

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

Ref: F.No. J-25/25/2022-CCPA (Pt.1)

In the matter: Suo-moto case against Snapdeal (AceVector) 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 Snapdeal (AceVector) Ltd.:

1. Mr. Aditya Varma
Fidus Law Chambers

Date: 01.02.2023

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 Snapdeal (AceVector) Ltd. As per the preliminary enquiry report, it was found that the car seat belt alarm stopper clips were indeed being blatantly sold on Snapdeal 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 Snapdeal (AceVector) Ltd. replied that the said e-commerce entity does not procure, list, price, and offer for sale the products cited in the notice. It only provides online marketplace to third party sellers to enable them to create listing of its products. It is an intermediary under the Information Technology (IT) Act, 2000, thereby taking exemption from liability whatsoever. Further, as per terms and conditions the seller is required to ensure that he is in compliance with all the laws applicable to its business and no prohibited activity is carried out on its website.

9. In this regard, Snapdeal under the head Commercial referred in para 5.1. of Seller Agreement distinctly mentioned that Snapdeal charges marketing fees, logistic service provider fees and any other fees as provided in commercial segment for all orders for purchase of products by the buyers. Further, the indicative list provided for banned trade practice mentioned that any item/material which may assist in performance of any illegal or unlawful activity. However, Rule 138 (3) of Central Motor Vehicle Rules 1989 mandates wearing seat belt and listing seat belt alarm stopper clips on the platform restricts wearing seat belt which per se is illegal to sale.

10. 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. In addition to reply, the said e-commerce entity has filed an Affidavit vide email dated 30.01.2023 which submitted that the listing of Tantra seat belt alarm stopper was created on 27.04.2022 and was taken down on 25.05.2022, immediately upon receipt of Notice from CCPA.

14. 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. However, on request of the postponement of the date for hearing the opposite party vide email dated 23.01.2023 was given the opportunity of hearing on 31.01.2022.

15. In the hearing held on 31.01.2023, Shri Aditya Varma Counsel on behalf of Snapdeal (Acevector) Ltd. made following submissions that:-

- a) The said e-commerce entity has listed Tantra Safety Belt Buckle Universal Black Seat Belt Alarm Stopper on 27.04.2022 and taken down on 25.05.2022 on receipt of Notice from CCPA.
- b) It has not sold any product between 27.04.2022 to 25.05.2022 and has not received any commission for the same.
- c) No such advertisement or promotion for the sale of seat belt alarm stopper clips has been made.
- d) The seller Pinnacle Avenue was on-boarded on 26.12.2017 and has camouflaged listing of seat belt alarm stopper clips.
- e) Opposite Party has put in place relevant banned keywords in order to eliminate the possibility of listing such products.

16. In view of the written submission made through email on 09.06.2022 as well as the submissions made during hearing on 31.01.2023, the opposite party is hereby directed to:-

- a) Withdraw sale of all kinds of 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.
- b) Apprise CCPA on the steps taken against the errant sellers camouflaging sale of car seat belt alarm stopper clips.
- c) Provide complete details of all such sellers who have listed products as mentioned para 'A' above. **(Format enclosed).**

17. In view of the above, Snapdeal (AceVector) 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

Details of Sellers

S.No.	Registered Name of the Seller			
1.				
2.	Name of Person			
3.	Street	City	Pin Code	State
4.	GSTIN Number			
5.	Email address of the Seller			
6.	Date of On-Boarding	Category of Product	Date of Listing of Product	Number of Products Sold
7.	Commission received from Seller		In Rupees	