

## ERGO

*Analysing developments impacting business*

### TRUTH IN TUITION: GUIDELINES FOR PREVENTING MISLEADING ADS IN COACHING

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#### INTRODUCTION

In an endeavour to crack down on coaching institutes that make false or misleading claims to promote their courses, the Central Consumer Protection Authority (CCPA) has issued the Guidelines for Prevention of Misleading Advertisements in the Coaching Sector 2024 (Guidelines). The Guidelines come in the backdrop of CCPA's crackdown on coaching centres, imposing penalties amounting to INR 54,60,000 on 18 coaching institutes and prohibiting such coaching institutes from running advertisements. The Guidelines are not limited to any medium of advertising and will apply to online coaching as well.

#### OVERVIEW

- (a) ***Applicability***: The Guidelines are applicable to 'coaching centres' which includes any centres providing coaching to more than 50 students, and to anyone who provides coaching. Accordingly, it appears that the Guidelines cover commercial coaching centres as well as individual teachers or smaller coaching classes within their ambit.

Further, under the Guidelines, coaching includes all persons providing academic support, imparting education, guidance, instructions, study programmes or tuition, excluding in creative fields such as sports, dance, theatre, counselling etc. Given that coaching also includes 'imparting education', 'study programmes', 'tuition', these Guidelines could also extend to advertisements by schools and colleges.

Further, endorsers engaged in advertising in the coaching sector are also within the scope of these Guidelines. Given that specific responsibilities are not set out for endorsers, in our view, these Guidelines will have to be read with Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022.

- (b) ***Advertising claims***: The Guidelines prohibit making false claims in relation to *inter alia* courses offered, duration of completion, credentials of faculty, fees, course exit policies (such as refund policies), success rate, exam ranks, guaranteed selection in a course / job, salary increase, assurance of high rank or marks, quality of education / services offered. Further, creating a false sense of urgency by implying false popularity of goods / services offered is also prohibited.
- (c) ***Disclosure requirements***: Advertisements are required to provide disclosures and disclaimers in relation to rank secured, name and duration of course, fees, whether

the course is duly recognised by University Grants Commission, All India Council for Technical Education etc. The disclosure is required to be prominent and in the same font as the font in which the claims are made.

- (d) National Consumer Helpline: Every coaching center is required to endeavour to become a partner in the convergence process of the National Consumer Helpline of the Central Government. This is owing to increased confidence of students in speedy redressal of grievances at a pre-litigation stage by the National Consumer Helpline.
- (e) Student data: Persons engaged in coaching are required to obtain the prior written consent of a candidate before using such candidate's name, photographs, testimonial or videos. Further, such student consent should be taken after selection, and not at the time of enrolment. This is also to ensure that students are not compelled to give consent to coaching institutes as a pre-condition for enrolment.
- (f) Consequence of breach: The provisions of the Consumer Protection Act 2019 (CPA) are applicable in case of any non-compliance with the Guidelines. The Central Authority, established under the CPA, has a right to order modification / removal of advertisements and if deemed necessary, impose penalties up to INR 10,00,000. The Central Authority may also prohibit an endorser from endorsing any product or service for a period extending to 3 years. Coaching institutes causing misleading advertisements to be published may also be punished with imprisonment extending up to 2 years.

## CONCLUSION

In 2023 the Advertising Standards Council of India prescribed guidelines for advertising of educational institutions, programmes and platforms (ASCI Guidelines). While the Guidelines overlap with the ASCI Guidelines, inclusion of detailed guidelines in relation to the size, placement, font, color etc of disclaimers, and requiring inclusion of disclaimers that 'past record is no guarantee of future prospects', could add more teeth to the Guidelines and ease enforcement. Further, while the Guidelines prescribe that complaints may be registered with the National Consumer Helpline, in the absence of clarity about the timeline for grievance redressal, the process of grievance redressal may not be efficient. However, the Guidelines are a step in the right direction and protect the interest of young students to ensure students are not misled.

- *Tanu Banerjee (Partner); Ishan Johri (Principal Associate) and Akriti Sirsalewala (Associate)*

For any queries please contact: [editors@khaitanco.com](mailto:editors@khaitanco.com)