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Analysing developments impacting business

CCPA ISSUES DRAFT GUIDELINES FOR PREVENTION OF MISLEADING ADVERTISEMENT IN COACHING, 2024

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Education is a fundamental aspect of society, and ensuring the integrity of educational services is crucial. Misleading advertisements by educational service providers not only harm consumers, but also undermine the credibility and sanctity of the education sector as a whole. The increasing number of coaching centres (and with that, commercialisation of educational services) as well as heightened competition amongst students underscores the need to safeguard consumers from false claims and misleading advertisements. In view thereof, the Central Consumer Protection Authority (CCPA) has issued the draft *Guidelines for Prevention of Misleading Advertisement in Coaching, 2024* on 16 February 2024 and has sought public views/comments/suggestions on the draft guidelines by 16 March 2024.

Key Guidelines:

The guidelines encompass a broad definition of 'coaching' and include within its ambit tuitions, instructions or academic support or learning programs, and/or any form of guidance provided by any person. 'Person', in turn, has been defined under the draft guidelines to mean an individual and include a group of persons or a body corporate, or a trust, firm or society or an institution. The definition would therefore encompass all academic and non-academic subjects and would apply to all forms of educational services (including those provided for free) by any kind of institution, as well as one-on-one or group tutoring sessions, among other forms of educational assistance. The draft guidelines cover advertisements for any kind of coaching, in any form, format, or medium.

A. Conditions for misleading advertisement:

Whilst the definition of 'misleading advertisement' has been adopted from the Consumer Protection Act, 2019 (Act), the draft guidelines lay down the following conditions for an advertisement to be considered misleading:

- Concealing important information related to course names, durations, and any other important information which can influence consumer's decision.
- Making false claims about success rates, selections or rankings without verifiable evidence.
- Falsely attributing students' success solely to coaching without acknowledging individual efforts.
- Creating false senses of urgency or fear of missing out.

- Any other practices that may mislead consumers or undermine their autonomy and choice.

B. Obligations of every person engaged in coaching:

The draft guidelines also lay down certain obligations or responsibilities for persons engaged in coaching which are listed below:

- Disclosing specific information with successful candidate photos, including rank, course name, duration, and whether the course opted was paid or free.
- Placing disclaimers/disclosure/important information prominently in advertisements with the same font as the claims.
- Accurately representing facilities, resources, and infrastructure available to students.
- Avoiding cherry-picking exceptional cases to create skewed impressions of success.
- Maintaining transparency and truthful representation in advertisements.
- Providing accurate, verifiable information about services offered.

C. Restrictions on persons engaged in coaching:

- Prohibition on the use of names, photos, testimonials, or videos of successful candidates without their consent.
- Specific restrictions on making false claims such as:
 - a. 100% selection;
 - b. 100% job guaranteed;
 - c. Guaranteed preliminary/mains;
 - d. Guaranteed admission to institutions;
 - e. False testimonials of successful students; or
 - f. Fake reviews;
- Prohibition on representations that coaching guarantees specific outcomes like rank, high marks or job placements or promotions, admissions, salary increase without substantiation.
- Prohibition on false representations about service standards or quality.
- Prohibition on misleading or exaggerated claims about faculty credentials.
- Prohibition on false representations about the course or certificate being offered having recognition or approval of a competent authority.

Comment:

The draft guidelines specify that in cases of any ambiguity or dispute in interpretation of the guidelines, the decision of the CCPA shall be considered final. In case of any contravention of these guidelines, the CCPA aims to enforce these guidelines through the provisions of the Act (which would also include imposition of fines ranging from INR 10,00,000 to INR 50,00,000 by the CCPA). Given that no separate enforcement mechanism has been stipulated under the draft guidelines, it may be reasonable to assume that an aggrieved consumer would be required to resort to the complaint mechanism / redressal provisions in the principal Act which deal with misleading advertisements and/or unfair trade practices.

Further, given that advertisements in all forms, formats and media have been covered under these draft guidelines, even advertisements in respect of online tutoring / pre-recorded video

classes, circulated on social media and other digital forms of promotion would have to comply with these guidelines once they are finalised and notified.

The draft guidelines aim to protect consumers from misleading advertising tactics employed by coaching centres, ensuring that students and their families can make informed decisions about their educational pursuits. By promoting transparency and accountability in the coaching industry, these guidelines uphold consumer rights and seek to foster trust in educational services. Interestingly, a reading of the draft guidelines implies that the same may also apply to advertisements of educational services provided for free.

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