

CENTRAL CONSUMER PROTECTION AUTHORITY
Krishi Bhawan Dr. Rajendra Prasad Road, New Delhi-110001

F.No. CCPA/1/2022-CCPA
(Pre. Ref. F.No. J-25/86/2022-CCPA)

In the matter of: Case against Think & Learn Pvt. Ltd. (Byju's IAS) regarding misleading advertisement.

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES:

For Think & Learn Pvt. Ltd (Byju's IAS)

1. Mr. Jatinder Chawla (In house counsel)
2. Mrs. Sunita Krishan (Bangalore Team)
3. Mr. Sushmit Sarkar (Head of Public Policy)
4. Mr. Nishit

Dated: 23.11.2023

ORDER

1. This is a suo-moto case taken up by the Central Consumer Protection Authority (hereinafter referred as 'CCPA') against Think & Learn Pvt. Ltd. (Byju's IAS) (hereinafter referred as opposite party) wherein it was observed that the opposite party was publishing misleading advertisements on their website (<https://byjus.com>) making the following claims-

- i. 62 out of 1228 vacancies in 2013
- ii. 82 out of 1364 vacancies in 2014
- iii. 165 out of 1164 vacancies in 2015
- iv. 215 out of 1205 vacancies in 2016
- v. 236 out of 1058 vacancies in 2017
- vi. 183 out of 812 vacancies in 2018
- vii. 179 out of 829 vacancies in 2019
- viii. 295 out of 761 vacancies in 2020

2. Accordingly, CCPA took cognizance of the matter and conducted a preliminary enquiry to examine veracity of the claims in the impugned advertisements made by

the opposite party. As per the preliminary inquiry report, it was found that the opposite party showcased various types of courses but the information with respect to the course opted by the said successful candidates in UPSC Civil Services exams 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 were concealed in the said advertisement. Further, it was found out that neither any disclaimer to substantiate the above-noted claims was mentioned in the advertisement nor any information or document was available on the website to substantiate the claim by opposite party. From the preliminary inquiry report, it was clear that prima face it was a fit case of Misleading Advertisement and Unfair Trade Practice that affected consumers as a class.

3. Therefore, the CCPA issued a show cause notice dated 24th August, 2022 to the opposite party for violation of provisions of the Consumer Protection Act, 2019 highlighting the issue of misleading advertisement by deliberately concealing important information. An opportunity to furnish its response within 15 days of the issue of the Notice was given to the opposite party.

4. In response to the notice, a reply dated 27th September, 2022 was received from the opposite party along with a Pen Drive which contained application forms and Testimonial videos of students for the year 2016, 2017, 2018, 2019, and 2021 only. On examination of the above, it was observed that:-

- i. Opposite party had not provided any details regarding student ID and receipt of fees paid by any candidate as asked for in the Notice.
- ii. Opposite party had not provided any details of the successful candidates for the year 2013, 2014, 2015 and 2020.
- iii. The registration forms provided by opposite party neither had the candidate's signature nor had the details of specific course and duration of the course they attended.

5. Recognizing the significance of ensuring adherence to the provisions of the Consumer Protection Act, 2019 and the fundamental principle of equitable and transparent resolution, it was deemed necessary to initiate a detailed investigation into the matter and DG (Investigation) was requested to submit a report.

6. The Director General (Investigation) in its investigation report dated 04.10.2023 submitted the following:

- i. A letter dated 20.04.2023 was sent to opposite party in which following details/ information were sought in the following format :-

| Name of Candidate | Course Studied | Whether fee paid | Date of joining of student | Receipt attached (Y/N) | Registration form attached (Y/N) |
|-------------------|----------------|------------------|----------------------------|------------------------|----------------------------------|
| | | | | | |
| | | | | | |

- ii. No response was received from opposite party against letter dated 20.04.2023 till date.
- iii. As opposite party had submitted incomplete reply to the notice, it was clear that M/s Think and Learn Pvt. Ltd. (BYJU'S IAS) was involved in violation of consumer rights and misleading advertisement in order to attract large number of students to join their institute. Thus, actions may be initiated as per Section 21 of Consumer Protection Act 2019.

