

# Technology Law Analysis

June 16, 2022

## GUIDELINES ON MISLEADING ADVERTISEMENTS AND ENDORSEMENTS NOTIFIED UNDER THE CONSUMER PROTECTION ACT, 2019

### BACKGROUND

On 9<sup>th</sup> June 2022, the Central Consumer Protection Authority (“CCPA”)<sup>1</sup> notified Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 (“Guidelines”)<sup>2</sup> exercising its powers under Section 18 of the Consumer Protection Act, 2019 (“CPA, 2019”).<sup>3</sup> The Guidelines aim to “provide for the prevention of false or misleading advertisements and making endorsements relating thereto”. The Guidelines have come into effect from 9<sup>th</sup> June 2022 itself.

The Guidelines clarify when an advertisement is not likely to be a “misleading advertisement”, clarify how disclaimers in advertisements must be used and introduce restrictions/obligations in relation to “bait advertisement”, “surrogate advertisement” and “free claim advertisements”. The Guidelines also introduce restrictions in relation to advertisements targeting or using children. Due diligence obligations for endorsers have also been introduced.

The key compliances apropos the Guidelines have been discussed below. The businesses and advertising agencies may require businesses to revisit their advertising strategies.

### KEY PROVISIONS OF THE GUIDELINES AND CONCERNS

#### 1. Applicability and Scope

The Guidelines are applicable to:

- all advertisements regardless of form, format or medium<sup>4</sup>;
- a manufacturer, service provider or trader whose goods, product or service is the subject of an advertisement, or to an advertising agency or endorser whose service is availed for the advertisement of such goods, product or service.<sup>5</sup>

From the above, it appears that the Guidelines only seek to impute liability on the advertiser<sup>6</sup> of a product or service or the advertising agency<sup>7</sup> of the advertisement and not the platform which merely publishes the advertisement. In any event, Section 21(6) of the CPA, 2019 provides that no person will be liable to a penalty under Section 21 (which deals with penalties against false or misleading advertisements) with respect to an advertisement if such person proves that they had published or arranged for the publication of such advertisement in the ordinary course of their business. However, the proviso to this section clarifies that no defence will be available to such person if he had previous knowledge of the order passed by the CCPA for withdrawal or modification of such advertisement.

#### 2. Conditions for a Valid Advertisement and Disclaimers

The Guidelines prescribe various conditions for an advertisement to be constituted as valid and not misleading in nature.<sup>8</sup> Some of the factors are listed below:

- The advertisement must be truthful and honest representation<sup>9</sup>;
- There must be no exaggeration of the accuracy, scientific validity or practical usefulness of the good or service<sup>10</sup>;
- It must not present any rights conferred to consumers by law as a distinctive feature of advertiser’s offer<sup>11</sup>;
- It must not suggest such claims made to be universally accepted if there is scientific opinion pertaining to the same<sup>12</sup>;
- It must not mislead about the nature of risk to consumers’ or their family’s personal security if they fail to purchase the advertised goods<sup>13</sup>;
- It must ensure that claims based merely on content of publication are not misleading<sup>14</sup>;
- It must ensure compliance with other sector specific laws and the rules/regulations made thereunder.<sup>15</sup>

Further, the Guidelines try to account for bona-fide mistakes by carving out situations where the advertisement is considered to be invalid due to occasional and unintentional lapse in fulfilment of an advertised promise/claim while

## Research Papers

### Compendium of Research Papers

January 11, 2025

### FAQs on Setting Up of Offices in India

December 13, 2024

### FAQs on Downstream Investment

December 13, 2024

## Research Articles

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

### Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

### The Revolution Realized: Bitcoin's Triumph

December 05, 2024

## Audio

### Securities Market Regulator’s Continued Quest Against “Unfiltered” Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What’s New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### “Investment return is not enough” Nishith Desai with Nikunj Dalmia (ET Now) at FI18 event in Riyadh

October 31, 2024

### Analysing SEBI’s Consultation Paper

## Scope of judicial interference and inquiry in an application for appointment of arbitrator under the (Indian) Arbitration and Conciliation Act, 1996

September 22, 2024

carrying out mass manufacture and distribution of goods.<sup>16</sup> To avail such exemptions, the advertiser must be able to demonstrate that: (a) the promise or claim is capable of fulfilment by a typical specimen of the product advertised<sup>17</sup>; (b) the proportion of product failures is within the generally acceptable limits<sup>18</sup>; (c) the advertiser has taken prompt action to make good the deficiency to the consumer.<sup>19</sup>

