

Bill No. XV of 2023

THE CONSUMER PROTECTION (AMENDMENT) BILL, 2023

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BILL

further to amend the Consumer Protection Act, 2019.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

35 of 2019

1. (1) This Act may be called the Consumer Protection (Amendment) Act, 2023.

Short title and commencement.

(2) It shall come into force with immediate effect.

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2. For section 89 of the Consumer Protection Act, 2019, the following section shall be substituted, namely:—

Substitution of section 89.

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"89. Any manufacturer, service provider, advertiser, advertising agency or endorser who causes a false or misleading or surrogate advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees."

Punishment for false or misleading advertisement.

STATEMENT OF OBJECTS AND REASONS

The medium of surrogate advertising and brand extensions have often been resorted to for promoting products whose advertising is otherwise prohibited or restricted by law. The practice of roping in influential celebrities holding mass appeal to further expand the reach of such products through this medium has now become common. With the growing reach of social media, surrogate advertising has seen a considerable rise in India. Even public events such as festivals and sports matches are now being leveraged to promote such products *via* surrogate advertising.

2. More often than not, brands use celebrities for the purpose of surrogate advertising, who due to their mass popularity have the ability to influence the buying decisions of the public in a negative manner. Studies show that surrogate advertisements wherein products are endorsed by celebrities can act as a catalyst for people to purchase such products. This impact is more severe among children and youth, who may get swayed by the mass appeal of the endorser without having an appropriate understanding of the risks associated with the product.

3. In this regard, Guidelines for Prevention of Misleading Advertisements and Endorsement for Misleading Advertisements, 2022, have been brought into force recently to prohibit surrogate advertising, among other things. They also prescribe duties of manufacturer, service provider, advertiser and advertising agency as well as standards of due diligence to be followed by endorsers. While the guidelines are a step in the right direction, they do not impose any strict penalty on the manufacturer, service provider, advertiser, advertising agency and endorsers. The lack of an effective deterrent has resulted in surrogate advertising continuing unabated.

4. The parent Act, *i.e.*, the Consumer Protection Act, 2019 does prescribe a penalty for false and misleading advertisements under section 89, which may be extended to surrogate advertisements as well. However, this penalty is restricted to the manufacturer or service provider and hence, does not extend to the advertiser, advertising agency or endorser of the surrogate advertisement. It is imperative that an equal penalty be placed on the advertiser, advertising agency and endorser of the surrogate advertisement, which will serve as a significant deterrent for such individuals/entities and ensure the welfare of the consumers at large.

5. Therefore, this Bill proposes to amend Section 89 of the Consumer Protection Act, 2019 by extending the punishment for false and misleading advertisements to advertisers, advertising agencies and endorsers.

Hence, this Bill.

V. VIJAYASAI REDDY

ANNEXURE

EXTRACT FROM THE CONSUMER PROTECTION ACT, 2019

(No. 35 OF 2019)

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(Shri V. Vijayasai Reddy, M.P.)