7. Thereafter, an opportunity of hearing as mandated under the Consumer Protection Act was provided to the opposite party on 31st October, 2023, wherein opposite party failed to appear at the schedule time and did not intimate the reasons for its non-appearance.

8. The investigation report submitted by DG (Investigation) was sent to the opposite party vide letter dated 15.11.2023 to furnish its comments, if any within 7 days.

9. Under Section 21 sub-clause (8), a second opportunity was given to the opposite party for a hearing on 16th November, 2023 at 5.00 PM. During the hearing the opposite party made following submissions:-

- i. The letter dated 20th April 2023 sent by DG BIS on support@byjus.com has not been received by the company due to migration that was taking place in Byju's IAS.
- ii. The hearing Notice dated 26th October, 2023 sent by CCPA on support@byjus.com has not been received by the company due to migration that was taking place in Byju's IAS.
- iii. The data was submitted in a Pen Drive which contains only application forms and testimonial videos of students for the year 2016, 2017, 2018, 2019, and 2021. However no data has been provided for the year 2013, 2014, and 2015 and 2020 by the opposite party.
- iv. The opposite party has not submitted any details/information about the course taken, duration of Course, Fee paid by successful candidates.
- v. The opposite party requested to Central Consumer Protection Authority to grant some time for detailed submission in this matter.

10. The Central Authority observed that letter dated 20th April 2023 and CCPA mail dated 26th October 2023 and order dated 6th November 2023 was sent on support@byjus.com as displayed on the website of Byju's IAS. However the opposite party has not acknowledged these communications. CCPA also has tried to contact on registered Mob. No 9880031619 mentioned on their website but no response was received against these calls.

11. Whereas the Consumer Protection (E-Commerce) Rules, 2020 under rule 4(2)-
“Every e-commerce entity shall provide the following information in a clear and accessible manner on its platform, displayed prominently to its users, namely:-

- a. legal name of the e-commerce entity;**
- b. principal geographic address of its headquarters and all branches;**
- c. name and details of its website; and**
- d. contact details like e-mail address, fax, landline and mobile numbers of customer care as well as of grievance officer.**

12. During the hearing it was observed that No. 9880031619 and email support@byjus.com provided on company's website are either incorrect or nonfunctional as no response was received from company regarding the mails, calls. The Consumer Protection (E-Commerce) Rules, 2020 mandates for every e-commerce entity to provide information under rule 4(2) in accessible manner on its platform, displayed prominently to its users.” In the instant case, BYJU's IAS was found to be violating the said Rule.

13. Thereafter, a 3rd opportunity of hearing was provided to the opposite party on 21st November, 2023. During the hearing the opposite party made following submissions:-

- i. Opposite party stated that the Institute is providing some free of cost courses such as Writing Skills Development Program, Sessions on India Year Book, Yojana, Kurukshetra and Down to Earth, Economic Survey and Budget, Daily News Analysis, **Interview Guidance Program**, Personality Test Program, Know your NCERTs, Previous Year's Questions Discussion Sessions, Program on Ethics case studies.
- ii. Opposite party stated that institute is providing some paid courses such as IAS Foundation Classroom Program (Pre cum Mains) / Live Classroom Program / Recorded Content- BYJU'S Tablet Learning Program, Prelims Crash Course / Revision Module, Prelims Test Series, Mains Crash Course / Revision Module, Mains Test Series.
- iii. Opposite party stated that regarding the claim of 62 out of 1228 vacancies in 2013, there is no data available.
- iv. Opposite party submitted details of selected candidates in UPSC exam 2014 to 2020 i.e., type of course opted by selected candidates which is as per the table below:-

| Year | Selections Claimed | No. of students for whom Data was received | No. of Students who took following course | | | |
|------|---------------------------|--|---|-----------------------------------|---------------------------------|--------------------------------|
| | | | Interview Guidance/ Mock Interview/Test (Free of cost course) | Prelims Test Series (Paid course) | Mains Test Series (Paid course) | Classroom Course (Paid course) |
| 2013 | 62 out of 1228 vacancies | Not available | ---- | ---- | ---- | ---- |
| 2014 | 82 out of 1364 vacancies | 24 | 24 | 0 | 0 | 0 |
| 2015 | 165 out of 1164 vacancies | 165 | 150 | 12 | 3 | 0 |
| 2016 | 215 out of 1205 vacancies | 215 | 190 | 1 | 16 | 8 |
| 2017 | 236 out of 1058 vacancies | 236 | 201 | 10 | 19 | 6 |
| 2018 | 183 out of 812 vacancies | 182 | 165 | 1 | 2 | 5 |
| 2019 | 179 out of 829 vacancies | 179 | 164 | 5 | 2 | 9 |
| 2020 | 295 out of 761 vacancies | 295 | 280 | 11 | 1 | 8 |

