

Central Consumer Protection Authority (CCPA)
Ground Floor, CCPA Wing, Indian Institute of Public Administration, IP Estate
Ring Road, New Delhi- 110002

Ref. File No- J- 25/10/2020 – CCPA

In the Matter of: -Reckitt Benckiser (India) Ltd. for its product "Lizol"

CORAM:

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

APPEARANCE:

1. Mr. Rajesh K Jha - Regional Legal Director, South Asia
2. Mr. R JawaharLal - Learned Counsel
3. Mr. Gaurav Sharma - Category Head, Regulatory Affairs
4. Ms. Shweta Malik - Research and Development(R&D), Manager
5. Ms. PallaviBhushan - Legal Manager

Dated- 20.01.2022

ORDER

1. The Central Authority has instituted the present case on the basis of complaint received on Grievance against misleading advertisement (GAMA) Portal regarding, an alleged misleading advertisement related to Reckitt Benckiser (India) published through electronic or print media and on Company's website which states that "**Lizol kills Corona Virus that causes COVID-19**".

2. Accordingly, a Show Cause Notice dated 10th December, 2020 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 alleged false or misleading claim made in their advertisement.

3. On receipt of afore-said notice, the opposite party filed its reply dated 17th December 2020 along with test reports from certain organizations/Institutions. Further, they also requested the Central Authority to give an opportunity for hearing in the matter. Upon consideration of the Opposite Party's response, the hearing was fixed for 20th January 2022.

4. Shri R Jawahar Lal, the Ld. Counsel and Four (4) other Officials appeared on behalf of the company and submitted that, the impugned advertisement does not suggest that disinfecting surfaces is the sole precautionary measure to be adopted by consumers, to prevent spread of COVID-19 virus. Rather the advertisement suggests that disinfecting with Lizol should be adopted as a measure to prevent spread of COVID-19 infection. Further they submitted that, the advertisement clearly denotes that germ including COVID-19 virus are found on surfaces, floors etc., and disinfecting is an additional precautionary measure to prevent spread of CoVID-19 infection.

5. In support of his submissions, the Ld. Counsel played a video uploaded by them on the Youtube platform to bring out that "Germs are shown on the table top and floor" and the protagonist is shown using a diluted Lizol soaked wipe to disinfect kitchen counter. The protagonist impress upon the audience to use Lizol to protect from infection with Visual/caption shows: "Tested – effective against COVID-19 virus" and "Lizol kills Corona virus that causes COVID-19".

6. The learned Counsel further submitted that, Lizol is marketed and promoted in India by Reckitt Benckiser (India) since 1997 as a disinfectant surface cleaner and in the impugned advertisement also, the company suggested use of Lizol only on floor as surface cleaner to prevent spread of germs and CoVID-19 virus.

7. Further, the Ld. Counsel submitted that, Lizol being a disinfectant, falls within the definition of 'drug' under Section 3(b) of the Drugs and Cosmetics Act, 1940. Further, he mentioned that, the Government of India by Notification No. 1-20/60-D dated 03.06.1961 and subsequent Notifications has notified disinfectants as Drugs, under Section 3 (b) (ii) of the Drugs and Cosmetics Act. In support of his contention, the Ld. Counsel referred to the following relevant notification:

"S.O. 2666, dated 28th October, 1960,—In exercise of the powers conferred by sub-clause (ii) of clause (b) of section 3 of the Drugs and Cosmetics Act,1940 (23 of 1940), the Central Government hereby specifies as drugs the following substances " , namely:—

Disinfectants"

8. Continuing his submissions, the Ld. Counsel submitted that, Lizol being a disinfectant, manufactured by Reckitt Benckiser has also obtained a Drug License

issued by the State Licensing Authority, Uttarakhand which is valid from April, 2018 for a period of 5 years i.e. till April, 2023.

9. Further the Ld. Counsel relied upon Five (5) High Court Judgments listed below, wherein it has been held that "Lizol is a disinfectant":-

- (i) Gauhati High Court Judgment dated 17.09.2012
- (ii) Andhra Pradesh High Court Judgment dated 13.06.2012
- (iii) Rajasthan High Court Judgment dated 19.03.2010
- (iv) Allahabad High Court Judgment dated 09.10.2018
- (v) Madras High Court Judgment dated 30.08.2019

10. In this connection he referred to the following extracts from one of such Judgment of Andhra Pradesh High Court in the case of M/s.Reckitt Benckiser (India) Ltd vs State of Andhra Pradesh.

"We may passingly mention that Section 18 of Drugs Act mandates a licence for manufacture, sale or distribution of any drug, cosmetic or medicine. The word "drug" is defined in Section 3(b) of the Drugs Act. It is inclusive definition. A plain reading of Section 3(b)(iv) thereof shows that not only medicines for internal or external use of human beings or animals but substances that affect structure or function of human body or used for destruction of vermin or insects which cause disease in the human beings and animals are also drugs. Further all substances intended for use as components of a drug and such devices intended for internal or external use among others, in the "mitigation or prevention of disease" would be drugs. When a manufacturer produces any disinfectant fluids, they are basically intended for prevention of disease by destroying and/or controlling bacteria and microorganisms that are unusually present. That may be one reason why even under the Drugs and Cosmetics Rules, 1945 (the Drugs Rules) the disinfectants are placed in Schedule-K in respect of which they were exempted from the provisions of Chapter IV and the Rules made thereunder. Harpic and Lizol are the products/goods sold even in general stores and on THE HON'BLE SRI JUSTICE V Page 18 of 21 http://hc.ap.nic.in/orders/wp_145_2011.html 6/30/2012 62 the counters of departmental stores. We therefore reject the submission of the State that Harpic and Lizol fall under entry 88 merely because they are manufactured under drug license.

