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**PARTICIPATION OF WOMEN IN  
CONSUMER PROTECTION MOVEMENT:  
ISSUES AND CHALLENGES**

**Editor**

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**WOMEN CONSUMERS OF THE COSMETIC INDUSTRY - A  
CRITICAL ANALYSIS OF GENDER-BASED DISCRIMINATION  
IN THE INDIAN MARKET**

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**ABSTRACT**

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## **INTRODUCTION:-**

India has a rich and age-old legacy of using cosmetics to look beautiful. Indian beauty and personal care industry is one of the most rapidly growing industries. In the year 2020, the market size of the beauty and personal care industry was valued at one trillion Indian rupees, and by 2025 it is likely to increase by two trillion Indian rupees. It is expected that by 2025 India will constitute 5% of the global cosmetic market and become one of the top five global markets by revenue.<sup>1</sup>

Indian cosmetic industry is comprised of skin care, hair care, oral care, fragrances, and colour cosmetics and women are its predominant consumers. Like its various contemporaries, the industry has gone through radical changes and transformations. It has witnessed a shift from traditional beauty practices advocating the use of natural ingredients like turmeric or aloe vera for their beautifying properties to chemically driven products and again a reverse shift towards sustainability marked by increased use of natural ingredients such as plant extracts as an alternative to synthetic products. Digital technology has revolutionized the cosmetic industry almost in every aspect including the processes from production to marketing. Advent and use of E-Commerce platforms, specifically after the Pandemic induced by COVID-19 have played catalytic roles in increasing the accessibility and convenience of consumers.

As mentioned earlier as predominant consumers, women dominated the market in the year 2022 with a market share of 60% and are expected to retain their dominance in the near future. They play a pivotal role in propelling the Indian cosmetic market. Increasing women's empowerment, changing societal norms, economic independence of women coupled with the ability to make

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<sup>1</sup> Shubham Anand and Red Seer Consulting, "Indian Cosmetics Industry – A short Perspective Document on the Cosmetics Retail Sector" (2017) available on [https://redseer.com/wp-content/uploads/2017/10/118-Cosmetics-Industry-Report\\_Final\\_July2017.pdf](https://redseer.com/wp-content/uploads/2017/10/118-Cosmetics-Industry-Report_Final_July2017.pdf) (lastly visited on March 3, 2024)

decisions, and the influence of social media are some of the key factors behind the rise in the use of cosmetics.<sup>2</sup> Despite being a prominent stakeholder in the cosmetic industry the experience of women as consumers is marked by inequalities and discrimination. In this chapter, an attempt is made to analyze the discrimination faced by women consumers in the cosmetic industry and evaluate the response of Indian Law to deal with it. The discriminatory experience of women consumers in the cosmetic industry is discussed under the following heads:-

### **GENDERED DISCRIMINATION IN PRICING OR PINK TAX:-**

It is observed that in India like global community cosmetics targeted and advertised for women are sometimes more expensive than comparable products designed for men. These gender-based price disparities are more evident in personal care products such as soaps, deodorants, moisturizers etc. Charging women more than men for identical goods is discriminatory and puts an economic burden on women.<sup>3</sup>

Pink tax refers to discriminatory pricing that inflates the cost of goods marketed for women. It is also applicable to services where women have to pay more for hiring them. The term 'Pink tax' was coined in the mid-90s and we can find explicit recognition of it in California's Gender Tax Repeal Act 1995 which prohibited businesses of any kind from discriminating concerning the price charged for services similar or like kind, against a person because of a person's gender. Prescription of different prices was justified on certain considerations such as the amount of time, difficulty, and cost of providing services. The Act however failed to ban gender-based pricing as

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<sup>2</sup> Custom Market Insight, "Indian Cosmetic Market 2024-2033" (2024) available at <https://www.custommarketinsights.com/report/india-cosmetic-market/>

#:~:text=Based%20on%20gender%2C%20the%20market,propelling%20the%20Indian%20cosmetic%20market (lastly visited on March 5, 2024)

<sup>3</sup> Neha Barari, 'Pink Tax :- A price discrimination with unfortunate females' 23 , *Catalyst Research* 3350 (2023)

it applied only to services and not the products marketed to women. To fill this lacuna, in 2022, a new law was enacted that prohibits a person, firm, company, corporation, or business from charging a different price for any two goods that are substantially similar if those goods are priced differently based on the gender of the person for whom the goods are marketed or intended.<sup>4</sup> Two goods will be considered substantially similar if there is no substantial difference in the material used for their production, their intended use, functional design, and features are similar and their brand is the same or both brands are owned by the same individual or entity. However, the Act allows the discrimination in pricing of goods or services on various grounds such as the amount of time for manufacturing, difficulty in manufacturing these goods, costs incurred, labour and material used in manufacturing goods, and any other gender-neutral reason for charging a different price. The violations are dealt with by grant of injunctions and imposition of fines. Apart from California, a few more states in the United States of America have prohibited the Pink tax.