The Guidelines also provide how disclaimers should be used in advertisements.<sup>20</sup> A disclaimer in advertisements can be used to clarify a claim<sup>21</sup>; make such qualifications to resolve ambiguities<sup>22</sup>; but should not contradict any material claims of the advertisement<sup>23</sup>, hide any information regarding any claim<sup>24</sup>, or attempt to correct any misleading claim made in the advertisement.<sup>25</sup>

Additionally, visual placement and presentation of disclaimers within advertisements, need to adhere to the following requirements<sup>26</sup>:

- follow the same language and same font as of the claim in the advertisement<sup>27</sup>;
- placement of the disclaimer should be in a prominent and visible place on the packaging and ideally on the same panel of the packaging as that of the claim<sup>28</sup>;
- In case of advertisements with a voice-over, the disclaimer should be displayed in sync with the voice over, if any, and should be at the same speed as that of the original claim made in the advertisement<sup>29</sup>;
- The disclaimer should be clear, prominent and legible which makes it clearly visible to a normally sighted person reading from a reasonable distance at a reasonable speed.<sup>30</sup>

### 3. Conditions for Bait Advertisements

The Guidelines define a “bait advertisement” as “an advertisement in which goods, product or service is offered for sale at a low price to attract consumers.”<sup>31</sup> While bait advertisements are not expressly prohibited under the Guidelines, certain conditions must be met in relation to such advertisements.<sup>32</sup>

A bait advertisement should ensure that it does not entice consumers to purchase goods, products or services without the prospect of selling them at the prices offered.<sup>33</sup> Further, the advertiser should ensure adequate supply of goods and services to meet the foreseeable demand.<sup>34</sup> This requirement to meet “foreseeable” demand is subjective as it is not clear how an advertiser will determine what the demand could be. When issuing such advertisements, advertisers may need to make an internal note of what they foresee as the demand and ensure that adequate supply to meet such foreseeable demand is met. This may help should there be any investigation.

The Guidelines further state that in case of limited availability, such advertisement must state the reasonable grounds for the advertiser’s inability to supply the advertised goods or services.<sup>35</sup> The advertisement must also clearly specify any additional conditions potentially affecting the demand<sup>36</sup>, supply<sup>37</sup> or availability<sup>38</sup> of such goods or services including but not limited to geographic restrictions<sup>39</sup> and age-limit.<sup>40</sup> Lastly, bait advertisements must not mislead the consumers about present market conditions and induce them into purchasing the advertised goods or services at conditions less favorable than normal market conditions.<sup>41</sup>

It is often noted that marketplace platforms, advertise about discounts available on their platforms e.g Diwali Sale, end of season sale etc. Such advertisements should have appropriate disclosures in compliance with these requirements.

### 4. Free Claims Advertisements

“Free claims advertisements”<sup>42</sup> are defined as advertisements which claim certain goods or services to be offered for free or without charge to the consumers. The Guidelines lay down a negative list of the situations where a good or service cannot be advertised as being offered for free, such as when:

- a. the consumer has to pay anything other than the unavoidable cost of responding to such advertisement and delivery of such goods or services<sup>43</sup>;
- b. the consumer has to pay for packing, handling or administration of such goods or services<sup>44</sup>;
- c. the cost of response including the price of goods or services to be purchased has been increased<sup>45</sup>; or
- d. the quality or quantity of goods or services that consumer must purchase to avail the offer has been reduced.<sup>46</sup>  
Similarly, an element of a package cannot be advertised as free if its price is included in the package’s price.<sup>47</sup>
- e. The term “free trial” cannot be used in cases where a non-refundable purchase is required.<sup>48</sup>

### 5. Children Targeted Advertisements

The Guidelines specifically highlight certain preemptive norms to be followed for all advertisements that addresses, targets or uses children.<sup>49</sup> Under the Guidelines, child has been defined as a person who has not completed eighteen years of age.<sup>50</sup> The Guidelines prohibit any type of content that is likely to influence children towards a dangerous or unhealthy behaviour or that may otherwise harm a child’s mental or physical wellbeing. The Guidelines, *inter alia*, stipulate specific rules such as:

- Children targeted advertisements should not condone, encourage, or inspire any behavior that could be dangerous for children.<sup>51</sup>
- Such advertisements must not take advantage of a child’s inexperience, credulity or sense of loyalty<sup>52</sup> and