14. Every year, UPSC holds Civil Services Exams in 3 stages and it is a well-known fact that successful candidates of Civil Services Examination have to clear all the 3 stages of exams viz Prelims, Main Exams and Personality Test (PT). While the Prelims is a screening test, the marks obtained in both the Mains Exams and Personality Test are counted for getting finally selected. The total marks for the Main exams and PT are 1750 and 275 respectively.

15. It may be mentioned that Section- 2(28) of the Act defines "misleading advertisement" in relation to any product or service i.e., an advertisement which falsely describes such service or falsely guarantees to or likely to mislead consumers as quality of such service or deliberately conceals important information.

16. Therefore, opposite party's advertisement violates the Section-2(28) of the Consumer Protection Act, 2019 as they have deliberately concealed important information with respect to the specific course attended by the successful candidates in order to deceive & mislead consumers and make huge commercial gains for themselves. The advertisement claimed that 62 out of 1228 vacancies in 2013 were from the opposite party but it was not substantiated with any evidence whatsoever.

17. The advertisement claimed 82 out of 1364 vacancies in 2014 and the opposite party submitted data of 24 students and all 24 students registered for Interview Guidance which is free of cost.

18. The advertisement claimed 165 selections out of 1164 vacancies in 2015 and the opposite party submitted 165 students' data and out of these 150 students registered for the Interview Guidance, which is free of cost, and only 12 students registered for Prelims Test Series, only 3 students registered for Mains Test Series.

19. The advertisement claimed 215 selections out of 1205 vacancies in 2016 and the opposite party submitted 215 students' data and out of these 190 students registered for the Interview Guidance, which is free of cost, and only 1 student registered for Prelims Test Series, only 16 students registered for Mains Test Series and only 8 students registered for the Classroom Course.

20. For 2017, the impugned advertisement claimed 236 selections out of 1058 vacancies and the opposite party submitted 236 students' data and out of these 201 students registered for the Interview Guidance, which is free of cost, and only 10 students registered for Prelims Test Series, only 19 student's registered for Mains Test Series and only 6 students registered for the Classroom Course.

21. For 2018, the advertisement claimed 183 selections out of 812 vacancies but while the opposite party submitted 182 students' data, out of these, 145 students were registered for the Interview Guidance and 20 students for Mock Interview, which is free of cost, only 1 student registered for Prelims test Series, only 2 students registered for Mains Test Series and only 5 students registered for the Classroom Course.

22. For 2019, the advertisement claimed 179 selections out of 829 vacancies but while the opposite party submitted 179 students' data and out of these, 164 students were registered for the Interview Guidance, which is free of cost, only 5 students registered for Prelims test Series, only 2 students registered for Mains Test Series and only 9 students registered for the Classroom Course.

23. For 2020, the advertisement claimed 295 selections out of 716 vacancies but while the opposite party submitted 295 students' data and out of these 280 students registered for the Interview Guidance, which is free of cost, and only 11 students

registered for Prelims Test Series, only 1 student registered for Mains Test Series and only 8 students registered for the Classroom Course.

24. The opposite party did not submit any consent form, and fees receipts of the selected candidates. Therefore, the claims made in the advertisement are not completely substantiated. Similarly, it is evident that out of all successful candidates showcased in the impugned advertisement for the years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 most of the students took **Mock Interview Program which is a free of cost program**. It is understood that Mock interview is not a full-time program, and it comes into play only after an aspirant has cleared both the Prelims and Mains examination of CSE. Thus, it is clear that none of them have studied any other courses apart from the Mock Interview program that are advertised by the opposite party's Institute. This fact has not been prominently disclosed in the impugned advertisement. In the present matter, information regarding the course opted by successful candidates in UPSC exams 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, so advertised, is important for the consumers to know so that they can make informed choice while deciding which coaching institute to join & which course to opt for to prepare for UPSC Civil Service exams.

