

**CENTRAL CONSUMER PROTECTION AUTHORITY**  
**Room No 567-A, Krishi Bhawan, New Delhi - 110001**

**Ref: F.No. J-25/25/2022-CCPA (Pt.2)**

In the matter: Suo-moto case against Flipkart Internet Pvt. Ltd. with regard to violation of consumer rights and unfair trade practices regarding sale of Car Seat Belt Alarm Stopper Clips

**CORAM:**

Ms. Nidhi Khare, Chief Commissioner  
Mr. Anupam Mishra, Commissioner

**Appearance on behalf of Flipkart Internet Pvt. Ltd.:**

1. Mr. Dheeraj Nair
2. Ms. Vishrutyi Sahni  
JSA Advocates and Solicitors

Date: 27.01.2023

**ORDER**

The present issue has been brought to the notice of the Central Consumer Protection Authority (CCPA) through Department of Consumer Affairs, Government of India by the Ministry of Road Transport and Highways vide Office Memorandum No. RT-11036/33/2022 MVL, dated 29<sup>th</sup> March, 2022, highlighting the issue of recent amendments in Motor Vehicle (Amendment) Act, 2019, which were particularly aimed at road safety in order to reduce loss of lives.

2. It was mentioned in the said letter that as per clause 182 A (3) of the Motor Vehicle (Amendment) Act, 2019, sale of critical safety component in violation of the Central Motor Vehicle Rules 1989 is prohibited and whosoever, sells or offers to sell or permits the sale of any critical safety component notified by Government of India shall be punished with imprisonment or fine or with both.

3. It further mentioned that as per Rule 124 & 125 of Central Motor Vehicle Rules 1989, the standard of critical safety equipments such as seat belts have been mandated. However, online sale of such items that compromise passenger safety by stopping alarm beep when not wearing seat belts is a direct violation of above provisions. As such it requested for stern action against such errant vendors and / or platforms to ensure that such malpractices are immediately discontinued.

4. CCPA took cognizance of the issue and conducted a preliminary inquiry to examine whether car seat belt alarm stopper clips are being sold on the platform of Flipkart Internet Pvt. Ltd. As per the preliminary enquiry report, it was found that the car seat belt alarm stopper clips were indeed being blatantly sold on Flipkart making it a prima facie case of violation of consumer rights and unfair trade practice under the Consumer Protection Act, 2019 as well as Consumer Protection (E-commerce) Rules 2020.

5. The preliminary enquiry report also pointed out that as per Section: 2 (9) (i) of the Consumer Protection Act, 2019, consumer rights include....“the right to be protected against the marketing of goods, products, or services which are hazardous to life and property”. As per section 2 (47) of the Act, “unfair trade practice means for the purpose of promoting the sale, use or supply of any goods .... adopts any unfair method or unfair or deceptive practice ...representing the need for, or the usefulness of, any goods or services”.

6. Further, e-commerce Rule 4 (3) of Consumer Protection (E-Commerce) Rules, 2020, “an e-commerce entity shall refrain itself from adopting any unfair trade practice, whether in the course of business on its platform or otherwise”. In case of hard braking and collision, seat belts offer much needed safety to the valuable life of the passengers. Thus, sale of such products are hazardous to the life and safety of consumers at large since it encourages the consumers to not comply with the Central Motor Vehicle Rules 1989 that demands wearing of seat belt when the vehicle is in motion by using the seat belt alarm stopper clips to stop alarm beep.

7. Considering the observations of preliminary inquiry report, CCPA issued a Notice dated 25.05.2022 to the said e-commerce entity for violating aforementioned provisions of the Consumer Protection Act, 2019 and the Consumer Protection (E-Commerce) Rules, 2020.

