

## THE EGALITARIAN MANOEUVRE: BALANCING DIGITAL ADVERTISING PRACTICES WITH THE PROTECTION OF HUMAN RIGHTS IN THE INDIAN CONTEXT

**Dr. Deepshikha Sharma**

Assistant Professor, Department of Law, Vishwakarma University, Pune

**Shruti Das**

Assistant Professor, Department of Law, Vishwakarma University, Pune

### **Abstract:**

*The tremendous growth of digital advertising in India has created a new era of digital contact, but it also offers complicated human rights challenges. The rapid digital revolution and internet expansion in India have made digital advertising a crucial part of the country's marketing environment. However, the rise of digital marketing has raised concerns about privacy, data security, and ethical data handling. Digital advertising and human rights in India are examined in this article, focusing on privacy, data security, freedom of speech, and non-discrimination, explains how online advertising affects basic rights by reviewing relevant legislation and judicial pronouncements. Protecting user data is a major challenge in this sector. Digital advertising platforms can breach an individual's Indian Constitutional right to privacy by collecting, storing, and analysing personal data. Companies use invasive data collection practices like targeted advertising and behavioural tracking that may damage an individual's autonomy and ability to make educated personal data use decisions. Demographic or behavioral-based targeted advertising might reinforce biases and exclude some groups from opportunities or services. This can disproportionately affect underprivileged communities and violate their equality and non-discrimination rights. This article examines digital advertising's ethical implications and human rights violations. It provides policymakers, business participants, and civil society with practical advice to foster a fair and rights-respecting digital advertising environment in India.*

**Keywords:** Digital advertising, Digital marketing, Human rights, freedom of expression, Privacy, Data security.

### **Introduction:**

The digital advertising industry in India has witnessed a substantial surge in expansion over the last decade, propelled by the broad accessibility of internet connectivity and the increasing prevalence of smartphones. The Internet and Mobile Association of India (IAMAI) forecasts that digital advertising expenditure is expected to reach over \$10 billion by 2023 (India Brand Equity Foundation, 2024). This signifies a substantial change in the marketing terrain of the nation. The substantial surge in figures can be attributed to the exponential expansion of internet utilisation, which has escalated from 34.8% in 2017 to nearly 50% in 2022. The combination of this factor, along with the availability of inexpensive mobile devices, has enhanced the accessibility of digital platforms to a broader range of people. Businesses in several industries are clearly incorporating digital marketing tactics into their operations. They

are employing data-driven strategies to improve consumer involvement and stimulate sales expansion, as indicated by industry analyses conducted by IAMAI and market research organisations like Statista (India Brand Equity Foundation, 2024).

However, the rapid digitalisation and seamless integration of advanced marketing technology into India's economy have sparked significant issues around privacy, discrimination, and freedom of speech. The extensive use of targeted advertising and behavioural tracking technologies has resulted in heightened scrutiny over the extent of personal data gathering, as well as concerns regarding invasive surveillance methods. Data security concerns and user permission have become as prominent subjects in public discourse. The primary cause of this is the growing frequency of data breaches and the unethical use of personal data, as emphasised in publications by esteemed groups like the Electronic Frontier Foundation (EFF) and the Centre for Digital Democracy (CDD). Furthermore, the algorithms that govern digital advertising tactics are sometimes associated with propagating biases, thereby facilitating discriminatory behaviours that disproportionately affect marginalised communities. The utilisation of demographic profiling in targeted advertising may result in the marginalisation of some demographics from significant opportunities, hence exacerbating societal disparities. Furthermore, the manner in which advertising algorithms affect the visibility of material raises significant concerns regarding the dependability of information dissemination and the potential for censorship or distortion of public discourse, as highlighted in research undertaken by digital rights organisations. (Bouke, M. A., Abdullah, A., ALshatebi, S. H., Zaid, S. A., & El Atigh, H, 2023).

In order to address these intricate and interrelated issues, it is crucial to conduct a comprehensive examination of the legal and ethical rules governing digital advertising in India. Striking a balance between using the financial prospects of digital marketing and safeguarding fundamental human rights is crucial. This entails ensuring that advancements in technology do not compromise individual freedoms and societal equity.

