

CENTRAL CONSUMER PROTECTION AUTHORITY
Ground Floor, CCPA Wing, Indian Institute of Public Administration, IP Estate, Ring Road, New Delhi
- 110002

Ref: F. No. F -9/1/2020 - CCPA

In the matter of: In the matter of Asian Paint Limited

CORAM:

MS. NIDHI KHARE, CHIEF COMMISSIONER
MR. ANUPAM MISHRA, COMMISSIONER

APPEARANCE:

For Asian Paint Limited

- i. Ms.Lakshmi Narayanan B
- ii. Ms. Ruchita Gandhi
- iii. Mr. Bhavesh Haria
- iv. Mr. Sumeet Bhojani

Dated: 23.08.2021

Order

1. The Central Authority has instituted the present case against Asian Paints Limited (Hereafter, 'Opposite Party') for false and misleading advertisements of Asian Paint - Royal Health Shield in Times of India, Mumbai edition dated 20/09/2020 (hereafter, 'Advertisement').

2. On conducting a preliminary examination, it was observed that:

- i. The claims made in the advt. that Royal Health Shield is effective against COVID - 19 virus within 30 minutes of exposure on painted surface and carries 99% efficacy against coronavirus, has nothing to do with prevention against Covid- 19 virus.
- ii. Hence, this advertisement seeks to exploit consumer sensitivity and fear about coronavirus.
- iii. It appears that the Asian Paints, through this advertisement, is trying to promote their wall paints which have not even remotely anything to do with corona virus.
- iv. Thus, prima facie, it appears that Asian Paint is misleading the consumer the consumers for promotion of their product by taking advantage of the on-going pandemic in the country.

3. Accordingly, a Show Cause Notice dated 8.10.2020 (hereafter, 'Show Cause Notice') was issued to the Opposite Party as to why action under section 21 of the Consumer Protection Act, 2019 should not be taken against them for making false claims in the advertisements along with supporting documents.

4. On receipt of the afore-said show cause notice, the Opposite Party filed its reply dated 19.10.2020 inter-alia submitted that neither the Opposite Party nor the subject advertisement makes any claims regarding 'the prevention of covid- 19 virus' as erroneously concluded. Further, it was submitted that the Opposite Party has put all the true and correct claims about their product with all the required details and clarifications to enable the consumers to make an informed choice. It was submitted that

the Opposite Party has put all disclaimers on the advertisement which contain all the information, data, documents, relevant information, reports of Rajiv Gandhi Center for Biotechnology (RGCB), Govt. of India certified lab, and letter issued by the Indian Medical Association so that consumers can make an informed decision and is not misled.

5. In so far as the claim regarding anti - bacterial multi surface paint with silver ion technology is concerned, it was submitted that the same is valid and truthful in view of the IMA's letter dated 7.5.2019 bearing No. IMA/HSG/183(1)/2019 (Annexure R/1). It was submitted that IMA has endorsed the products through a legal process and hence, the Opposite Party has all the legal rights to advertise their products with this claim till time the endorsement is made.
6. As for the claim regarding the product being effective against COVID - 19 virus within 30 minutes of exposure on the painted surface and carries 99% efficacy against coronavirus, it was submitted that that the test report by Rajiv Gandhi Centre for Biotechnology (RGCB) (Annexure - R/2 of their reply) claims that their product in question kills 99% of infection- causing bacteria on the painted surfaces and is effective against COVID - 19 virus with 99% efficacy within 30 minutes of exposure on the painted surface.
7. On the basis of the above, it was submitted that the alleged advertisement is not misleading of any goods and services and the Opposite Party has not taken part in publication of any advertisement which is false or misleading or offensive to generally accepted standards of public decency.
8. In view of the foregoing, the Opposite Party has submitted that the Central Authority may be pleased to drop the proceedings against the Opposite Party under section 21 of the Act.
9. The Opposite Party has not taken any action on the receipt of the Show Cause Notice issued to them and have denied their advertisement to be misleading.
10. Subsequently, the Opposite Party was heard through Video Conferencing on 5.02.2021. On the said date, the representatives of the Opposite Party appeared before the Central Authority and inter-alia submitted that they have withdrawn all advertisements for its Royale Health Shield product featuring the 'effective against coronavirus' claim with effect from 31st October, 2020. Subsequently, the Opposite Party submitted its undertaking dated 31.03.2021 stating the same.
11. The Central Authority has heard the submissions of the Opposite Party and has also gone through the entire record of the case.
12. As per Section 10 of the Act, the Central Authority has been empowered to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class. Section 18(c) of the Act provides that the Central Authority shall ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act or the rules or regulations made thereunder.
13. Section 21 of the Act states that Central Authority is satisfied after investigation that any advertisement is false or misleading and is prejudicial to the interest of any consumer or is in contravention of consumer rights, it may, by order, issue directions to the concerned trader or manufacturer or endorser or advertiser or publisher, as the case may be, to discontinue such advertisement or to modify the same in such manner and within such time as may be specified in that order.
14. As per the undertaking dated 31.3.2021 filed by the authorized representative of the Opposite Party, the Opposite Party had withdrawn all advertisements for its Royale Health Shield product featuring 'effective against coronavirus' claim with effect from 31st October, 2020, thus considering

the same and taking into account the peculiar facts and circumstances of the case, the Central Authority takes a liberal view and refrains from conducting any further proceedings against the Opposite Party. However, it is expressly made clear that the Central Authority has not delved into merits of the claims being made by the Opposite Party in the advertisement.

15. The case is not to be considered as a precedent.

With the observations in the preceding paragraphs, the case is disposed of accordingly.



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(Ms. Nidhi Khare)
Chief Commissioner



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(Mr. Anupam Mishra)
Commissioner