United Nations Commission on the Status of Women while issuing a roadmap to women's full and equal participation in the economy as a step towards achieving sustainable development called the member states for an end to the practice of gender-based price discrimination.<sup>5</sup>

Pink tax can be best explained as the formal recognition of unfair pricing disparity based on gender, a practice that has been prevalent in society for a long time. Discriminatory pricing can lead to financial inequality which can snatch away purchasing power from women. In India, the Pink tax is not prohibited by any legislation as prices of the goods are regulated by the market. However, the Pink tax makes women spend more, even though they earn less. The Global

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<sup>4</sup> Sec 51.14 ( b) of the Assembly Bill no. 1287 available at [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB1287](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1287) (lastly visited on March 3, 2024)

<sup>5</sup> UN News Global Perspective Human Stories available at <https://news.un.org/en/story/2017/03/554042#:~:text=Member%20States%20further%20called%20for,marketed%20to%20men%20and%20boys> (lastly visited on March 6, 2024)

Gender Gap Report 2022 by World Economic Forum confirms the 19% pay disparity between men and women in India and even for the same work women are paid less.<sup>6</sup> So women earn less than their male counterparts but are compelled to spend more. Creating awareness which will eventually lead to meaningful change can be the most significant way to break down systematic inequalities perpetuated in Indian society.

#### **PROPAGATION OF UNREALISTIC BEAUTY STANDARDS:-**

Standards of beauty are not merely academic issues but they are affected by the culture and exercise the impact on the people. Since ancient times, women in India have been subjected to unrealistic beauty standards. The female figures in early India in Moryan period from the fourth to second century BCE, represent women with “large breasts, wide hips, and tapering legs”. Images of women in Kushan period from the first century to the fourth century CE, show the bodies consorted in ‘S’ shaped curves.<sup>7</sup> The body proportions of women depicted in those art forms were not natural but they manifested what the artists were trained to perceive and exhibit them. So the beauty standards depicted were rather idealized than natural.<sup>8</sup> Further in ancient Hindu culture portrayal of goddesses such as Parvati can be referred to gain insights into the ancient beauty standards.<sup>9</sup> Parvati is “a slender-bodied maiden of comely hips and moon-like face.” “Comely hips” most likely means noticeable ones, re-emphasizing the same ideals seen in ancient art—a slender waist with curves. As for the “moon-like face,” it most likely refers to a face that is glowing, pale, or both, as those attributes are often ascribed to the moon.<sup>10</sup>

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<sup>6</sup> World Economic Forum, ‘Global Gender Gap Report’ 13 (2022)

<sup>7</sup> Robert Bracey ‘Ideals of Beauty in Indian Art’ 2007, 2011 . Available at <http://www.kushan.org/essays/women/ideals.htm> lastly visited on 11th February, 2024

<sup>8</sup> *Ibid.*

<sup>9</sup> *Id* at 7.

<sup>10</sup> Harsha V. Dehejia, *Parvati: Goddess of Love* 11 (Mapin Publishing, Ahmedabad, 1999).

Colonization has exercised considerable influence on setting beauty standards in India. It is observed that the psychological influence of colonisation has deeply rooted the thinking of white as beautiful in Indian society. It led to the internalization process of western values, culture, and language including beauty standards such as the belief that whites are socially preferred skin tones. The perception of 'fairness is beauty' seems to be solidified in Indian Market by products like, 'fair and lovely'.<sup>11</sup> Fair and Lovely a product of Hindustan Lever had equated fairness with success. Due to the craving for fairer skin, it became the most popular beauty brand with wide accessibility. It owed 80% of the market share of the fairness cream market. In 2012, in an attempt to establish a more 'inclusive' brand identity as a response to the criticism the company rebranded the 'fair and lovely' as 'glow and lovely'. However, the product's name change does not seem to have altered the deep-rooted perceptions created by decades of marketing.

Globalization has led to the Westernization of beauty standards and it has imposed foreign beauty standards on Indian women. Imitation of Western culture specifically concerning women seemed to be based on the assumption that Western society is more empowering for women than Indian society. Even though we assume that in Western society women are more liberated, it can't be denied that Western society itself often struggles with how women in those societies are treated. Victimization of women on various counts such as domestic violence is prevalent in Western societies. Therefore imitation of Western societies as a road map to women empowerment is a slippery slope and is one of the basic reasons for succumbing to Western unrealistic beauty standards.

