

## Role of Endorsers in Advertisements

### What is the issue?

Although monetary penalty is provided for misleading advertisements, there are grey areas that need to be addressed.

### What provisions are available against misleading advertisements?

- **Consumer Protection Act (CPA) 2019-** The Act defines misleading advertisements as any advertisement in relation to any product or service which
  - Falsely describes such product or services or
  - Gives a false guarantee to or likely to mislead the consumers
  - Conveys an express or implied representation which would constitute an unfair trade practices
  - Deliberately conceals important information
- The Central Consumer Protection authority (CCPA) has been established under CPA, 2019 for regulating matters relating to violation of consumer rights, unfair trade practices and false or misleading advertisements.
- The District Collector has the power to investigate the complaint or a reference made to him by the Central Authority or the Commissioner of a regional office regarding misleading advertisement.
- **Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022-** The present guidelines define “bait advertisement”, “surrogate advertisement” and clearly provides what constitutes as “free claim advertisements”.
- The advertisement targeting children shall not feature any personalities from the field of sports, music or cinema for products which under any law requires a health warning.
- A disclaimer shall be in the same language as the claim made in the advertisement and the font used in a disclaimer shall be the same as that used in the claim.
- Clear guidelines are laid for duties of manufacturer, service provider, advertiser and advertising agency, due diligence to be carried out before endorsing and others.
- The CCPA can impose a penalty of up to Rs. 10 lakh on manufacturers, advertisers and endorsers for misleading advertisements and up to Rs. 50 lakh for subsequent contraventions.
- The Authority can prohibit the endorser of a misleading advertisement from making any endorsement for upto 1 year and for subsequent contravention, prohibition can extend upto 3 years.

### Why do companies hire brand ambassadors for a product or a service?

*According to data released by AdEx India in 2022, celebrity endorsements saw a 44%*

rise in 2021 over 2020.

- **Credibility**- It adds to the credibility of the brand.
- **Trust**- It's the trust which people repose in some of the celebrities pass on to the image of the brand.
- **Relationship with the audience**- Having brand endorsers impacts the buyers' purchasing decisions because of the celebrity's authority and/or relationship with the audience.
- **Lazy marketing**- Sometimes it's lazy marketing where a face does the job rather than ideas.

## What onus do brand ambassadors/endorsers have?

*In 2021, between 2017 and 2020, more than 12,000 complaints were received by the Grievances against Misleading Advertisements, which was launched by the Department of Consumer Affairs.*

- **ASCI's due diligence**- The ASCI guidelines provide something similar in terms of the due diligence exercise to be carried out by the celebrities.
- ASCI provide a team of dedicated technical experts to verify whether the endorsements are substantiated or not.
- **Genuine opinion**- The present guidelines require the celebrities to reflect their genuine or current opinion, to disclose any connection which they have with the brand.
- **Liability perspective**- There is a liability perspective where the brands would require the endorsers to give an undertaking that they have utilised the products and they affirm what they are endorsing.
- **Penalty**- The penalty on the brand ambassadors is so little that it doesn't really matter to them.
- **Intangible nature**- A lot of things are intangibles in advertising, so, it's very difficult for a celebrity to verify claims because sometimes even the clients can't verify those claims.

## References

1. <https://www.thehindu.com/todays-paper/tp-opinion/should-endorsers-be-held-responsible-for-claims-in-advertising/article65588154.ece>
2. <https://pib.gov.in/PressReleasePage.aspx?PRID=1832906>
3. [https://www.legalserviceindia.com/legal/article-4708-consumer-protection-act-2019-restraining-false-and-misleading-advertisements.html#:~:text=Section%20\(28\)%3A%20defines,such%20product%20or%20services%20or](https://www.legalserviceindia.com/legal/article-4708-consumer-protection-act-2019-restraining-false-and-misleading-advertisements.html#:~:text=Section%20(28)%3A%20defines,such%20product%20or%20services%20or)