This article seeks to explore the intricate correlation between digital advertising and human rights, doing a comprehensive analysis of pertinent legislation, judicial rulings, and industry standards. The objective of the paper is to advocate for an equitable and courteous digital advertising ecosystem in India through the provision of pragmatic recommendations. This will enhance the ongoing discourse on digital ethics and regulatory policies.

### **Digital Advertising Landscape in India**

The emergence of digital advertising in India can be traced back to the early 2000s, but it has undergone substantial acceleration in the last decade, resulting in a complete overhaul of the marketing and advertising environment. The exponential growth of advertising platforms has led to a proliferation of choices and the implementation of cutting-edge methods and technology. Consequently, the consumer engagement landscape has undergone a full transformation (Corrêa, A. M, 2022).

Google and Facebook, two prominent IT companies, have a dominant presence in the Indian digital advertising industry due to their wide-ranging ad networks and sophisticated targeting capabilities. Google's AdWords and Facebook's Ad Manager offer sophisticated features for advertisers to target precise demographics, leveraging significant user data to optimise ad delivery and efficacy. Alongside these multinational corporations, domestic enterprises like

Flipkart and Zomato have also exerted a significant influence on the digital advertising industry. They have utilised their platforms to implement targeted marketing strategies and efficiently interact with clients (Corrêa, A. M, 2022).

The technologies driving the digital advertising business in India are diverse and continuously evolving. Programmatic advertising has become widely popular because of its effectiveness and accuracy in targeting certain parts of the audience. It utilises real-time bidding to automate the purchase and sale of advertising space, making it a popular option for advertisers. Furthermore, advancements in artificial intelligence and machine learning are enhancing the personalisation and prediction capabilities of digital marketing, leading to more personalised and pertinent consumer interactions. The widespread adoption of social media platforms, video advertising, and mobile marketing has broadened the array of digital advertising methods employed by organisations, leading to a more holistic strategy in engaging and capturing the Indian consumer market. According to Statista's forecast, video advertising is expected to account for 40% of India's overall digital ad spending by 2024. This emphasises the increasing inclination for content formats that are lively and captivating (Corrêa, A. M, 2022).

In India, the digital advertising industry is characterised by rapid growth, continuous technological progress, and a diverse group of important participants. In light of the continuously expanding market, it is crucial for stakeholders to proficiently manage the intricacies and opportunities presented by this dynamic environment. This entails maintaining ethical principles, protecting consumer rights, and capitalising on the extensive possibilities presented by digital marketing.

### **Indian Constitutional Provisions**

Articles 14, 19, and 21 of the Indian Constitution protect essential rights that are crucial for analysing digital advertising practices. Article 14 of the Indian Constitution guarantees the principle of equality before the law and equal protection inside the country's borders. This is essential for tackling discriminatory practices in the field of digital advertising. The Supreme Court has construed Article 14 to eradicate capriciousness in governmental actions, so advancing impartiality and parity. This is particularly important when addressing discriminatory digital advertising tactics that may unfairly focus on or exclude certain groups based on their ethnicity, gender, or other legally protected attributes.

Article 19 ensures certain freedoms, such as the right to freely express oneself and communicate ideas, which are highly important in the field of digital marketing and the dissemination of information. Digital advertising frequently entails the distribution of information that is safeguarded under this specific clause. Nevertheless, it is crucial to maintain a delicate equilibrium between the liberty of speech and the imperative to combat misleading advertising and foster transparent communication. The Supreme Court's decision in *Shreya Singhal v. Union of India* (2015), which invalidated Section 66A of the IT Act, emphasised the significance of protecting the right to freedom of speech and expression, particularly in relation to online information (AMLEGALS, 2022).

