



KAMARAJ IAS ACADEMY
Only IAS Academy by Grandson of "Perunthalsivari Kamarajar"

Central Consumer Protection Authority

Published On: 26-10-2023

Why is in news?

The Central Consumer Protection Authority (CCPA), the country's top consumer watchdog, has sent notices to 20 IAS coaching institutes across the country for issuing "misleading" advertisements, a top official said.

Briefing reporters, CCPA Chief Commissioner said IAS coaching institutes lure civil services aspirants by resorting to "misleading and exaggerated" claims. Taking cognizance of such advertisements, the CCPA has issued notices against them for violation of provisions of Section 2(28) of the Consumer Protection Act, 2019.

As per the CCPA Chief Commissioner, a penalty has been imposed against four of the 20 coaching institutes. Of the four institutes two have deposited penalties, while the other two have approached the court.

About CCPA:

Central Consumer Protection Authority is a **regulatory authority** set up **under Section 10(1) of the Consumer Protection Act, 2019** in relation to matters **affecting rights of consumers by individuals or entities following improper trade practices or by display of inappropriate or wrong advertisements** affecting public interest and helps promoting consumer trust by enforcing the rights of consumers through effective guidelines.

Misleading advertisement:

The Section 2(28) of the Consumer Protection Act, 2019 **defines "misleading advertisement"** in relation to any product or service which—

falsely describes such product or service; or

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

conveys an implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or

deliberately conceals important information.

How Central Consumer Protection Authority deals with false or misleading advertisements?

Section 21 of the new Act defines the powers given to the CCPA to **crack down on false or misleading advertisements**.

According to these provisions, if the CCPA is satisfied after investigation that any advertisement is false or misleading and is harmful to the interest of any consumer, or is in contravention of consumer rights, the **CCPA may issue directions to the trader, manufacturer, endorser, advertiser, or publisher** to discontinue such an advertisement, or modify it in a manner specified by the authority, within a given time.

Kamaraj IAS Academy

Plot A P.127, AF block, 6 th street, 11th Main Rd, Shanthi Colony, Anna Nagar, Chennai, Tamil Nadu 600040

Phone: **044 4353 9988 / 98403 94477 / Whatsapp : 09710729833**

The authority may **also impose a penalty up to Rs 10 lakh, with imprisonment up to two years**, on the manufacturer or endorser of false and misleading advertisements.

The penalty **may go up to Rs 50 lakh, with imprisonment up to five years**, for every subsequent offence committed by the same manufacturer or endorser.

CCPA **may ban the endorser** of a false or misleading advertisement from making endorsement of any products or services in the future, **for a period that may extend to one year**.

The ban **may extend up to three years** in every subsequent violation of the Act.

Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022:

The **Central Consumer Protection authority** (CCPA) under the Department of Consumer Affairs has **notified** 'Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022' with an objective **to curb misleading advertisements and protect the consumers**, who may be exploited or affected by such advertisements.

The guidelines provide for regulation of bait, free claims and children-targeted advertisements and prohibits surrogate advertisements.

The extant guidelines place emphasis on **three Cs**: children; celebrities; and conditions precedent for valid advertisements.

Provisions of the guidelines:

Advertisements targeting children shall not feature any personalities from the field of sports, music or cinema for products that under any law require a health warning or cannot be purchased by children.

Prohibits Surrogate Advertising: It bans surrogate advertising, a practice where a seller promotes a product whose advertisement is not allowed by disguising it as another product. Liquor ads commonly indulge in such practices — under the guise of selling soda, CDs, and even holiday packages.

Free claims advertisements: A free claims advertisement shall not describe any goods, products, or service to be 'free', 'without charge', or use such other terms if the consumer has to pay anything.

Bait Advertisements: The guidelines lay down conditions to be complied with while issuing bait advertisements. Bait advertisement means an advertisement in which goods, products, or service is offered for sale at a low price to attract consumers.

Bars Deceptive Advertisements: The guidelines bar the omission of material information that makes advertisements deceptive and helps conceal their commercial intent.

