

**Central Consumer Protection Authority**  
**Krishi Bhawan, New Delhi --110011**

**Case No: J-25/1/2021-CCPA**

In the matter of: Hindustan Unilever Limited (Horlicks) regarding misleading advertisement.

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

Date: 10.08.2023 at 4.30 PM

**ORDER**

The hearing was conducted through video conferencing.

2. This is a suo-moto case taken up by the Central Consumer Protection Authority (hereinafter referred as CCPA) against Hindustan Unilever Limited (Horlicks drink powder) (hereinafter referred as opposite party) wherein it was observed that the Hindustan Unilever Limited was publishing the following claims through its misleading advertisements of the Horlicks (Drink Powder) in newspaper and also broadcasted on Television, Facebook, You tube, Newspapers and on its own website (<https://www.horlicks.in> or <https://www.horlicks.in/in/en//9-in-10-micronutrient-deficiency-study.html> ).

- i. "it is clinically proven to help kids grow Taller, Stronger and Sharper."
- ii. "Horlicks बढ़ाये दूध की शक्ति.
- iii. "Horlicks में हैं ग्रोथ नुट्रिएंट्स का 100% RDA जो बनाये बच्चों को टॉलर, स्ट्रॉगर, शार्पर

3. CCPA got a preliminary enquiry done and prime facie, it appeared that Horlicks is misleading the consumer for promotion of their product by taking advantage of the concern of parents about their kid's health & growth through misleading advertisement covered under section 2(28) of Consumer Protection Act, 2019 (hereinafter referred to as 'the Act').

4. Accordingly, the Central Authority issued a showcause notice dated 13<sup>th</sup> January 2021 to the opposite party giving them opportunity to substantiate the above mentioned claims made by them in alleged misleading advertisement.

5. In response to the notice, a reply dated 25th January, 2021 was received from the opposite party, wherein, they made the following submissions:-

- i. Opposite party stated that the claims are based on a robust clinical study conducted by "HORLICKS" at a premier Indian institute under ICMR. "National Institute of Nutrition, Hyderabad". The study was published in a reputed (peer reviewed) international journal "Nutrition" (Volume 22, Number 1 Supplement, January 2006, ISSN 0899-9007) and has been also presented in various high impact scientific forums. It is also stated that the study was based on the hypothesis that micronutrients have a positive effect on growth.
- ii. Opposite Party stated that the subject matter is already pending before the High Court of Jharkhand as "M/s GlaxoSmithKline Consumer Healthcare Limited v. State of Jharkhand & Ors. W.P (Cr) No 338/2017 (Writ petition filed against the order of the Adjudicating Officer cum Deputy Commissioner, Ranchi holding the claim "Taller, Stronger and Sharper" against Horlicks Ltd. for not obeying the prescribed norms meant for Packaging and Labelling of Foods and Restrictions of advertisements within the scope of section 23, 24, 26 and 27 of the Food Safety and Standards Act, 2006 (FS&S Act)r/w Reg. 2.3.1.5 of the Food Safety and Standard (Packaging and Labelling) Regulation, 2011.)". 2020".
- iii. The response contained following annexures-
  - a. Annexure 1- Copy of the publications made in the aforesaid journal.
  - b. Annexure 2- Copy of the order passed by Adjudicating Officer and Hon'ble High court

6. As per Annexure 2- Copy of the order passed by Adjudicating Officer, Sri Krishna Prasad Singh, Food Safety Officer Ranchi, (complaint) stated that the sample of Horlicks original purchased for analysis did not obey the prescribed norms meant for Packing and labeling of food & restriction of Advertisement within Section 23, 24, 26, 27 of FS&S Act 2006. According to complaint, he purchased 500 gm X 4 Packets of the Horlicks for analysis and submitted to designated officer. As per the report submitted by the Food Analyst the Taller, Stronger, Sharper etc. claims are misleading and deceptive statement for the purpose of promoting the sale, supply, use consumption of product for misleading consumers.

7. The present status of case has been verified from High Court of Jharkhand website which is disposed with final order on 12.04.2023 by High Court Jharkhand which stated that: -

"State government has notified the appellate authority whereby the District and Session Judge of the concerned district and judicial Commissioner in respect of Ranchi district have been made appellate authority in view of this when the alternative remedy is there, the petitioners are required to avail the same. Accordingly, W.P (Cr) No 338/2017 **is being dispose of with liberty to the petitioners to appear before the appellate authority concerned**".

8. As per the provision of Section 21 of the Consumer Protection Act, 2019, CCPA provided an opportunity of hearing to Hindustan Unilever Limited (Horlicks) on 10.08.2023 at 4.30 pm. wherein the opposite party represented by Ms.. Shalini Sinha (GM) and Ms. Suchana Mukherjee made the following submissions:-




- i. Hon'ble High Court of Jharkhand issued order dated 12.04.2023 in this matter with liberty to the petitioners to appear before the appellate authority concerned.
- ii. Currently Appellate tribunal has not been constituted, therefore whenever the Appellate tribunal will be constituted the company will put the matter before the tribunal as per the order of the High Court of Jharkhand.
- iii. They stated that the claims are based on the scientific study. The clinical study was done by National Institute of Nutrition, Hyderabad. The study was conducted on a large (869 children) double-blind, placebo-controlled, randomized clinical study, in apparently healthy school going children (ages 6-16y) and test was carried out remains for the 14 months after which three parameters achieved the statistically significant score and these parameters are:-
  - Taller which "Increase in Mean Height" and
  - Stronger "Increase in muscle mass and bone tissue" or
  - Sharper "Increase in Attention- Concentration"
- iv. The study was also published in peer review International Journal "Nutrition".
- v. That "Horlicks बढ़ाये दूध की शक्ति" claim is currently not being used in advertisement by the company as it was discontinued from 2021 and they will re-confirm with their marketing team about date of this discontinuation.
- vi. They stated that they will be open to examination of these claims with scientific institutes and R&D team of the company will be in a better position to explain these scientific study and requested for another hearing with their R&D team on 22.08.2023 at 4 pm.

8. In view of the above, Central Consumer Protection Authority provided for final date of hearing on 22.8.2023 at 4.00 pm with the following directions -

- (i) Hindustan Unilever Limited to intimate the date of discontinuation of the claim "Horlicks बढ़ाये दूध की शक्ति".
- (ii) The Hindustan Unilever Limited shall submit additional information and scientific reference if any, about their clinical study.

  
Nidhi Khare  
Chief Commissioner

  
Anupam Mishra  
Commissioner