8. Vide email dated 09.06.2022 Flipkart Internet Pvt. Ltd.replied that the said e-commerce entity operates on B2B model of e-commerce and does not manufacture, procure, list, price, and offer for sale the products cited in the notice. It only provides online marketplace to enable a seller to create listing of its product which the seller is offering for sale. It was submitted that it is an intermediary under the Information Technology (IT) Act, 2000, thereby taking exemption from liability whatsoever.

9. Further, Flipkart has delisted seat belt alarm stopper clips which are being sold by various sellers on the platform and submitted the list of sellers along with contact details. The said e-commerce entity started demanding mandatory declaration from all sellers under the category of automotive accessories, to declare that its products are specifically in compliance with the requirements under the Motor Vehicles (Amendment) Act, 2019 and corresponding rules and regulations of Motor Vehicle Act.

10. In this regard, it is noted that the exemption from liability of intermediary under Section 79 (2) (c) of the (IT) Act, 2000 per se envisage that the exemption shall only apply where the intermediary observe due diligence while discharging his duties under this Act and also under such other guidelines prescribed by the Central Government. Thus, an e-commerce entity cannot shy away from the duties of the market place as prescribed under the Consumer Protection (E-commerce) Rules, 2020 in the name of intermediary under the garb of IT. Act, 2000.

11. In the meanwhile, the Central Authority as per section 19 (1) of the Consumer Protection Act, 2019 referred the matter to Director General (Investigation), CCPA vide letter dated 16<sup>th</sup> September, 2022. The DG Investigation further sought inputs in the matter from the Transport Engineering Department of Bureau of Indian Standards to conduct investigation in the matter.

12. The DG (Investigation) made the following observations in its report:-

Since Automotive Industry Standards -145-2017 mandates every manufacturer of motor vehicle of M-1 category to comply with requirements of safety belt reminder for approval of vehicle and Rule 138 (3) of Central Motor Vehicle Rules 1989 mandates wearing of seat belt when vehicle

is in motion. Thus, the sale of car seat belt alarm stopper clips evades the implementation of the laid down Standards & Rule. Further, it compromises with the safety of consumers as a class. DG Investigation recommended that:-

*"It is proposed that that the sale of seat belt alarm stopper clips should be discouraged on online platform as well as retail shops."*

13. Accordingly, the Central Authority vide email dated 09.12.2022 decided to provide an opportunity of hearing on 16.12.2022 to the opposite party through video conferencing to make their detailed submissions.

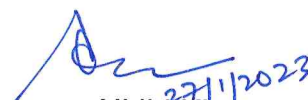
14. In the hearing held on 16.12.2022, Shri Dheeraj Nair Counsel on behalf of Flipkart Internet Pvt. Ltd. made following submissions that:-

- a) The said e-commerce entity has sent the list of sellers for further course of necessary action.
- b) It has delisted approximately 4000-5000 listings of car seat belt alarm stopper clips after the receipt of the Notice of CCPA. It will further continue to delist all such category of products.
- c) Product category has been disguised by the sellers and it comes under the name of car seat cover etc.
- d) However, Flipkart will take all necessary steps if any Advisory or other rules by the Authority may be issued.
- e) It has started demanding mandatory declaration from all sellers under the category of automotive accessories.

15. In view of the written submission made through email on 09.06.2022 as well as the submissions made during hearing on 16.12.2022, the opposite party is hereby directed to:-

- a) Withdraw sale of all kinds of car seat belt alarm stopper clips.
- b) Apprise CCPA on the steps taken against the errant sellers camouflaging sale of car seat belt alarm stopper clips.
- c) Permanently delist all car seat belt alarm stopper clips and associated motor vehicle components which compromise with the safety of passengers and are violating various provisions of Rules meant for road safety and reducing loss of lives.

16. In view of the above, Flipkart Internet Pvt. Ltd. is directed to submit compliance report on the above directions within 15 days from the date of issue of this Order. In case of failure to comply with any directions, appropriate action under section 88 of the Consumer Protection Act, 2019 may be initiated.



Nidhi Khare

Chief Commissioner



Anupam Mishra  
Commissioner