The **guidelines bars Indian citizens living abroad from endorsing such advertisements** that have been barred for Indian professionals living in the country.

History and Objective of CCPA:

Central Consumer Protection Authority **replaced the previous The Consumer Protection Act, 1986** and is formed as per The Consumer Protection Act, 2019.

The new act has been **incorporated with additional consumer concerns** like treating misleading advertisements and providing wrong information regarding quality or quantity of goods or provision of services as an offence.

Composition:

Central Consumer Protection Authority shall consist of following members appointed by Central Government.

Chief Commissioner

Two Commissioners - One commissioner each will represent for goods and services.

Nidhi Khare is current Chief Commissioner of Central Consumer Protection Authority.

Powers of CCPA:

If the commission **finds violations of rights of consumers or in notice of trade practices** which is unfair it can inquire or cause an inquiry, either on receipt of complaint or suo moto or as directed by Central Government.

If the commission finds after preliminary inquiry of an existence of a prima facie case of consumer rights violation or it is in notice of any unfair trade practice or any wrong or inaccurate advertisement which is prejudicial to public interest or to the interests of the consumers, it **can order an investigation by the District Collector or by Director General.**

If the commission finds prima facie of a person involved in violation of consumer rights or following any unfair trade practice or making any false or inaccurate advertisement as described above, it **can call upon the person involved and can direct him to produce any document or record** in his possession relating to it. In addition, the District Collector or Director General under the Code of Criminal Procedure, 1973 has powers of search and seizure, and authority to ask submission of any record or document.

The commission can **direct recalling of any dangerous, hazardous or unsafe goods or withdrawal of similar services and order** refunding of the proceeds collected towards sale of goods or offering of services so recalled or order stoppage of any unfair practices after giving the person directed to do so, an opportunity of being heard.

The commission can **involve in and engage in services relating to consumer advocacy** by offering services of registering complaints before the National Commission, the State Commission, or the District Commission, formed as per the Act, involving in the proceedings before them, suggesting remedial actions, involving itself in related research, creating awareness and guiding consumers on safety precautions.

The commission can **direct to a trader or manufacturer or endorser or advertiser or publisher** after investigation to **discontinue advertisements** which are wrong or misleading or prejudicial to consumers, and in such case impose penalties upto Rs 10 lakhs payable in cash.

The commission can **also prevent the endorser of advertisement** which is wrong or misleading from making the same in relation to any product or service for a time period ranging upto one year, and three years in case of subsequent contravention.

Consumer Disputes Redressal Commission:

Consumer Disputes Redressal Commissions (CDRCs) will be **set up at the district, state, and national levels**. A **consumer can file a complaint with CDRCs** in relation to:

unfair or restrictive trade practices;

defective goods or services;

overcharging or deceptive charging; and

the offering of goods or services for sale which may be hazardous to life and safety.

Complaints against an unfair contract can be filed with only the State and National Appeals from a District CDRC will be heard by the State CDRC.

Appeals from the State CDRC will be heard by the National CDRC. Final appeal will lie before the Supreme Court.

Jurisdiction of CDRCs:

The **District CDRC** will entertain complaints where value of goods and services **does not exceed Rs 1 crore**.

The **State CDRC** will entertain complaints when the value is **more than Rs 1 crore but does not exceed Rs 10 crore**.

Complaints with value of goods and services **over Rs 10 crore** will be entertained by the **National CDRC**.

The New Act also introduces the **concept of product liability** and brings within its scope, the product manufacturer, product service provider and product seller, for any claim for compensation.

The Act provides for **punishment** by a competent court for manufacture or sale of **adulterant/spurious goods**.

The court may, in case of first conviction, suspend any license issued to the person for a period of up to two years, and in case of second or subsequent conviction, cancel the license.

Conclusion:

Overall, the guidelines and the other measures are an important milestone in the legal and regulatory regime governing advertisements. For a nation struggling to curb misleading advertisements, the guidelines hold immense promise if implemented in letter and spirit.