Article 21 of the Indian Constitution confers the essential entitlement to life and personal freedom, which has been broadly construed by the Indian judiciary to encompass the right to privacy. This right is especially relevant in the context of digital advertising, where the acquisition and utilisation of personal data are widespread. The Supreme Court's acknowledgement of privacy as an essential right, particularly in the case of *K.S. Puttaswamy*

v. Union of India (2017), highlights the necessity for strong data protection measures. The constitutional requirements serve as a basis for protecting against the possible abuse of personal data and discriminatory activities in digital advertising (AMLEGALS, 2022).

### **International Instruments**

International human rights standards are crucial in influencing conversations on digital privacy and non-discrimination, in addition to domestic legal frameworks. Article 12 of the Universal Declaration of Human Rights (UDHR) safeguards persons from unjustified encroachment on their privacy, family life, residence, or personal communication, establishing a worldwide benchmark for safeguarding privacy that is crucial in the context of digital advertising. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) safeguards individuals against unwarranted intrusion into their private. India, being a member to the International Covenant on Civil and Political Rights (ICCPR), has implemented comparable safeguards. The 2021 resolution by the United Nations on "The Right to Privacy in the Digital Age" highlights the significance of protecting privacy from potential misuse by both governmental and non-governmental actors. The statement emphasises the necessity of strong legal systems to tackle the difficulties presented by digital technologies. Furthermore, the principles of non-discrimination, as articulated in international human rights agreements like the Convention on the Elimination of All Forms of Racial Discrimination (CERD), play a vital role in addressing prejudices and advancing equality in digital advertising methods (Maréchal, N., MacKinnon, R., & Dheere, J, 2020).

India can efficiently handle the complexity of digital advertising and protect its citizens' human rights by ensuring that its local laws are in line with international standards. An extensive analysis of the connection between constitutional safeguards and international human rights standards offers a comprehensive structure for tackling the ethical and legal difficulties posed by the swift growth of digital advertising in India.

### **Intersection of Digital Advertising and Human Rights in India**

The rise of digital advertising has resulted in the widespread use of intrusive data collecting methods, including targeted advertising and behavioural monitoring, which frequently rely on the acquisition, storage, and analysis of personal data without explicit user agreement. This has generated substantial apprehensions on the erosion of privacy. In the case of K.S. Puttaswamy v. Union of India (2017), the Supreme Court acknowledged privacy as a basic right and stressed the importance of implementing robust data protection measures. The Cambridge Analytica incident brought to the forefront the inappropriate management of personal data, intensifying public consciousness and apprehension around privacy infringements in digital advertising. Algorithms used in digital advertising might unintentionally sustain discriminatory behaviours, resulting in unequal opportunities depending on criteria such as race, gender, or socioeconomic position. It is essential to resolve these concerns by upholding the principle of equality under the law, as provided by Article 14 of the Indian Constitution. Prominent legal cases such as State of West Bengal v. Anwar Ali Sarkar (1952) and Indra Sawhney v. Union of India (1992) underscore the significance of averting capricious actions and guaranteeing impartiality and parity. These factors are crucial in tackling prejudiced algorithms in digital advertising that may result in discriminatory consequences.

Article 19 of the Indian Constitution protects the fundamental right to freedom of speech and expression, encompassing commercial speech like advertisements. Nevertheless, it is crucial to maintain an equilibrium between the liberty to express oneself and the imperative to combat misleading advertising and foster transparent communication. The Supreme Court's decision in *Shreya Singhal v. Union of India* (2015) emphasised the importance of freedom of speech while simultaneously recognising the need for regulatory measures to manage damaging marketing. The court in *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.* (1995) affirmed the significance of safeguarding commercial speech as stated in Article 19(1)(a) and stressed the necessity of implementing rules to prevent consumer deception.

India has implemented the Personal Data Protection Bill, 2019 to tackle privacy concerns and regulate digital advertising activities. This bill aims to establish a Data Protection Authority and provide a comprehensive framework for safeguarding personal data. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, require digital platforms to uphold openness, accountability, and user safety. These legislative procedures are essential in protecting individuals' rights inside the digital advertising environment.