- The advertisements must not exaggerate the features of advertised goods or services to create an unrealistic expectation of the same.<sup>53</sup>
- The advertisement must not imply that the children are likely to be ridiculed or made feel inferior to others or will become less popular or disloyal if such advertised goods or services are not purchased.<sup>54</sup>
- Advertisements entailing health or nutritional claims enhancing intelligence or physical abilities cannot be published without substantiation of adequate scientific evidence by a recognized body.<sup>55</sup>
- No advertisement should condone any practice that may be detrimental to children's mental or physical wellbeing.<sup>56</sup>
- A specific provision has been included prohibiting the feature of personalities from the fields of sports, cinema or music to advertise any goods or services which requires a health warning or generally cannot be purchased by children.<sup>57</sup>

While the overall intent behind drafting this segment is laudable as it directly shoots down all advertisements that may develop a negative body image in children<sup>58</sup>, there are some provisions which may be considered unreasonably stringent.

For instance, Section 8(3) of the Guidelines disallow advertisements for junk foods including chips, carbonated beverages or such other snacks/drinks from being telecasted during a program meant for children or on a channel exclusively meant for children.<sup>59</sup> The term "junk food" has not been defined and remains open to interpretation. In 2020, the Food Safety and Standards Authority of India (FSSAI) has issued the *Food Safety and Standards (Safe Food and Balanced Diets for Children in School) Regulations, 2020*<sup>60</sup> to promote healthy eating habits. While these regulations also did not define "junk food", it required school authorities to ensure that "food products high in saturated fat or trans-fat or added sugar or sodium" is not sold within the school premises or campus.<sup>61</sup>

Advertisements of such foods within the school premises or campus are also prohibited.<sup>62</sup> Businesses may consider this as a guiding principle when determining what constitutes junk food.

While these Guidelines appear to govern conduct of the advertiser, etc., it is possible that this provision will be used to bring complaints against television channels, digital platforms if such channels/platforms allow advertisements pertaining to junk food.

The Guidelines also stipulate that any advertisement which offers promotional gifts to persuade children to buy goods, product or service without necessity or promotes illogical consumerism shall be discouraged.<sup>63</sup> This provision, once again, uses terms like "illogical consumerism" "without necessity" which are subjective thresholds. The CCPA may consider amending the Guidelines or adding explanations to the rules giving some fact scenarios that are acceptable under these Guidelines as guiding principles.

While actual liability can only be determined basis the unique facts of each case, it can be safely concluded that advertisers and advertising agencies must now tread carefully before publishing any advertisement aimed at/using children.

## 6. Prohibition of Surrogate Advertising

The Guidelines define a surrogate advertisement as "*an advertisement for goods, product or service, whose advertising is otherwise prohibited or restricted by law, by circumventing such prohibition or restriction and portraying it to be an advertisement for other goods, product or service, the advertising of which is not prohibited or restricted by law.*"<sup>64</sup> The Guidelines explicitly prohibit surrogate advertisements or indirect advertisements.<sup>65</sup> However, the Guidelines do contain some exceptions when such advertising may be allowed.

No advertisement can be made for any goods or services otherwise restricted under law by circumventing such prohibition and portraying it to be an advertisement for other goods and services not barred by law.<sup>66</sup> The Guidelines set out two scenarios to characterize an advertisement as "surrogate" or "indirect" in nature –

- If such advertisement directly or indirectly advertises goods or services barred by law<sup>67</sup>; or
- If such advertisement uses any brand name, logo, layout, colour, and presentation associated with the advertisement of goods or services forbidden under law.<sup>68</sup>

The Guidelines do provide an exception to what will be considered "surrogate advertisement". As per the Guidelines, a "*mere use*" of the identical brand name which may also be applied to market goods or service whose advertising is restricted shall not be considered as surrogate advertisement or indirect advertisement, if it is not otherwise objectionable as per the provisions set out in the Guidelines.<sup>69</sup> The use of the words "mere use" in the proviso gives the CCPA sufficient leeway to subjectively analyze each case to ascertain if a piece of content qualifies as "*mere use*" or something more than mere use. It will be interesting to see how the CCPA proceeds to examine such cases when they come up for deliberation in the future and we will have to wait till the jurisprudence on this matter evolves.

