but does not regulate counterfeit consumer ratings.

The Consumer Protection Act, 2019, controls misleading advertisements but does not deal with falsified user-generated content.

The ⁸⁴⁸Information Technology Act, 2000, through Section 79, provides safe harbor protection to digital platforms releasing them from responsibility for third-party content including fake reviews. In this context, case laws such as ⁸⁴⁹Reckitt Benckiser India Private Limited v. Hindustan Unilever Limited and ⁸⁵⁰Dabur India Ltd. v. Colgate Palmolive India Ltd. have addressed false advertising and disparagement of competitor goods but the legal approach to fake reviews remains underdeveloped. The Bharatiya Nyaya Sanhita that replaces the IPC may offer new perspectives on defamation in digital spaces, but the direct causation of the fake review with financial loss remains a legal challenge. The absence of a clear legal stance and specific legislation has led to an uneven playing field where businesses have to rely on self-regulation or engage in costly litigation to combat fraudulent online practices. It is important to have a robust legal response to prevent the abuse of online review platforms and protect the integrity of digital commerce. The platforms should be made more stringent in its credibility in order to detect and remove false reviews. Independent businesses which are harmed by such practices should have access to legal redress, that include, but are not limited to, damages and injunctive relief. The global legal landscape, in this context, has the potential to offer a solution, for example by following the ⁸⁵¹European Union's Digital Services Act's approach to online misinformation and accountability. Enacting explicit legal provisions, especially through statutory competition law, consumer protection statutes, and digital regulations, is

crucial to create a more transparent and fairer digital market. Without intervention, businesses will continue to be harmed from reputational and financial damage caused by fake reviews, exacerbating consumers' loss of confidence and trust in online platforms.

CONCLUSION

The pervasiveness of goods slander in online reviews and comments presents a basic risk to fairness in markets, consumer trust, and business integrity. As much as new technologies have democratized trade through providing openness and consumer choice, at the same time they have turned into hotbeds for fraudulent activities that interfere with fair competition and confuse customers. The absence of a specific statutory framework to regulate false reviews and malicious online defamation leaves businesses with limited legal recourse, forcing them to untangle a complex web of defamation laws, competition laws, and consumer protection laws. The Competition Act, 2002, Consumer Protection Act, 2019, and Information Technology Act, 2000, to name a few, are such laws prevailing currently that provide redress to a limited extent but not specifically addressing the matter of digital defamation. Judgments in the Reckitt Benckiser India Private Limited v. Hindustan Unilever Limited and Dabur India Ltd. v. Colgate Palmolive India Ltd. kind of cases suggest the willingness of courts to recognize misleading trade practices, but the law remains underdeveloped with regard to online consumer reviews. The introduction of the Bharatiya Nyaya Sanhita in place of the IPC might be a more structured solution to online defamation, but its practicability in online review dispute cases is not certain. For there to be a fair digital marketplace, stricter regulation must be put in place, holding reviewers and sites enabling fraud accountable. The global legal framework, in particular the European Union's Digital Services Act, provides a helpful template for dealing with online disinformation through platform responsibility and consumer redress. India

⁸⁴⁸ Information Technology Act 2000, s 79

⁸⁴⁹ Reckitt Benckiser India Ltd v Hindustan Unilever Ltd (2021) SCC OnLine Del 3516

⁸⁵⁰ Dabur India Ltd v Colgate Palmolive India Ltd (2004) 28 PTC 401 (Del)

⁸⁵¹ Digital Services Act [2022] OJ L277/1 (EU)

must act pre-emptively to enforce specific provisions of law with clear definitions, regulation, and punishment of defamation of goods in online commerce. Without this, firms will continue to suffer unfair reputational and financial losses, ultimately undermining consumer trust and online marketplace integrity. Strengthening the enforcement mechanism, strengthening digital literacy among consumers, and creating a special legal framework for online defamation will be essential to maintaining fair competition and ensuring digital platforms are spaces of genuine consumer exchange and not instruments of commercial fraud.

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