

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- 25/45/2021 – CCPA

In the Matter of: -Berger Paints India Limited (BPIL)

CORAM:

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

APPEARANCE:

Mr. Aniruddha Sen, Sr. Vice President – Legal & Corp. Affairs.
Mr. Tapan Kumar Dhar, Sr. Vice President – Research & Development
Mr. Sudhir Nair, Senior General Manager
Mr. Arvind Kumar Ray, Learned Counsel (from Khaitan & Co.)

Dated- 04.01.2022

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 Berger Paints published through electronic or print media and on Company's website which states that "**Berger Silk Breathe Easy Paint reduces pollution and protects immunity; kills 99% Bacteria, Protects from Covid Virus and ensures 99% efficiency within 30 minutes of treatment**".
2. Accordingly, a Notice dated 28th June, 2021 was issued to the Opposite Party asking them to Show Cause as to why "a preliminary enquiry" under Section 19(1) of the Consumer Protection Act, 2019 should not be conducted against them for making alleged false and misleading claims in the advertisement along with supporting documents.
3. On receipt of afore-said notice, the opposite party filed its reply dated 13th July 2021 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 has been fixed for 04th January 2022.
4. Mr. Arvind Kumar Ray and 3 other officials appeared on behalf of the company and submitted that, initially they had published two advertisements for their product "**Berger Silk BreatheEasy**" under the following heading:- (i) Ghar Ka Sanitizer and

(ii) Protects from Covid Virus. Subsequently, sometime in October 2020 they had withdrawn the advertisement related to "Ghar ka Sanitizer". Further they had published modified advertisement under the heading "**Sirf glamorous nahi, caring bhi**" with the following characteristics:- (i) Reduce Pollution, (ii) **Protects wall surface from Covid Virus**, (iii) Anti Bacteria, and (iv) Reduces Formaldehyde.

5. The learned counsel drew attention the Central Authority towards the significance of Nano Silver in their product "Silk BreatheEasy" Paint . He Submitted that, silver is one of the most widely studied oligodynamic (i.e. biocidal effect of metals) material due to its range of antimicrobial activities, antiviral effectiveness, low toxicity, and various application as a disinfectant. He further submitted that, these properties have also been recognized in CharakaSamhita and SushrutaSamhita in ancient Indian texts. He further submitted that, the application of the paint on the surface of wall will give protection among others, from COVID 19 Virus.

6. In this connection, the Central Authority was dismayed with the company's claim that their Paint can kill the Covid 19 Virus! It is also not clear as to whether the application of the paint on the wall only once would give protection from virus for all time to come. Moreover, it is widely believed that, Covid-19 virus is in the air also in the form of Aerosol, transmitted by the infected persons. Therefore, a question arises whether the paint should be sprayed in the atmosphere as well to kill the virus present in the air molecule.

7. On the above issues raised by the Central Authority, the learned counsel submitted that at the time of launching of product sometime in 2020, it was not clear whether Covid 19 virus was present in air or surface or both, and still it is unclear. Further, he submitted that, as per the study report by Rajiv Gandhi Center for Biotechnology, Covid virus was not detected in the Silk BreatheEasy Luxuxy Interior emulsion of the 30 minutes of the required treatment. He further contended that, they had launched the product based on scientific study.

8. In this regard, the Central Authority expressed concern about the current situation where consumers are passing through a global crisis due to COVID-19 pandemic. In such uncertainties, the consumers are looking for any means whatever that assure immunity from the diseases. It appears that false claims are being made to mislead the consumers for promotion of the product by taking advantage of the ongoing pandemic situation in the country. In this backdrop, an Advisory dated 20th January 2021 was issued by the Central Authority requesting Industry Associations to advise the manufacturers/Traders to desist from issuing misleading advertisement.

9. Further, the Central Authority referred to the example of certain products like Apparels, Laminates advertised in the market claiming protection against Covid 19 virus to exploit people's sensitivity towards the virus. But, these advertisements were withdrawn by the respective companies in the wake of Advisory cited above.

10. The Central Authority also observed that currently the general public is well aware about precautionary measures to be adopted in the wake of the pandemic situation, like using hand sanitizer, soap etc. which are least expensive and easily available.

Therefore, prudence demand that the general public should not be lured into buying expensive products.

11. The Central Authority pointed out that, notwithstanding the test reports submitted by the company, it is only the authoritative recommendation of the Ministry of Health(GOI)/WHO which can be relied upon as regards the efficacious remedy for boosting immunity in human beings for protection against covid 19 virus.

12. The learned counsel brought out that the advertisement with regard to protection from Covid 19 Virus was withdrawn by the company approximately 6 months ago. After further deliberations, the company agreed to withdraw their advertisements which related to protection from Covid 19/protects wall surface from Covid 19 virus from all media i.e electronic/print media and from company's website as well as from all other sources including social media etc.

13. Accordingly, the Central Authority directed that, the company should file their written submission with regard to the withdrawal of the advertisement related to claiming protection from Covid 19 virus.

14. The company's response dated 10th January 2022 has since been received wherein they submitted that, both the advertisements have been withdrawn by them. Further, they have stated that, the first advertisement related to Ghar ka Sanitizer has not been published by them on any platform (whether in print or electronic media) since January 2021. The Second advertisement related to Protection from Covid 19 has also been withdrawn by them with effect from November 2021.

15. Further, they have submitted that, on the basis of direction passed by the Central Authority, the company has commenced all necessary steps for removal of the aforesaid advertisement from social media platform where such advertisements still exist.

16. The company further submitted the undertaking mentioning that, they will not circulate any advertisement related to protection from Covid 19/protects wall surface from Covid 19 virus in future.

17. In view of above, 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