Bait & Switch: Corporate Makeover or Destroyer

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Abstract-Advertisement is the basic tool used for getting a customer into a store, physical or otherwise. There is truthful advertisement and then there is deceptive advertisement. This paper ventures on examining a type of deceptive advertisement tactic called "Bait-and-Switch". This form of deceptive marketing has gained a great deal of attention and notoriety worldwide, in both international court systems and in media. Current study unveils various forms of Bait-and-Switch tactics, thereby describing the phenomenon in general as well as legal context. It establishes the legality of this tactic, exploring the lawful aspects of Bait-and-Switch (BnS), distinguishing it from a fraud, by explicating its implementation in retail, sale, and departmental store market, as well as its significance the court of law. It also reviews the policies and guidelines of Federal Trade Commission (FTC) regarding Bait-and-Switch. Focus is given on how BnS strategies are driving sales in small and medium Enterprises (SME). Models for Bait-and-Switch established the conditions for equilibrium to exist and reveal that even though use of BnS is a seemingly profitable tactic to get the consumer to buy what is being sold, it can lead to lost sales, thereby suggesting BnS to be non-profitable to the seller in the long run. The study further gathered data from the consumers and examined the effect of BnS on purchase decisions, by categorizing subjects based on income. Findings establish the role of income in these decisions. As low-income groups never shift to substituted product owing to their financial limitations. High income group on the contrary show much more flexibility in shifting towards the substituted product. The study is significant for the businesses looking for getting profitable by using BnS, as well as for the consumers as they look for better utilization of their resources.

Index Terms—Bait-and-switch, deceptive, FTC, advertising, management.

I. INTRODUCTION

In general context, Bait-and-Switch (BnS) is type of advertising technique in which quite an attractive price or term is advertised that in itself is just an introductory rate aimed at attracting customers [1]. However, when the prospective customer goes to the store to enquire about the advertisement, the product is rather not available ("the bait") and in response the advertiser sells the customer a much more expensive product ("the switch") [2]. However, BnS in legal context is generally considered as a deceptive or fraudulent sales tactic, wherein customers are attracted by advertising a low-priced item but then again are stimulated to buy a high-priced one. This term has become a part of scam as it is considered illegal and looked upon as dishonest way of selling goods. BnS has gained most popularity in the mortgage sector, where the providers advertise exceptionally low mortgage rates for which massive range of applicants could not be eligible, while compelling the customers to settled at their rates [1], [2].

Two situations are given to explain how BnS occurs in real life example. In this case study Peter wants to buy the refrigerator mentioned in the advertisement. In situation one the seller baits Peter by misrepresenting the product, by saying the refrigerator he is looking for has limited storage and is not suitable for consumers with large storage requirements. Seller pushes Peter by diverting his attention from his desired product to the switch, the alternative refrigerator. He baits Peter by offering the product at nearly the same price with better features and Peter agrees to buy.

In the second situation seller, instead of comparing the refrigerator, says he ran out of stock for that model and instead offer another refrigerator at a higher price for the same features and forces Peter's intention to buy the product which he agrees to buy later.

So, in this case study either the seller pitches the product with some major limitations and then offers the alternative product to buy, or the seller shows he is out of stock for the product and pushes the buyer to buy the desired product.

"Bait & Switch is also known for a kind of *Internet Trolling*, baiting the internet users into watching specific content or opening specific websites with the use of misleading icons and links [3], [4].

Its main aim is to promote purchases of substituted goods, which are available at higher price, and making customers satisfied with the available stocks as an alternative for the inconvenience caused due to unavailability of showcased products and attempting on ostensibly partial recovery of sunk costs that were incurred on obtaining the said bait [4].

These types of scams are common in newspapers as well. BnS is alluring for the customers who want to save money. Thus, they end up getting trapped and paying more amount of money as the company assures and convinces them that they are receiving a much better deal [5], [6]. Some customers do not realize that they are victims of bait-andswitch because this typically does not involve selling of phony or non-functional products [6]. But these tactics are frequently used by retail stores & departmental stores which proves to be a blessing for sellers as it increases their sales and along with higher rating of products [7].

II. DISTINGUISHING BNS TACTICS FROM NON-BNS TACTICS

It is important to consider the tactics which are beyond of the scope of BnS, the same way it is important to highlight the BnS tactics. It is also unethical to allegedly blame someone for a practice that does not come under BnS and this unnecessary blame game can counter back large legal implications on the consumers [1].

Pricing error is one concrete example of non-BnS tactics and these are most commonly found especially in online searches. The advertiser will list the product A at \$500

Manuscript received May 13, 2018; revised July 5, 2018.