25. It is pertinent to mention that the essence of misleading advertisement in Consumer Protection Act, 2019 is that an advertisement shall be considered valid & not misleading when it contains truthful & honest representation of facts by making disclosures in such a manner that they are clear, prominent and extremely hard to miss for viewers to notice. Additionally in 2022, CCPA had issued Guidelines for prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, wherein conditions for non-misleading and valid advertisement have clearly delineated.

26. In the instant case, opposite party has been found taking full credit of successful candidates' efforts. In 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 UPSC CSE, most of the successful students took Mock Interview Program from opposite party which is a free of cost program. Such candidates had already cleared Preliminary and Mains examination by himself/herself, with no contribution of the opposite party. By concealing this important fact, the opposite party's claims fall in the category of false & misleading advertisement, which impact those consumers who are UPSC aspirants and are seeking coaching facilities. Without letting them know that the opposite party had offered guidance to only such successful candidates who had already cleared Preliminary and Mains examination of UPSC examination, also constitutes unfair trade practice. Thus, the impugned advertisement has violated the consumer's right to be informed so as to protect himself against unfair trade practice.

27. Section- 2(47) of the Consumer Act, 2019 defines "unfair trade practice" i.e., a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including falsely represents that the services are of a particular standard, quality or grade.

28. The CCPA has carefully considered the written submissions as well as submissions made by the opposite party during hearing and investigation report submitted by Director General (Investigation) and found that the advertisement is false & misleading as it deliberately conceals important information with respect to the course opted by the said successful candidates from their Institute, which consequently affects consumers as a class. Additionally, opposite party has deliberately misled consumers by falsely describing its service with the intent that such deceptive trade practice will cloud the judgment of a large number of UPSC aspirants/consumers in deciding to avail the services offered by them. Thus, it makes a fit case of misleading advertisement and unfair trade practice.

29. The CCPA is empowered under Section- 21 of the Consumer Protection Act, 2019 to issue directions to the present false or misleading advertisement to discontinue or modify the advertisement and if necessary, it may, by order, impose a penalty which may extend to ten lakh rupees and for every subsequent contravention may extend to fifty lakh rupees. Further, Section 21 (7) of the above Act prescribes that following may be regarded while determining the penalty against false or misleading advertisement:-

- a) the population and the area impacted or affected by such offence;
- b) the frequency and duration of such offence;
- c) the vulnerability of the class of persons likely to be adversely affected by such offence.

30. It may be mentioned that every year approximately 10,00,000 students across the length & breadth of the country appear for the UPSC CSE. Therefore, the vulnerability of the class of persons likely to be adversely affected by such misleading advertisement is huge. The opposite party has 8 centers across India namely in Delhi, Bangalore, Pune, Chennai, Jaipur, Hyderabad, Kolkata and Lucknow and also provides coaching in online mode. Claims made in the advertisement by opposite parties are outrageous and highly exaggerated and has been found to be false and without substantiation.

31. In view of the above, under section- 21 of the Consumer Protection Act, 2019, CCPA hereby issues the following direction to the opposite party:

- i. To discontinue the impugned advertisement from all electronic and print media whatsoever with immediate effect.
- ii. Think & Learn Pvt. Ltd (Byju's IAS) shall pay a penalty of ₹ 10,00,000 for publishing following false and misleading advertisement claims which affected the consumers as a class.
 - 62 out of 1228 vacancies in 2013
 - 82 out of 1364 vacancies in 2014
 - 165 out of 1164 vacancies in 2015
 - 215 out of 1205 vacancies in 2016

- 236 out of 1058 vacancies in 2017
- 183 out of 812 vacancies in 2018
- 179 out of 829 vacancies in 2019
- 295 out of 761 vacancies in 2020

iii. The opposite party shall submit the amount of penalty and a compliance report to CCPA on the above directions within 15 days from the date of this Order.


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Nidhi Khare
Chief Commissioner


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Anupam Mishra
Commissioner