"Thus to sum up on this aspect we hold that Harpic and Lizol are disinfectants capable of destroying germs and microorganisms like

Escheriachia coli, Staphylocococcus aureus, Enterococcus hirae, Pseudomonas aeruginosa and Candida albicans etc.”

“In view of the aforesaid, the High Court reached at a conclusion and held that Harpic and Lizol are disinfectants capable of destroying germs and microorganisms like Escheriachia coli, Staphylocococcus aureus, Enterococcus hirae, Pseudomonas aeruginosa and Candida albicans etc. Being disinfectants they fall within the category of pesticides covered by entry 20 of IV Schedule.”

11. The Ld. Counsel further submitted that, Lizol has been tested against COVID-19 causing SARS-CoV-2 Virus and has proven efficacy against the same, as certified by a laboratory through a globally accredited testing protocol. The test was conducted at a USA based third party independent laboratory, Microbac, Sterling Virginia which is an ISO certified Microbiology/Virology lab (ISO/IEC 17025:2017, Certificate Number: 3376.01).

12. The Ld. Counsel further submitted that, World Health Organization (WHO), has also issued Guidelines dated 15th May 2020 regarding cleaning and disinfection of environmental surfaces in the context of COVID-19. Attention was drawn to the following relevant extracts of such guidelines:

“these surfaces, especially where patients with COVID-19 are being cared for, must be properly cleaned and disinfected to prevent further transmission. Similarly, this advice applies to alternative settings for isolation of persons with COVID-19 experiencing uncomplicated and mild illness, including households and non-traditional facilities.”

“The purpose of this document is to provide guidance on the cleaning and disinfection of environmental surfaces in the context of COVID-19”

“Cleaning with water, soap (or a neutral detergent) and some form of mechanical action (brushing or scrubbing) removes and reduces dirt, debris and other organic matter such as blood, secretions and excretions, but does not kill microorganisms. Organic matter can impede direct contact of a disinfectant to a surface and inactivate the germicidal properties or mode of action of several disinfectants. In addition to the methodology used, the disinfectant concentration and contact time are also critical for effective surface disinfection. Therefore, a chemical

disinfectant, such as chlorine or alcohol, should be applied after cleaning to kill any remaining microorganisms”.

13. Continuing his submissions, the Ld. Counsel also referred to Guidelines issued by the Ministry of Health and Family welfare on disinfection of common public places including offices and he drew attention to the following relevant extract there from:

“Coronavirus Disease 2019 (COVID -19) is an acute respiratory disease caused by a novel Coronavirus (SARS-CoV-2), transmitted in most instances through respiratory droplets, direct contact with cases and also through contaminated surfaces/objects. Though the virus survives on environmental surfaces for varied period of time, it gets easily inactivated by chemical disinfectants.”

14. In support of his submissions, the Ld. counsel further submitted that, the Centre for Diseases Control & Prevention (CDC), a public health institute under the Government of USA, has also issued Guidelines for Cleaning and disinfection of households, and he drew attention to the following relevant portion of such guidelines:

“Cleaning of visibly dirty surfaces followed by disinfection is a best practice measure for prevention of COVID-19 and other viral respiratory illnesses in households and community settings.”

“Clean and disinfect high-touch surfaces daily in household common areas (e.g. tables, hard-backed chairs, doorknobs, light switches, phones, tablets, touch screens, remote controls, keyboards, handles, desks, toilets, sinks).”

15. Further the Ld. Counsel emphasized on the Guidelines issued by the Ministry of Health & Family Welfare, Government of India in May, 2020 wherein they specifically recommends “Benzalkonium Chloride or any other disinfectants found to be effective against coronavirus. He further submitted that, the active ingredient of Lizol is Benzalkonium Chloride and is also certified by Indian Institute of Chemical Technology (CSIR), Government of India and he assured to submit the relevant reports in this regard.

16. Continuing his submissions, the Ld. Counsel stated that, the Food Safety & Standards Authority of India (FSSAI) has also issued the Food Safety & Standard Guidelines for food business operators, wherein the FSSAI has suggested various preventive/precautionary measures under the heading “cleaning and sanitation”

wherein they have referred to the use of Benzalkonium Chloride for disinfection. Attention was drawn to the following portion of such guidelines:

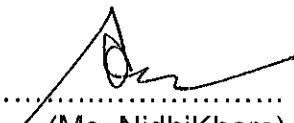
“Various areas of Food Establishment (such as food preparation/production area, stores, packaging area, service area, waste disposal area, etc.), office space, transport vehicle shall be cleaned with soap and water, followed by disinfection (using quaternary ammonium compounds like benzalkonium chloride (BKC), freshly prepared 0.5 percent hypochlorite solution (free chlorine) or any other disinfectants found to be effective against corona virus.”

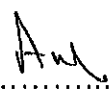
17. The Ld. Counsel further referred to the Advisory issued by the Central Consumer Protection Authority dated 20th January 2021 requesting Industry Associations to impress upon the manufacturers/Traders to desist from making such claims that are not supported by competent and reliable scientific evidence and he pointed that, the claim made by them in the impugned Advertisement has **“scientific credibility”** and therefore does not constitute a misleading advertisement as defined in Section 2 (28) of the Consumer Protection Act, 2019.

18. After deliberating upon the submissions made by the Ld. Counsel, the Central Authority directed the company to file their written submissions on the subject matter.

19. The company's response dated 27th January 2022 has since been received wherein they has submitted all the documents/Judgments/test reports/guidelines etc. with respect to ibid claim in the advertisement.

20. In view of foregoing submissions made by the company, the matter may not be pursued further and the case may be treated as closed.


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(Ms. Nidhi Khare)
Chief Commissioner


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(Mr. Anupam Mishra)
Commissioner