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where its actual price is \$5000. This is just a pricing error a consumer should also act rationale while choosing the offers as it is clear that the retail stores will not lose their hundreds and thousands of dollars for honoring this offer [1].

The other example is the availability of limited product stocks, where an offer is proposed only for particular quantity of products or it might state that the offer is for first 10/15 customers only. Expiry of the offer brings the customers to pay the usual prices [8]. This technique which is an exciting marketing stunt, of course, is not BnS until and unless the advertiser mentions the details of the offer. It is like a loss leader, who brings people to the store in hope of large sums of savings but end up with no product available to offer.

The advertisers use impressive and smooth wording to catch up the sight of customers which could sometimes convey wrong meaning or context about the offer to the consumers. There may be shift in perception in minds of consumer and the advertiser behind the idea of offer, but the offer cannot be considered as Bait-and-Switch [9], [10].

III. LEGALITY OF BAIT-AND-SWITCH

Deceptive and fraudulent forms of bait-and-switch are among the intrinsic concerns for the legal authorities. Their practice is a crime and considered as fraudulent sales tactics and it is punishable offense under Lanham Act [1]. In countries like United States, consumers can file a lawsuit against the advertiser for false marketing. Consumer laws hold this fraudulent business as liable for trademark infringement and the business might also be liable for damages. Consumer laws take this practice as fraudulent because the manufacturer advertises the products that are not meant for sale but the law does not state that the consumer would get the same product they desire for [1], [10].

As there are two sides of a coin, some common advertising or marketing practices on other side of the coin prove to be lawful by using traditional bait-and-switch. Lawful practice of BnS is quite abundant. Practically retail environment, whether virtual or physical [7], [11], is designed such that any customer that enters buys either more than they intended to or more profitable items [12], [13].

DELL, for example, has been sued over bait-and-switch charges by a California law firm for systematically deceiving their customers. Another example is of luxury fashion giant named Michael Kors which has taken a legal action in federal court, against warehouse retailer Costco Wholesale Corp. for an alleged "bait-and-switch advertisement". Kors accused Costco of deceptive advertising and unfair competition under the sections of Federal Lanham Act & New York Common Law [14], [15].

IV. REVIEW OF FEDERAL TRADE COMMISSION (FTC)

Federal Trade Commission defines Bait-and-Switch as "an alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise, to sell something else, usually at higher price or on basis more advantageous to the advertiser." [1]

As stated by Federal Trade Commission (FTC), Bait-and-Switch is considered as fraudulent act as it meets the legal criteria of deception as stated in Section 5 of FTC Act. Thus, Federal Trade Commission prohibit the practice which is punishable on persuasion. While FTC has enforced the laws and deterred scams to a great degree, bait and Switch still remains a stubborn problem that could never disappear from the marketer's bags of tricks. Despite established laws over BnS, the tactic is found lawful in the sight of some marketers while most of the sales team avoid the use of this tactic which has been declared as unlawful by Federal Trade commission. Federal Statue and the State Regulation authority have also voted against this infamous doctrine [1, 15].

A. Guidelines of FTC

FTC has issued guidelines to declare the criteria of Baitand-Switch, explaining what really is "bait-and-switch" advertising and what is not. Where FTC emphasizes that "bait-and-switch" pertains to a disingenuous advertising practice. These guidelines are helpful in distinguishing the marketing strategy as bait-and-switch. According to FTC, if a seller can sell you the "bait", however, he convinces you to buy something else. That will not be considered "baitand-switch." Similarly, if a seller no longer carries the "bait" however, the advertisement indicates limited quantities, which will also not be termed as "bait-and-switch" [1]

However, if a seller did not mean to sell the "bait," and disparages the said bait or its credit terms, warranty, repairs, availability of service, or parts; then it is possibly a case of "bait-and-switch". Similarly, if a seller is employing compensation methods that discouraging or penalizing sales representative for selling the bait; or if a seller is refusing to take orders for the bait or deliver the bait in a reasonable span of time, will also be considered as Bait-and-Switch. If a seller shows you a broken or defective product that is also highlighted as BnS. Failure to cover bait's projected demand without revealing its limited availability in the advertisement also comes under the purview of bait-and-switch [1], [10], [14], [16].

V. DESCRIPTION OF MODEL

To demonstrate how BnS work we will build upon Lazear's models [2]. Take a refrigerator that is for sale. If all the refrigerator's characteristics were established, it would interest several people in several ways. For instance, a single door is not expected to be valued exceedingly by a family of six living in Antalya as it is valued by a man who lives by himself in Ankara. Likewise, a double-sided door refrigerator might have higher worth for that family of six as it has for that man. Using some vector of characteristics, x, we can assume an index of individuals. In this case x may correspond to size of the family size and income.