### **Exploring the Impact of Advertising Algorithms on Freedom of Speech:**

Freedom of speech is an essential entitlement that allows individuals to openly articulate their thoughts, viewpoints, and concepts without fear of censorship or punishment. It has a vital function in democratic society, fostering open discourse and the interchange of varied viewpoints. Safeguarding and protecting this right is crucial for preserving a society that is both free and well-informed. Article 19 of the Indian Constitution guarantees the protection of certain rights, such as the freedom of speech and expression, emphasising its vital role in maintaining democratic principles.

Advertising algorithms have a substantial impact on information accessibility since they determine which content is promoted and which is hidden. Algorithms, motivated by financial interests, possess the capacity to influence content and restrict freedom of speech. Recent complaints have shown that content has been removed or downgraded without clear rationale, resulting in limited access to information for users. Political or social messages that do not line with the interests of advertisers or platform policies may be censored.

Section 66A of the Information Technology Act, which was often misused to restrict freedom of speech on digital platforms. The Court's opinion determined that the clause was unclear and capricious, leading to a violation of the right to freedom of speech and expression as outlined in Article 19(1)(a). This case underscores the importance of safeguarding freedom of speech in the digital age and highlights the need for clearly established policies that uphold basic rights. The *Anuradha Bhasin v. Union of India* (2020) case centred on the restriction of internet services in Jammu and Kashmir. The Supreme Court has emphasised the importance of freedom of speech and expression on the internet as a basic right safeguarded by Article 19(1)(a). The Court highlighted the significance of upholding proportionality and reasonableness when putting limitations on these rights, setting a precedent for protecting online freedom of speech from arbitrary acts by either the government or private businesses.

In the *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.* (1995) case, the Supreme Court ruled that commercial speech, including advertising, is protected under Article 19(1)(a) of the Constitution. This judgement affirmed the safeguarding of advertisements as a type of expression, while simultaneously underscoring the significance of rules to deter consumer misrepresentation. This verdict emphasises the significance of maintaining a harmonious equilibrium between safeguarding freedom of expression and guaranteeing openness and responsibility in advertising methodologies.

Digital advertising platforms have the power to restrict the visibility of material, which can result in a type of indirect censorship that marginalises specific voices and perspectives. This issue raises significant problems regarding the core value of freedom of speech and expression, protected under Article 19 of the Indian Constitution. (AMLEGALS, 2022).

In the 1972 case of *Bennett Coleman & Co. v. Union of India*, the Supreme Court issued a ruling that dismissed the government's attempt to control the distribution of newsprint. This regulation has the capacity to hinder the liberty of the press. The Court determined that any action that indirectly violates the freedom of speech and expression is considered illegal. This case holds great importance within the realm of digital advertising algorithms, as it emphasises the need to acknowledge that measures which indirectly suppress freedom of expression can potentially violate constitutional rights.

It is important to acknowledge that digital advertising sometimes employs demographic or behavioral-based targeting, which can reinforce existing biases and lead to discriminatory outcomes. Targeted advertisements might potentially reinforce social disparities by excluding particular groups from opportunities or services based on their demographic characteristics. There is evidence to suggest that marginalised communities are disproportionately affected by these practices, as they may be systematically excluded from viewing adverts for job, housing, or financial services.

Such discriminatory acts are in violation of the equality rights safeguarded by Article 14 of the Indian Constitution. The widespread existence of biased algorithms highlights the urgent need for regulatory supervision to protect against digital advertising infringing upon the values of equality and non-discrimination.

### **An Examination of the Legal and Regulatory Structure in India's Legislation**

India has been actively enhancing its legislative and regulatory framework to tackle data protection and privacy challenges. The Ministry of Electronics and Information Technology (MeitY) and the Telecom Regulatory Authority of India (TRAI) have enacted several regulations to protect user data. The ongoing study of the Personal Data Protection Bill seeks to establish a comprehensive legal framework for safeguarding personal data, with a particular emphasis on user consent and accountability.

The Personal Data Protection Act of 2023 is an essential legislation designed to establish a comprehensive system for protecting personal data in India. The bill prioritises user consent, data localisation, and the accountability of data processors. Personal data must be treated solely for specific, transparent, and authorised purposes, with the explicit agreement of the individual. The law additionally suggests the establishment of a Data Protection Authority to supervise adherence and address grievances over data breaches and misuse.

