

GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF CONSUMER AFFAIRS

RAJYA SABHA
UNSTARRED QUESTION No. 847
TO BE ANSWERED ON 11.02.2025

MONITORING MISLEADING ADVERTISEMENTS IN HEALTHCARE PRODUCTS

847. SHRI MALLIKARJUN KHARGE

WILL THE MINISTER OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION be pleased to state:

- (a) whether Government has considered setting up a centralised dashboard to publicise and track complaints against misleading advertisements related to healthcare and medicinal products, as directed by the Hon'ble Supreme Court;
- (b) if so, the details and timeline for its implementation;
- (c) if not, the reasons therefor; and
- (d) the measures being taken to address challenges in monitoring and resolving such complaints across the States?

ANSWER

THE MINISTER OF STATE, CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(SHRI B. L. VERMA)

(a) to (d) : With a view to modernize the framework governing the consumer protection in the new era of globalization, technologies, e-commerce markets etc. Consumer Protection Act, 1986 was repealed and Consumer Protection Act, 2019 was enacted.

Section 2(28) of the Consumer Protection Act, 2019 defines “misleading advertisement” in relation to any product or service, as an advertisement, which— (i) falsely describes such product or service; or (ii) gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or (iii) conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or (iv) deliberately conceals important information.

Under the provisions of the Consumer Protection Act, 2019, the Central Consumer Protection Authority (CCPA), an executive agency, came into existence on 24.07.2020. It is designed to intervene for preventing consumer detriment arising from unfair trade practices and to initiate class action(s), including the enforcement of recalls, refunds and return of products. Its core mandate is to prevent and regulate false or misleading advertisements which are prejudicial to the public interest.

The CCPA has notified the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 on 9th June, 2022. These guidelines inter-alia provide for; (a) conditions for an advertisement to be non-misleading and valid; (b) certain stipulations in respect of bait advertisements and free claim advertisements; and, (c) duties of manufacturer, service provider, advertiser and advertising agency. According to these Guidelines, endorser includes an individual or a group or an institution making endorsement of any goods, product or service in an advertisement whose opinion, belief, finding or experience being the message which such advertisement appears to reflect. These Guidelines states that due diligence is required for endorsement of advertisements such that any endorsement in an advertisement must reflect the genuine, reasonably current opinion of the individual, group or organisation making such representation and must be based on adequate information about, or experience with, the identified goods, product or service and must not otherwise be deceptive. It clarifies that where, Indian professionals, whether resident in India or otherwise, are barred under any law for the time being in force from making endorsement in any advertisement pertaining to any profession, then, foreigner professionals of such profession shall also be not permitted to make endorsement in such advertisement.

As per Section 21(2) of the Consumer Protection Act, 2019, in case of false or misleading advertisement, the CCPA may impose penalty on manufacturer or endorser up to Rs. 10 lakhs and Rs. 50 lakhs in case of repeated violations.

Bureau of Indian Standards (BIS) introduced the framework on 'Online Consumer Reviews — Principles and Requirements for their Collection, Moderation, and Publication' on 23rd November 2022. This framework safeguards consumer interests by addressing fake and deceptive reviews in e-commerce. While the standards are voluntary, they apply to all online platforms that publish consumer reviews and are guided by principles such as integrity, accuracy, privacy, security, transparency, accessibility, and responsiveness.

As per existing regulatory framework, all private TV channels are required to adhere to the Advertising Code laid down under the Cable Television Networks (Regulation) Act, 1995 and the rules framed thereunder. Rule 7(5) of the Advertising Code inter alia provides that *'No advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or super-natural property, which is difficult of being proved'*. Appropriate action is taken against the private satellite TV channels when violation of any provision of the Advertising Code is found.

In order to further curtail misleading advertisements and in compliance to Hon'ble Supreme Court's Order dated 07.05.2024, the Ministry of Information and Broadcasting has launched a new feature on Broadcast Seva Portal for TV/ Radio advertisements and Press Council of India Portal for print/ internet advertisements respectively for uploading of Self-Declaration Certificate (SDC). The Ministry of Information & Broadcasting issued an advisory on 03.07.2024 advising Advertisers/ Advertising Agencies to upload an annual SDC for advertisement related to products and services related to 'Food & Health sectors', published across various media platforms i.e. print/ electronic/ internet on the above mentioned portals.

Furthermore, Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and Rules made thereunder encompass the provisions for prohibition of misleading advertisements and exaggerated claims of drugs and medicinal substances including Ayush medicines, which appear in the print and electronic media. State/UT Governments are empowered to enforce the provisions of Drugs & Magic Remedies (Objectionable Advertisements) Act, 1954 and Rules made thereunder.

A Pharmacovigilance Program for ASU&H Drugs is a component of Ayush Oushadhi Gunvattaevam Utpadan Samvardhan Yojana (AOGUSY) scheme under the Central Sector Scheme of Ministry of Ayush and Pharmacovigilance Centres for Ayurveda, Siddha, Unani and Homoeopathy (ASU&H) Drugs set up in different parts of the country. These centres are mandated to monitor and report the misleading advertisements to the respective State Regulatory Authorities for suitable action against the defaulter. The program is working through a three-tier network of a National Pharmacovigilance Centre (NPvCC), Five Intermediary Pharmacovigilance Centers (IPvCs) and 99 Peripheral Pharmacovigilance Centers (PPvCs) established across the country. All India Institute of Ayurveda (AIIA), New Delhi under Ministry of Ayush is the National Pharmacovigilance Co-ordination Centre (NPvCC) for the implementation of the National Pharmacovigilance program for Ayurveda, Siddha, Unani& Homoeopathy drugs. Objectionable advertisements are being reported to the respective State Licensing Authorities by PPvC.