Considering two types of commodities: While the first one has two variants, SD, and DD; whereas the second one is just a generic item having price equivalent to 1. Customers are bestowed with income/wealth that is equal to W. While, refrigerator SD will cost P_{SD} and refrigerator DD will cost P_{DD} . If the customer buys a refrigerator from SD variant, then he will be left with $W - P_{SD}$ for spending on the generic item. Whereas, if he buys DD variant, then he will be left with $W - P_{DD}$ for spending on the generic item. If he chooses to buy neither *SD* nor *DD*, then he will be left with W for spending on the generic item. Therefore, where search costs are zero, utility is estimated as;

When SD is bought

 $M(x, W - P_{SD})$ When DD is bought $N(x, W - P_{DD})$ When, both SD and DD are not bought. R(X, W)(1)

Let us assume that the consumer has to incur cost k for searching the commodity. Given this precondition, utility is estimated as;

When SD is bought $M(x, W - P_{SD} - k)$

When *DD* is bought $N(x, W - P_{DD} - k)$

When both *SD* and *DD* are not bought; there is no search for either.

When both *SD* and *DD* are not bought; however, search is done.

$$R(x, W-k) \tag{1'}$$

If a customer conducts his search and purchases SD, he will have a utility of $M(x, W - P_{SD} - k)$ also, comparably N $(x, W - P_{DD} - k)$ in case where he chooses to purchase DD. However, if he chose not to conduct search, he will be avoiding search cost i.e. k and will have a utility equaling R (x, W). If he chose to search and then chose not to purchase either, his utility will be equaling R (x, W - k), since the search cost cuts his resources that are otherwise available for consuming the generic item. Let us take y as the number of firms which are producing SD, while 1 - y as those which are producing DD. For the sake of straightforwardness, it is presumed that a prospective customer takes a message from just one seller. This message designates the store location and confirms that it carries refrigerators for sale purposes. It also affirms the refrigerator type which is being sold. After getting this message, the buyer can choose to "shop," specifically, to examine the item or not to shop. If he chooses not to shop, then all his wealth 'w' will be expended on the generic item. Moreover, the producer does not know the customer's type, mainly since the seller does not who are the customers to whom his advertisement may have reached. A seller that is selling SD can pick, either to do advertising honestly, that it is selling SD at P_{SD} or he can choose to advertise deceptively that it is selling DD at price point P_{DD} . If he chooses to do the latter, he is practicing BnS strategy. BnS can be described as putting out advertisements for one item, but then presenting another to a consumer, when he has incurred the search costs and has arrived for inspecting the advertised item. A truthful scenario will be where there exists a separating equilibrium wherein seller of SD intends on advertising variant SD, and analogously, DD intends on advertising variant DD. Equilibrium of bait-andswitch is can be viewed as a pooling equilibrium wherein both the variant sellers are advertising that they carry DD for sale.

Establishing bait-and-switch equilibrium by means of a pooling equilibrium follows the widespread usage of the

phrase "bait-and-switch." Here, all sellers are expected to advertise that they are selling the low-priced items. Such a message simply pinpoints the location of the place or shop for the consumers with some positive likelihood that the item thus advertised is available for purchase. Consumers realize that there are some sellers who practice bait-andswitch. Therefore, the prospective consumer goes to the advertised place and inspects the identity of the real refrigerator variant that is available for purchase. If the refrigerator in reality, is a DD, he finds the advertised message to have been honest and true. However, if the refrigerator is in reality an SD, he will find the seller to be deceptive and practicing bait-and-switch; who lied about the characteristic of the item. While consumers recognize that some sellers do deceptive advertising, the deceitful conduct of those sellers is precisely what is usually termed bait-andswitch.

Before getting any further into this, we need to establish the conditions for a separating equilibrium. For this equilibrium to hold, seller of *SD* will be advertising *SD*, whereas seller of *DD* will be advertising *DD*, while customers will purchase a refrigerator based on its advertised attributes. In a case where firms are telling the truth, any customer who gets the message advertising that *SD* is being sold at P_{SD} price, will be shopping for, and purchasing *SD*, given

$$M(x, W - P_{SD} - k) > R(x, W)$$
 (2)