The desire on the part of women to conform to those beauty standards even though unrealistic, can have a negative impact on their mental and physical well-being. It is likely to pressurize women to adopt unhealthy eating habits such as crash diets, and skipping meals to achieve

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<sup>11</sup> Gelles, Rebecca, "Fair and Lovely: Standards of Beauty, Globalization, and the Modern Indian Woman" (2011). *Independent Study Project (ISP) Collection*. 1145.

unrealistic body shapes such as zero figures. It can also lead to malnutrition, eating disorders, and a negative relationship with food. It is also observed that many women adhere to excessive work out to burn calories and maintain a certain weight even at the expense of physical stress. Desire to confirm ideal beauty standards compels many women to undergo surgery or other cosmetic procedures to alter their appearance to fit the mold. These surgeries are often expensive, and risky and can sometimes take a toll on life. Feeling the need to constantly compare themselves to the heavily edited images women see on social media leads to low self-esteem and body dissatisfaction.

#### **MARKETING REINFORCING GENDER STEREOTYPES:-**

Advertising has a profound influence in defining beauty and shaping beauty standards. It plays a major role in shaping consumer behavior and societal values. The research has confirmed that ads in TV, newspapers, magazines, and online platforms significantly shape the purchasing decisions of consumers.<sup>12</sup> The research conducted by UNICEF and Geena Davis Institute on Gender in Media (GDI) titled, 'Gender Bias and Inclusiveness in Advertising in India' has recorded the finding that women in advertisements are stereotyped as they are portrayed as young and attractive affirming the traditional beauty norms. They are shown in revealing clothes and sexually objectified. Many of the detergent and food commercials portrayed women caretaking for their family giving a hint to viewers that women should uphold the traditional gender roles. Female characters in advertisements are all invariably thin.<sup>13</sup> The research measures over 1,000 television and YouTube advertisements aired across India in 2019.

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<sup>12</sup> Ramzan S., "Impact of media advertisements on consumer behaviour" *14 Journal of Creative Communications*, 54 (2020).

<sup>13</sup> United Nations Children Fund and Geena Davis Institute on Gender in Media, 'Gender Bias and Inclusiveness in Advertisement in India' (2021).

Further, the research conducted to study young girl's perception of media pressure through the portrayal of ultra-thin beautiful models in Indian TV advertisements and to discover the factors responsible for the internalization of media images by women and girls confirms that most of the advertisements portrayed young and beautiful women and women viewers felt pressurized by such models to look beautiful and maintain a perfect body shape. This in turn influenced their eating patterns and sometimes led to low self-esteem.<sup>14</sup> The gender stereotype needs to be handled at two levels firstly the advertising industry needs to be made to realize the impact of their imagery on women's self-integrity and secondly, women should be encouraged and taught to think critically about how they internalize these images.

#### **RIGHT TO CHOOSE:-**

In India, it is observed that women are denied the right to choose products for their specific needs due to lack of availability. For example, it is observed that for Muslim women cosmetics with halal certification are not readily available. Halal certification ensures products comply with Islamic law. Their limited availability restricts women's ability to choose beauty products that align with their religious beliefs. Further Many brands offer limited shade ranges, particularly for deeper skin tones, which are prevalent in India. This excludes a significant portion of the female population. Presently there is a demand for natural and organic cosmetics but options catering to specific skin types are limited.

#### **RIGHT TO BE INFORMED AND RIGHT TO SAFE PRODUCTS:-**

The fundamental right of the consumer is to be able to make an informed choice based on

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<sup>14</sup> Das Madhusmita, and Sangeeta Sharma, "Fetishizing women: advertising in Indian television and its effects on target audiences" 18 *Journal of International Women's Studies* 114(2016)

credible information before purchasing the product. The regulator needs to ensure that the products and services made available to consumers are safe, adhere to the best standards, and are made without any discrimination and unfair trade practices.

In India Drugs and Cosmetic Act, of 1940 regulates the import, manufacture, distribution, and sale of drugs or cosmetics. The present age-old legislation does not address the issues related to online sales of cosmetics. Due to this, there is a vast growth in the sale of illegal cosmetics. In response to the recommendations of panel of eight members headed by Drug Control General of India in 2020, the Central Government has notified new cosmetic rules in 2020. The rules clearly state ingredients that can be used and that can't be used in cosmetics. Rules have now made it mandatory for manufacturers of cosmetics and make-up products in India to declare all ingredients, even those with a concentration of less than 1%, to help buyers make more informed choices.