Judicial decisions have had a substantial impact on the progress of digital rights in India. In the case of *K.S. Puttaswamy v. Union of India* (2017), the Supreme Court acknowledged privacy as a basic right safeguarded by Article 21 of the Indian Constitution. This case set a legal precedent for safeguarding individuals from the unauthorised use of their personal information by digital advertisements. The Court emphasised the necessity of a robust legislative structure to safeguard privacy rights in the era of digital technology.

The Ministry of Electronics and Information Technology (MeitY) and the Telecom Regulatory Authority of India (TRAI) have enforced numerous suggestions with the goal of enhancing data privacy. The directives encompass instructions for data encryption, obligatory notifications of data breaches, and protocols for acquiring user consent for data processing. The objective of these regulations is to guarantee that digital advertising tactics adhere to user privacy and data protection prerequisites.

### **Evaluating Global Regulatory Frameworks**

The General Data Protection Regulation (GDPR), which is enforced in the European Union, has established a global benchmark for privacy rights through its rigorous mandates for user consent and data protection. The regulation requires that personal data be processed in a lawful, equitable, and transparent manner. Additionally, it confers upon individuals the privilege to obtain, correct, and delete personal data. Under the GDPR, organisations are required to have robust security protocols and quickly notify individuals in the event of any data breaches (Woodcock, R. A, 2018).

India has the opportunity to incorporate and combine various international frameworks in order to improve its regulatory strategy. India may establish a strong data protection framework by adopting successful approaches from the GDPR and the California Consumer Privacy Act (CCPA). This framework will guarantee privacy and enable responsible digital advertising. India's data protection rules should encompass key elements such as explicit user permission, mandatory data breach notifications, and user entitlements to access and erase their data. Enhancing transparency and accountability in data processing will foster user confidence and bolster the safeguarding of their digital rights.

### **Ethical Dilemmas in Digital Advertising**

The domain of digital advertising raises numerous ethical quandaries, specifically around the collection of data and ensuring user consent. The ethical ramifications of these methods are intensified by a dearth of transparency, resulting in many users being oblivious to the degree to which their personal information is surveilled and monetised. In order to tackle these ethical dilemmas, it is imperative to develop a high degree of transparency and accountability in the practices of digital advertising.

In order to adhere to ethical advertising practices, it is necessary to get explicit agreement from users and ensure transparent disclosure of how data will be used. This entails furnishing consumers with comprehensive information regarding the data being gathered, its intended purpose, and the entities with whom it will be disclosed. Both the General Data Protection

Regulation (GDPR) in the European Union and the planned Personal Data Protection Bill in India prioritise user consent and transparency, highlighting their significance within legal frameworks. By complying with these legislative mandates, digital advertisers may establish confidence with consumers and cultivate a more morally upright digital advertising ecosystem (Woodcock, R. A, 2018).

### **Legal Foundations and Ethical Advertising**

In the significant legal case *Puttaswamy v. Union of India* (2017), the Supreme Court of India acknowledged privacy as an essential entitlement safeguarded by Article 21 of the Indian Constitution. This verdict highlights the significance of acquiring unambiguous and explicit consent for data gathering and ensuring openness in digital advertising practices.

The *Vishakha v. State of Rajasthan* (1997) ruling, which laid forth principles for safeguarding women's rights in the workplace, also underscores the significance of ethical norms and openness. These concepts can be equally applied in digital advertising to mitigate prejudice and safeguard user rights.

### **Human Rights and Digital Advertising**

The utilisation of digital advertising tactics can encroach upon human rights, specifically through the implementation of biased targeted advertising and intrusive data gathering methods that breach user privacy. These actions are deemed unethical and illegal under numerous national and international rules (O'Hara, E. A, 2005)..