Likewise, any customer who gets the message advertising that DD is being sold at P_{DD} , will be shopping for, and purchasing DD, given

$$N(x, W - P_{DD} - k) > R(x, W)$$
 (3)

where condition (2) is true, the customer's utility will be more by purchasing the refrigerator at the price of P_{SD} , while incurring search costs k, than it is by choosing not to shop whatsoever and save money that otherwise would be spent on search costs. Where condition (3) is true, the customer will be more affluent if he shopped for and purchased DD than by choosing not to shop whatsoever and save money that otherwise would be spent on search costs. A separating equilibrium will hold, given that SD's seller fundamentally does not intend to practice a bait-and-switch strategy. Explicitly, provided that, customer expects honest advertisement, SD's seller must not intend on advertising falsely that he is selling DD. As we are concerned about bait-and-switch, we need to work out the condition wherein truthful advertising and separating equilibrium will not hold. Assume that SD's seller is advertising for DD. Customers, who originally assumed advertisement to be truthful, will arrive to examine DD. When these customers will come to SD's store, they will come to know that the refrigerator being sold is variant SD and not as advertised i.e. DD. By that time, these customers will purchase the SD variant refrigerator; given

$$M(x, W - P_{SD} - k) > R(x, W - k)$$
 (4)

Once a customer has incurred the costs for searching i.e. k,

then he can choose to purchase SD at P_{SD} and ultimately get utility of $M(x, W - P_{SD} - k)$, or else choose not to purchase SD and consequently get utility of R (x, W - k). As search costs have previously been incurred, the utility received from not purchasing SD will only be R(x, W-k), and not R (x, W). A seller who is doing bait-and-switch will only be able to sell SD if both (3) and (4) are true. Given the fact that, SD's seller is falsely advertising DD, for a prospective customer to shop (3) must hold true. Nevertheless, since SD is what is really being sold, (4) must hold for a buyer to purchase. Establishing λ_{DD} as the number of consumers with x, given that (3) and (4) are true. Then, λ_{DD} will be the probability of a randomly chosen consumer purchasing A; given the seller employs bait-and-switch, providing that consumers are expecting truthful advertising. Likewise, we can establish λ_T as the number of consumers with x, given that (2) is true. Hence, λ_T is the probability of a randomly chosen consumer purchasing SD given SD's seller advertises truthfully, provided others are truthfully advertising as well. Lastly, establishing λ_3 as the part of the population that satisfies (3), which is, the number of consumers who will shop for variant DD (and ultimately purchase DD). As there are some of the consumers who are shopping for variant DD will not be purchasing SD when they arrive in the store, thus $\hat{\lambda}_3 \not \gg_{DD}$.

Also, among the population are buyers who will be searching for a refrigerator of variant DD, who otherwise not have shopped at all, if they knew beforehand that only variant SD was being sold. Therefore, advertisements announcing that DD is being, bring in this type of buyers.

On the contrary, a DD variant seller will not be intentionally advertising deceptively that he holds SDvariant. Nonetheless, an SD can in any case be restated as a DD, and as per demonstrated below, if SD's wants to employ bait-and-switch, DD's seller would want to advertise truthfully. Thus, the conditions elaborated for just one seller are pertinent.

Once arrived at the shop, some buyers will purchase, since (4), the condition for purchasing after search costs have incurred, is weaker than (2), the condition for searching for *SD* and purchasing *SD* before costs incurred on searching for *SD* are sunk. But then again there are costs to advertise for *DD* while only *SD* is being sold. Those who would otherwise have purchased *SD* are lost, as they are not intending to buy *DD*. There are probably consumers of type x so that (2) holds however (3) does not. Advertising for selling *DD* takes these possible purchasers away. Ultimately, these lost sales become the cost of employing bait-and-switch [16].

Let us, normalize the profit for each unit of *SD* variant sold to be 1. Therefore, the expected profit for *SD* if its seller advertises truthfully is basically λ_T for each possible buyer. Conversely, the expected profit from employing baitand-switch becomes X_{DD} for each potential buyer. The truthful advertisement equilibrium will exist where $\lambda_T > \lambda_{DD}$ and when an equivalent condition becomes true for seller of variant *DD*. At that point, sellers will tend to advertising truthfully, and consumers will make their shopping decisions based on what was advertised. On the contrary, if the situation is such that $\lambda_T < \lambda_{DD}$, then a seller of variant SD will tend to diverge from the said truthful advertisement equilibrium and will adopt the strategy of bait-and-switch [2], [17].

VI. RESEARCH METHODOLOGY

Current research is focused on consumer's behavior and explores the opportunities presented to consumer. Second part of this research focuses on finding the probability and conditions when they prefer to switch, and under what circumstances do they prefer to avoid the substituted products.

A. Subjects

To reach to the answer, an offline survey was conducted in which 150 people of different income groups were given a questionnaire form. This was followed by Face-to-face interviews along with questionnaire filling [17], [18].

