

Government's new guidelines on surrogate ads

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In news– The **Central Consumer Protection Authority (CCPA) under the Consumer Affairs Ministry has notified 'Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022.**

What do the new guidelines say?

- **A new set of guidelines also prohibit surrogate advertising and make it compulsory for celebrities to disclose any stake** in the companies and brands they endorse.
- **These guidelines focus on misleading ads and ads shown during programming for children.**
- **On advertisements aimed at children, detailed criteria has been spelt out to disqualify certain ads, such as:**
 - **Ads that encourage practices detrimental to children's physical health or mental well-being**, imply children are "likely to be ridiculed or become less popular" if they do not purchase the goods, and
 - **Ads that use qualifiers such as 'just' or 'only'** to make the price of goods seem less expensive even when additional charges are present.
- **As per the new guidelines, a surrogate ad will refer to an ad which indicates directly or indirectly to consumers that it is an advertisement for the goods whose advertising is prohibited.**
- **Using any brand name, logo, colour, etc. associated with goods whose advertisement is banned is also not allowed.**

What is surrogate advertising?

- It is **the strategy of advertising a product that cannot be advertised openly.**
- Advertisers instead create ads that help in building a brand, and often **involve popular celebrities** – all without naming the actual product that is being indirectly advertised.
- **In India, tobacco products and alcohol cannot be advertised openly under laws like the Cigarette and Other Tobacco Products Act, 2003,** which bans all kinds of direct and indirect advertisements of tobacco products.
- To circumvent them, surrogate advertising is done.
- A few years ago, the **Delhi government pulled up actor Pierce Brosnan for endorsing an Indian pan masala brand.**
- **Brosnan claimed he was “cheated” by the brand and unaware of the fact that the “breath freshener” ad was a surrogate ad** used to disguise the actual product – areca nut or supari, which the Delhi government argued was a cancer-causing agent.

More about new guidelines-

- **The Guidelines have been released to “protect the consumers” and “to ensure that consumers are not being fooled with unsubstantiated claims,** exaggerated promises, misinformation and false claims”.
- **Such advertisements violates various rights of consumers such as right to be informed,** right to choose and right to be safeguarded against potentially unsafe products and services.
- **The CCPA has been established under section 10 of the Consumer Protection Act, 2019 for regulating matters relating to violation of the rights of the 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.

- Misleading advertisement has already been defined under section 2(28) of the Consumer Protection Act, 2019.
- **The present guidelines define “bait advertisement”, “surrogate advertisement” and clearly provides what constitutes as “free claim advertisements”.**
- Guidelines forbid advertisements from exaggerating the features of product or service in such a manner as to lead children to have unrealistic expectations of such product or service and claim any health or nutritional claims or benefits without being adequately and scientifically substantiated by a recognized body.
- Guidelines says that 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 for such advertisement or cannot be purchased by children.
- Disclaimers in advertisements play a pivotal role from consumer perspective since, in a way it limits the responsibility of the company.
- Therefore, **guidelines stipulate that disclaimer shall not attempt to hide material information with respect to any claim made in such advertisement**, the omission or absence of which is likely to make the advertisement deceptive or conceal its commercial intent.
- Further, **it provides that, 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.
- Similarly, **clear Guidelines are laid for duties of manufacturer, service provider, advertiser** and advertising agency, due diligence to be carried out before endorsing and others.
- **CCPA can impose a penalty of upto 10 lakh rupees on**

manufacturers, advertisers and endorsers for any misleading advertisements and for subsequent contraventions, CCPA may impose a penalty of upto 50 lakh rupees.

- **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.**