The practice of targeted advertising that discriminates against marginalised communities is a violation of their right to equality and non-discrimination, as outlined in Article 14 of the Indian Constitution. Discriminatory advertising practices can lead to unequal access to opportunities, hence reinforcing pre-existing social and economic disadvantages. The landmark Supreme Court decision *State of West Bengal v. Anwar Ali Sarkar* (1952) declared unconstitutional a statute that exhibited bias against a particular population, highlighting the significance of equitable treatment within the legal framework. This ruling underscores the necessity of addressing discriminatory practices in the realm of digital advertising.

Data collecting tactics that intrude upon user privacy and violate fundamental human rights are considered invasive. Article 21 of the Indian Constitution protects the fundamental right to privacy, which was further strengthened by the *Puttaswamy* judgement. These practices also contravene international human rights norms, as outlined in Article 12 of the Universal Declaration of Human Rights (UDHR) and Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

### **Legal Precedent and Ethical Considerations**

The Supreme Court, in the case of *Anuradha Bhasin v. Union of India* (2020), emphasised the importance of the ability to access the internet as a fundamental component of freedom of speech and expression. This case highlights the importance of finding a middle ground between



the interests of the state and the rights of individuals when it comes to the acquisition of data by digital advertisers.

The detrimental effects of unethical digital advertising techniques on susceptible and disadvantaged groups are especially worrisome. These communities frequently experience a higher degree of discriminatory advertising and privacy infringements. In order to safeguard human rights in the realm of digital advertising, it is crucial to enforce rigorous legislation and advocate for ethical conduct that prioritises the rights of users over financial motivations.

### **Analysing the Impact of Digital Advertising on Privacy by Examining the Extent of Data Collection and User Profiling**

The rapid growth of digital advertising has resulted in an unparalleled accumulation of data and the creation of detailed user profiles. Advertisers collect significant amounts of personal data, including as browsing history, social media activity, location data, and other information, to create detailed user profiles. These profiles facilitate precise advertising targeting, although they also give rise to significant privacy concerns. A significant number of individuals frequently lack awareness of the full scope of data collected on them, which can significantly undermine their autonomy and hinder their ability to make educated decisions with their personal information (Goldfarb, A, 2014)..

An important concern in digital advertising is the limited user awareness and genuine permission. Users often have little knowledge about the collection and exploitation of their data for targeted advertising. At times, consent procedures may be obscured by lengthy terms and conditions, posing a challenge for customers who want to provide informed consent. This technique infringes upon individuals' private rights and defies principles of transparency and equity in data governance.

The Indian Personal Data Protection Act, 2019 aims to establish comprehensive guidelines for safeguarding personal data, emphasising the significance of getting explicit agreement from users and guaranteeing transparency in the collection and processing of data.

### **Discrimination and Bias in Digital Advertising**

The use of digital advertising can perpetuate discrimination through selective targeting and exclusionary methods. Targeted advertising algorithms have the potential to perpetuate biases by deliberately displaying advertisements to some demographic groups while excluding others. Research has indicated that certain regions are consistently left out from marketing related to employment opportunities, housing, and financial services, hence worsening existing social and economic inequalities. The alleged act of discrimination is a clear violation of the fundamental right to equality and non-discrimination, which is safeguarded by the Indian Constitution. Article 14 of the Indian Constitution guarantees equal treatment and legal protection for all individuals residing inside India's borders. The case of *State of West Bengal v. Anwar Ali Sarkar* (1952): This case underscored the importance of equal treatment under the law, underlining that any form of discriminatory practices, including those in digital advertising, are contrary to the ideals of the constitution. *Indra Sawhney v. Union of India* (1992) is a landmark legal case. This landmark decision analysed the indispensability of affirmative action in ensuring equal opportunities, especially in the realm of preventing discriminatory practices in digital advertising.

### **Influence of Advertising Algorithms on Information Access**

The algorithms utilised in online advertising exert a significant impact on the content that users are presented with, ultimately dictating their ability to access information. These algorithms tend to prioritise information that generates substantial user engagement and advertising revenue, potentially suppressing content that is less commercially viable. This technology has the capacity to limit the range of content that users can reach, so diminishing their right to freedom of speech and their capacity to acquire information (Gao, Z., 2008).