Despite these regulations, it is observed that Indian consumers are vulnerable to cosmetics that do not meet quality standards either due to the fault of the original manufacturer or due to the fake or expired products being freely sold in the market. As per the report of 'The State of Counterfeiting in India 2021' cosmetic products are the most counterfeited product in India.<sup>15</sup> These products contain lower quality or potentially harmful ingredients. The survey conducted by the local circles reveals that one in four households in India has faced issues with cosmetics they purchased in the last three years while one in six has had family members who experienced allergic reactions or severe ailments due to cosmetics. On an aggregate basis, 25% of households

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<sup>15</sup> Authentication Solution Provider's Association, "The State of Counterfeiting in India 2021" available at [https://www.aspaglobal.com/pre\\_upload/nation/1623216858-4730baa0efdb83aba174859af0a3a6a5-Report%20The%20State%20of%20Counterfeiting%20in%20India%202021.pdf](https://www.aspaglobal.com/pre_upload/nation/1623216858-4730baa0efdb83aba174859af0a3a6a5-Report%20The%20State%20of%20Counterfeiting%20in%20India%202021.pdf) (lastly visited on April 24, 2024)

have had issues with cosmetics they purchased in the last three years of which 15% faced an allergic reaction or severe ailments. <sup>16</sup> There are many reported instances where the Central Drugs Standards Control Organisation headed by the Drugs Controller General of India has seized the illegal cosmetics.

Cosmetics containing ingredients posing danger to health are not of uncommon prevalence. Many additive chemicals in cosmetics like parabens, phthalates, polyethylene glycol, hydroquinone, resorcinol, dioxane, trace heavy metals etc. are hazardous and pose a variety of health risks ranging from neurotoxicity, nephrotoxicity, carcinogenicity, endocrine disruption, reproductive disorders, etc.<sup>17</sup>

The critical analysis of the experience of women consumers in the cosmetic industry leads to the observation that women consumers face discrimination based on gender while paying the price of cosmetics. There is a need for a strategic response to deal with this pink tax. The regulation of the pink tax either through the means of legislation, regulation, or guidelines should be coupled with the 'strict no' by the women consumer community. Awareness as a key to empowerment should be resorted to exercise pressure on the manufacturers as well as state agencies.

It is observed that women suffer due to the imposition of unrealistic beauty standards and media plays a significant role in shaping these standards. There is a need to establish guidelines for advertising with benchmarks for promoting gender norms dealing with body attitudes. They should provide skin colour guidelines for advertising with benchmarks promoting quantity and quality of representation for characters with dark skin tones. There is a strong need to promote diverse

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<sup>16</sup> Local Cicles, 'Survey on Use of Cosmetics' available on <https://www.localcircles.com/a/press-page/cosmetic-products-reaction> (lastly visited on April 24, 2024).

<sup>17</sup> Ruchi Kohli, Anu Mittal and Amit Mittal, 'Adverse effects of Cosmetics on human health' BIO Web of Conferences 86, 01026 (2024).

templates of beauty rather than regressive beauty norms of women and girls being only fair and thin. Advertisements leading to value addition in terms of diversifying representation in gender and skin tone should be promoted and given incentives.

Indian society needs to work in cohesion to deal with gender stereotypes. Right from school to the place of work, there is a need to conduct gender sensitization programmes to inspire people to break these stereotypes. The beauty industry needs to embrace diverse models and marketing strategies that celebrate various skin tones, features, and beauty ideals. The right of Muslim women to avail themselves of cosmetic products with halal certification needs to be addressed.

Regarding counterfeit cosmetics, the present legal framework specifically the Drugs and Cosmetics Act needs to be updated to provide for the intricacies of technological advancements such as the online sale of cosmetics. Present penal sanctions against counterfeit cosmetics are found in the Indian Penal Code<sup>18</sup> and the Drug and Cosmetics Act, 1940<sup>19</sup>. Taking into consideration the consequential damage, that counterfeit cosmetics can cause there is a need to provide for stringent punishments for the sale of counterfeit cosmetics. Creating awareness among various stakeholders specifically women consumers about their rights and strategic consumer advocacy can prove to be useful solution for most of the issues prev

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<sup>18</sup> The Indian Penal Code, 1860 (Act 45 of 1860), ss 420, 482, 483, 486.

<sup>19</sup> The Drugs and Cosmetics Act, 1940 (Act 23 of 1940), ss. 13, 14.