The consumers of smartphone industry are our major subjects, located in Berlin. The consumers of smartphone industry are chosen because of frequent utilization of this advertising tactic in PC/smartphone industry by producing a product that is way below the market price and then switching with another product [7]. Recent consumer reviews have also opened this dimension of BnS strategies by sales person in marts and huge stores.

B. Groups

People were divided into 3 income groups and each group had 50 people. The reviews of people were taken regarding the online shopping, types of frauds or problems they come across and other related questions.

VII. RESULTS AND DISCUSSION

Both high and middle-income group were familiar to online shopping and the response rate was 100% in comparison to 20% of low income group people. 80% of the lower income group never shopped online. All the people among higher, middle, and lower income groups had come across attractive advertisement which had drawn their attention. Upon asking the availability of products 20% of higher income group nodded in a yes, however both middle income and lower income groups never found the advertised product, and all the income groups accepted being a victim to BnS tactic.

Higher income group, did take up the substituted products offered as a switch all the time, and only 50% of middle income group took the switch (alternative product). However, lower income group never considered to buy the switch, owing to their financial limitation. Higher income groups continued purchasing from such vendors; where 80% of the middle-income group and 100% of lower income group had stopped purchasing from such vendors. This was the reason 100% of the lower income group in the study stopped buying online products considering it mostly risky, when 20% of the middle-income group had stopped buying, while this group found shopping online risky sometimes. On contrary, high income group continued to buy online, where according to them it was not risky at all. The responses stated were recorded and thus are analyzed and presented in Table I.

Questions High Middle Low Income Income Income Income	v ne
Income Income Incom	ne
Have you done online shopping? Yes Yes Only 2	20%
Do you come across some attractive offers while Yes Yes Yes shopping? Yes Yes Yes	S
Are the offered products 20% of always available? 20% of Never Never	er
Have you ever been victim to Bait-and-Switch?YesYesYes	s
Do you always take up the substituted product given to you at higher prices??Only 50% YesNo members tend to switch)	s to t of et)
Have you ever taken any Identify a state of the state)
After coming across such instance have you stopped buying from such vendors? 80% members have stopped Yes	S
Have you stopped online shopping?NoYes-20%Yes 100°	%
Do you think online No Sometimes Most	tly

TABLE I: RESULTS

After the interview, it was observed that once low-income group people experience a fraud they do not tend to change their minds, as they fear the loss of their money [13]. The people of this income group never switched to the substitute as the substitute was always available at higher price and that was beyond their budgets [19], [20]. In contrast the change of the product does affect high income group. Due to more of income or savings available with them they mostly tend to change their minds and switch to the substitute product. There could be an inherent effect of gender that may explain this behavior [21].

VIII. CONCLUSION

Bait-and-Switch is mostly being used as a fraudulent practice to deceive consumers. This paper concentrated on understanding the proper meaning of the BnS concept and how this concept works to attain proper equilibrium in the economy. It also reflected on, how the customers are affected and under what circumstance they always tend to substitute the product. BnS is adopted only when there exist more prospective consumers for a good which the seller does not carry for sales. In summary, bait-and-switch is more of an economic destroyer, owing to its misleading nature upon customer arrival. Use of this strategy to attract the consumers to increase their earnings, is merely to mislead the customers into buying the desired product, which is an unethical practice, punishable under the FTC act. Thus, it is advisable for the businesses to avoid pursuing such malpractices, and not to follow fraudulent techniques to improve businesses. It is highly recommended to make use of ethical advertising strategies, which can increase the sales using search engine optimization (SEO), banner advertisements, social media marketing, Google AdSense, email advertising etc.

Future research on the topic of BnS can be incorporate the effect of gender on consumer choices under the same model

and guided by Cramphorn [22], it can also venture on drawing comparisons amid different economies. Moreover, propensity to consume and save can also be integrated in the model to infer on more econometrical grounds, using statistical tools. This study can be used as a basis for finding causal relationship amid BnS and profitability to better understand the seller's side of the coin.

ACKNOWLEDGMENT

This work would not have been possible without the financial support of the Ozyegin university Istanbul Turkey scholarship award and Kaunas Technology university Lithuania for PhD student. I am especially indebted to Prof Koen Pauwels Marketing Professor at Northeastern University and Prof ilhan Atilla Dicle of Okan university Istanbul Turkey for their inspired lectures. This would not be a reality without the push effort of late Prof Rimantas Gatautis, of Kaunas University of Technology. The research is dedicated to him for his tolerance and faith in my abilities. I would like to thank my parents Mr. Marcellinus and Mrs. Patricia Nwaorgu, whose love and guidance are with me in whatever I pursue. They are my ultimate role models in life.

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