

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

Ref: F.No. J-25/25/2022-CCPA

In the matter: Suo-moto case against Amazon Seller Services 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 Amazon Seller Services Pvt. Ltd.:

1. Shri Vivek Ayyagari (Senior Associate),
2. Rahul Narayanan (Associate) and
3. Nitin Sharma (Associate) –
SaiKrishna & Associates, 57 Jor Bagh, Delhi 110003, India

Date: 25.01.2023

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 29th 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 Amazon Seller Services 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 Amazon 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 24.08.2022, Shri Vivek Ayyagari Counsel of Sai Krishna & Associate replied on behalf of Amazon Seller Services Pvt. Ltd. that the said e-commerce entity 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 and it is therefore not obliged to verify the authenticity or genuineness of the third party information made available on its platform, thereby taking exemption from any liability whatsoever.

9. Further, it was submitted that sellers listing their product on the platform of the said e-commerce entity have the discretion and freedom to decide the pictorial as well as description of the product which have been listed for sale and for the same e-commerce entity does not intervene in any manner. Moreover, it has been admitted that Amazon Seller Services Pvt. Ltd. after the receipt of the notice has delisted a total of 8095 products.

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 16th 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 Nitin Sharma on behalf of Amazon Seller Services Pvt. Ltd. made following submissions:

- a) The opposite party has delisted approximately more than 8000 listings of car seat belt alarm stopper clips.
- b) Emphasis has been made on the accountability of sellers for listing such products in the disguise such of bottle openers and various other names.
- c) The e-commerce entity has taken due diligence by publishing its rules and regulations, terms and conditions for sellers for listing of their products.
- d) Opposite Party will immediately ensure delisting of all products which compromise with the safety of consumers.
- e) Prohibited list has already been circulated.


15. In view of the written submission made through email on 24.08.2022 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 of car seat belt alarm stopper clips, along with the detailed list of such errant sellers.
- 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, Amazon Seller Service 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