There is abundant evidence that demonstrates instances in which advertising algorithms have had influence on the censorship and alteration of content. Social media platforms have faced allegations of down-ranking or removing content that opposes their financial interests. These practices possess the capacity to unjustly impact minority voices and critical perspectives, resulting in a type of censorship that is not overt. Guaranteeing algorithmic openness and accountability is crucial for safeguarding freedom of expression in the digital advertising ecosystem.

Article 19 of the Indian Constitution guarantees the right to freedom of speech and expression, emphasising the significance of transparency and accountability in content moderation processes.

The case of *Shreya Singhal v. Union of India* (2015): The verdict rendered Section 66A of the IT Act null and void, as it was used to suppress freedom of expression on the internet. This underscored the need of protecting the freedom of expression in the digital age, especially in regards to countering the censorship of material by advertising algorithms.

*Anuradha Bhasin v. Union of India* (2020) is a legal case. This decision highlighted the importance of considering proportionality and necessity when imposing restrictions on freedom of speech. The statement highlighted the importance of maintaining a delicate balance in algorithmic content management (Bouke, M. A., Abdullah, A., ALshatebi, S. H., Zaid, S. A., & El Atigh, H. 2023).

### **Regulatory Gaps and Challenges**

India's current legislative frameworks, albeit evolving, have notable shortcomings in addressing the complexities of digital advertising and data protection. The rapid pace of technological advancement often exceeds the capabilities of existing laws, leading to significant shortcomings in oversight. For instance, the absence of a complete legislation on data protection, such as a finished Personal Data Protection Bill, leaves consumers vulnerable to potential exploitation of their personal data by advertisers. The current legislation, such as the Information Technology Act, 2000, and its associated guidelines, provide a certain degree of protection but lack the necessary strength to adequately address the intricate challenges posed by modern digital advertising.

The Information Technology Act, 2000 (IT Act) is the primary legislation governing digital activity in India. The regulations governing data protection are outlined in Section 43A and the IT (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011.

The case of Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors. (2017) is being

referred to. This landmark decision underscored the importance of comprehensive data protection, highlighting the shortcomings of current legislation and the urgent need for robust legal safeguards.

### **Stakeholder Perspectives and Regulatory Effectiveness**

Stakeholders, including policymakers, industry participants, and civil society, possess divergent perspectives regarding the efficacy of existing regulations. Policymakers and regulatory organisations often advocate for the adoption of more stringent restrictions to protect user rights and ensure accountability. However, industry participants emphasise the need for a balanced policy that encourages innovation without hindering it. Civil society organisations frequently push for stronger measures to reduce privacy violations and discriminatory practices in the field of digital advertising.

The government's dedication to incorporating stakeholder perspectives into policy formation is evident through consultative processes, such as the public consultations on the Personal Data Protection Bill.

*Anuradha Bhasin v. Union of India* (2020) is a legal case. Highlighted the importance of proportionality and the need for regulatory measures that strike a balance between rights and limitations, especially when creating regulations for digital advertising.

### **Recommendations for Policy Reforms and Industry Best Practices**

An effective regulatory policy should be grounded in fundamental principles such as transparency, accountability, and fairness. Regulations should mandate clear and comprehensible information regarding the protocols for gathering and utilising data. Establishing robust accountability procedures is crucial for addressing privacy breaches and ensuring that data-managing businesses adhere to ethical principles. Enforcing fair advertising standards is crucial to eradicate prejudice and ensure that digital advertising respects the rights of users.

The objective of the Proposed Personal Data Protection Bill, 2019 is to establish a comprehensive framework for safeguarding personal data. It notably emphasises user consent, minimising data collection, and holding individuals accountable.

The case of *Internet and Mobile Association of India v. Reserve Bank of India* (2020): Emphasised the significance of implementing a comprehensive regulatory approach that protects user interests without hindering technological progress.

