

CENTRAL CONSUMER PROTECTION AUTHORITY  
Ground Floor, CCPA Wing, Indian Institute of Public Administration, IP Estate, Ring Road, New Delhi –  
110002

Ref: F. No. J – 25/07/2021 – CCPA

In the Matter of: ITC Limited

**CORAM:**

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

**APPEARANCES:**

- For ITC Limited:** - 1. Shri. Sanjay Srinivas – Vice President, Health & Hygiene, Personal Care Products  
Business Division  
2. Shri. Amit Sibal, Senior Advocate  
3. Mr. Shubhanshu Gupta, Advocate  
4. Ms. Sanjana Bakshi, Advocate  
5. Mr. Chirag Sharma, Advocate  
6. Mr. Mayank Mishra, Advocate  
7. Mr. Saksham Dhingra, Advocate

**Dated: 07.05.2021**

**ORDER**

(through Video Conferencing)

1. Shri. Amit Sibal, the learned senior counsel appeared on behalf of ITC Limited and made submissions wherein he pointed out that, the Consumer Protection Act, 2019 does not currently provide any guidelines regarding the font size of footnotes in advertisements. He further stated that, in the absence of any statutory prescription, the company has followed the industry standards which have also been adopted by the "Advertising Standards Council of India (ASCI)". In support of his contention, the learned senior Counsel pointed out that the footnote has been made in a font size greater than that prescribed by ASCI in the relevant guidelines with a color made in contrasting with the background. He further stated that, the footnote is prominent, conspicuous and legible to the consumers. The Claim is also preceded by a line which says that the Product has been "Tested & Proven" which is presented with equal prominence. Thus, the consumer would be well aware that the Claim is made on the basis of scientific test reports.
2. The learned senior counsel further submitted that, "Basis lab study on SARS-CoV-2 virus" does not in any way limit or detract from the subject claim but only provides additional information to the consumer regarding relevant details of the test conducted. Even assuming that a consumer is unable to read the quoted text "Basis lab study on SARS-CoV-2 virus", the Claim of "99.9% Protection from COVID-19 Corona virus" remains true and the consumer would not be misled in any manner. He further stated that, the footnote along with the usage directions are merely additional information for the benefit of the consumers. **For instance**, if a telecom company advertise that, they provide internet speed upto 10 mbps but in footnote they mentioned timing in between 10 am till 6 pm. Thus, the Advertising Company is not publishing any deceptive advertisement but only stating additional informational in footnote for the guidance of the consumers. Likewise, the instructions given in the instant case of Savlon

to the effect that the product ought to be used in the ratio of 1:15 dilution is merely additional information regarding the usage instructions of the product. The advertisement cannot be treated as misleading or deceptive, with or without the footnote.

3. As far as the question of font size is concerned, the learned senior counsel submitted that, there is no denying the fact that some part of the advertisement is in large font whereas some parts are in small font. Further he submitted that, it is also a common knowledge that in the advertisement, the reader generally forms his first impression from a look at the larger font. In view of above, the learned senior counsel stated that there would be no dispute with regard to the fact that, the impugned advertisement is not misleading or deceptive. In support of his submission, he again emphasized on the test report submitted by them which are substantiated by scientific evidence.

4. The learned senior counsel further submitted that, it is an established principle that "advertisements are not to be read as if they are some testamentary provision in a Will or a clause in some agreement" and that "latitude to the advertisers in designing and crafting their pitch to the consumers" is imperative for the promotion of trade and commerce.

5. Further, the learned senior counsel relied upon the principles of law as enunciated in the judgment of Hon'ble High Court of Delhi, in the case of Marico Limited Vs. Adani Wilmar Ltd. (CS(OS) 246/2013 and CS(OS) 319/2013) and the judicial pronouncements cited therein.

Some relevant portions from the judgment are extracted below for ready reference:-

xxx xxx xxx

(A). "It also has to be noted that even the Division Bench in Dabur- Colortek acknowledges that what the Courts need to consider in such cases is whether the impugned advertisement is "by and large truthful" and that an advertiser must be given enough room to play around in the grey areas in the advertisement brought out by it and further that the plaintiff ought not to be hyper-sensitive. Viewed in this light, the Courts cannot adopt a hyper- technical view and penalize the defendant for not disclosing each and every detail regarding the cholesterol lowering abilities of Oryzanol so long as the intent, storyline and message sought to be conveyed by the advertisement is not entirely untrue".

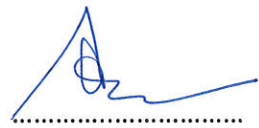
xxx xxx xxx

(B). "The promotion of a robust market for trade and commerce requires that the Courts grant some latitude to the advertisers in designing and crafting their pitch to the consumers and the tendency to scrutinize such advertisements with a magnifying glass must be eschewed unless of course the claims made are found to be totally unsubstantiated and to have no basis in reason or logic".

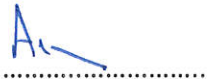
6. Continuing his argument, the learned senior counsel submitted that, the impugned advertisement is fully covered by the principles of law enunciated by the afore-said judicial pronouncements.

7. Lastly, the learned senior counsel submitted that, each product is tested by some parameter; test substance etc. and consumers may not be interested in those parameter. He further submitted that, the company has already mentioned the recommended dilution and desired room temperature for storage of the product. Hence, mentioning 2 minutes contact time in the advertisement may not serve any useful purpose for the consumers as the consumer should be given the flexibility for usage thereof.

8. In the view of the documents submitted by the company and elaborate submissions made by the Shri. Amit Sibal, the learned senior counsel, the authority decided that while the company may consider mentioning 2 minutes contact time in the advertisement as only then its claim of 99.9% effective against Covid-19 corona virus can be, viable, however the matter may not be pursued further and the case may be treated as closed.



(Ms. Nidhi Khare)  
Chief Commissioner



(Mr. Anupam Mishra)  
Commissioner