In order to provide robust data protection, policy enhancements should adhere to international standards, such as the General Data Protection Regulation (GDPR). It is crucial to utilise ethical advertising practices, which include obtaining explicit consent from users, safeguarding data privacy, and forbidding any kind of discrimination. Utilising industry self-regulation tools and accountability frameworks can significantly enhance the ethical standards of digital advertising.

The General Data Protection Regulation (GDPR) provides a comprehensive legal framework for protecting data, serving as a model for India to develop its own robust data protection laws

(Bouke, M. A., Abdullah, A., ALshatebi, S. H., Zaid, S. A., & El Atigh, H. 2023).

The case of Vodafone India Services Pvt. Ltd. v. Union of India (2014) highlighted the importance of having clear and specific regulatory guidelines in place to ensure compliance and protect the interests of all parties involved, especially when it comes to the development of data protection regulations.

### **Suggestions and Conclusion:**

The intersection of constitutional rights and international human rights standards offers a solid foundation for regulating digital advertising in India. To tackle potential human rights violations in this field, it is necessary to give priority to equality, safeguard freedom of speech, and guarantee privacy protection. The progressive interpretations of the Indian judiciary, along with adherence to international responsibilities, provide a solid foundation for developing effective legal and regulatory measures to protect individuals from the adverse effects of digital advertising. It is essential to implement this entire approach in order to promote a fair, transparent, and rights-focused digital advertising system in India.

India ought to give priority to enhancing its data protection regulations by implementing comprehensive laws. The legislation should have stringent criteria for getting consent, robust measures to safeguard data, and efficient mechanisms to protect privacy rights. When creating laws to tackle the unique challenges of digital advertising, it is essential to include international frameworks such as the General Data Protection Regulation (GDPR).

It is crucial to establish ethical guidelines for advertising efforts. The proposals should include clear and open protocols for processing data, tools to ensure genuine user consent, and criteria to promote fair advertising without discrimination. Ensuring strong ethical standards in digital advertising requires the promotion of industry self-regulation and responsibility. Industry participants should prioritise the implementation of strong data security measures, guarantee transparency in data collection and usage, and refrain from using any discriminatory targeting practices. Ensuring that user trust and privacy are the utmost concern is crucial for cultivating a more ethical digital advertising ecosystem.

Industry self-regulation and accountability procedures are crucial for upholding ethical standards. Implementing regulating bodies to enforce ethical standards, issuing certifications to responsible advertisers, and establishing complaint resolution mechanisms can significantly improve accountability and trust in digital advertising activities.

Civil society organisations must vigorously promote for digital rights and improve public comprehension of their rights and the ethical consequences associated with digital advertising. These efforts can provide consumers with the required knowledge to make informed decisions and guarantee that advertising are responsible for their actions.

Efficient collaboration among the government, industry, and civil society is crucial for cultivating a digital environment that respects and safeguards individual rights. Collaborative efforts can lead to comprehensive regulations and protocols that provide a balanced and harmonious relationship between the benefits of digital advertising and the protection of human rights.

In order to establish a fair and unbiased digital atmosphere in India, it is imperative to embrace a balanced strategy that prioritises the protection of privacy, the prevention of discrimination,

and the preservation of the right to freedom of speech. India has the potential to establish a digital environment that upholds and safeguards human rights, while also harnessing the advantages of digital advertising. This can be achieved by integrating ethical advertising methods with strong regulatory frameworks.

Strengthen data protection legislation by enforcing stringent consent standards, robust data security systems, and effective enforcement methods. Develop frameworks to build ethical advertising protocols that cover transparent data governance and non-discriminatory standards. Implement stringent measures to ensure adherence to ethical guidelines for data and advertising management, prioritising the cultivation of user trust and protection of privacy.

Enforce industry self-regulation and accountability mechanisms by creating compliance bodies and implementing certification programs. Facilitate the advancement and advocacy of digital rights through the coordination of awareness initiatives aimed at educating the general public about their entitlements and ethical considerations in the domain of digital advertising. Promote collaboration among stakeholders to develop a digital environment that respects individual rights and supports a thriving digital advertising sector. Interdisciplinary study and collaboration are essential for achieving a deeper understanding of these issues and developing effective solutions.

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