## 7. Duties of manufacturer, service provider, advertiser and advertising agency

The Guidelines list the duties of manufacturers, service providers, advertisers, and advertising agencies (collectively "**Entities**").<sup>70</sup> It is significant to note that marketplaces, platforms and other intermediaries have been kept out from the clutches of this provision. As a part of their duties, the Guidelines mandate the Entities to make sure that the advertisements:

- indicate the source and date of independent research<sup>71</sup>;
- do not contain any reference to a person, firm or institution in a manner which confers an unjustified advantage on the product so advertised<sup>72</sup>;

- do not ridicule or disrepute such person, firm or institution<sup>73</sup>;
- do not contain statements or visual representations that are likely to mislead the consumer about the goods or services advertised<sup>74</sup>;
- do not abuse the trust of consumers or exploit their lack of experience or knowledge.<sup>75</sup>

However, the section includes a *proviso* that allows puffery stating that any obvious untruths or exaggerations intended to merely amuse or catch the attention of consumers as long as they are clearly perceived as humorous or hyperbolic and do not implicate any literal or misleading claims for the advertised goods or services.

While Section 12 allows some degree of puffery, as stated above, Section 8 dealing with children targeted advertisements prohibits any advertisements that exaggerates the features of goods, product or service in such manner as to lead children to have unrealistic expectations of such goods, product or service. Thus, it appears that when children are involved, no puffery may be allowed, or at least advertisers will have to be more careful to ensure compliance with Section 8.

## 8. Due Diligence required for Endorsements

The Guidelines define an endorser<sup>76</sup> as “an individual or a group or an institution making endorsement of any goods, product or service in an advertisement whose opinion, belief, finding or experience being the message which such advertisement appears to reflect.”

This definition appears wider than the definition of influencer under the 2021, *Guidelines for Influencer Advertising in Digital Media*, issued by the Advertising Standards Council of India (“ASCI”) (“ASCI Guidelines”).<sup>77</sup> The ASCI Guidelines defines influencer as someone who “has access to an audience and the power to affect their audiences’ purchasing decisions or opinions about a product, service, brand or experience, because of the influencer’s authority, knowledge, position, or relationship with their audience”.

Under the ASCI Guidelines, an “influencer” was required to have access to an audience and the power to affect such audiences’ decisions which could be considered high thresholds. However, as per the definition of an “endorser” under the Guidelines, establishing such influence is not required. It is enough to show that the relevant person’s experience, opinion etc. is being reflected in the advertisement. Therefore, the Guidelines will apply to a larger section of persons appearing in/publishing advertisements whose “opinion, belief, finding or experiences” forms part of the message in the advertisement.

The Guidelines lay down the requirement of conducting due diligence for endorsers.<sup>78</sup> As background, Section 21 of the CPA, 2019 tethers liability on endorsers of false and misleading advertisements unless they are able to establish that they have undertaken due diligence to verify the veracity of the claims before endorsing the same.<sup>79</sup> The CPA, 2019 does not provide what “due diligence” must be undertaken.

The Guidelines now appear to provide some insight on the level of due diligence required. As per the Guidelines, any endorsement in an advertisement must reflect the genuine, reasonably current opinion of the individual, group or organization making such representation and must be based on adequate information about, or experience with, the identified goods, product or service and must not otherwise be deceptive.<sup>80</sup> In order to limit any liability that may emerge in the future, endorsers must be careful and conscious about the statements they make while endorsing such goods or services.

It is unclear how this provision will apply if the endorser in an advertisement is a child. The child’s guardian/parent who has entered into the agreement on their behalf to appear in the advertisement may need to conduct relevant due diligence to ensure compliance with this provision.

Another point to be noted is that ASCI is a self-regulatory body, and the codes and guidelines released by the ASCI are only binding on members of ASCI and not binding under law for most modes of advertising including internet/digital advertising. The Guidelines however are mandatory compliances under law. Failure to comply could result in levying of a penalty under the provisions of CPA, 2019 as discussed below.

## 9. Disclosure of Material Connection

Section 14 of the Guidelines obligates the endorsers to fully disclose any connection they may have with the trader, manufacturer, or advertiser which might materially affect the endorsement’s value, credibility, or reliability.<sup>81</sup> It is crucial to note that the ASCI Guidelines<sup>82</sup> define “material connection” to include monetary compensation, free products, discounts, gifts, trips or hotel stays, awards, media coverage, an offer of employment, among others. This threshold may be used as a guiding principle by CCPA when determining what needs to be disclosed under the Section 14 of the Misleading Advertisements Guidelines.

This provision becomes important as celebrities or influencers may hold some percentage of stake in the brands they endorse, which may drive their opinions on the goods and services promoted under those brands. The duty to disclose such stakes in the brands helps in keeping a tab on the extent of influence exercised by the brands on the endorser’s reviews and also helps in determining the authenticity of such endorsements.

## 10. Offences and Penalties

The CCPA can exercise powers for investigation and enforcement as provided under Section 18 of the CPA, 2019 against violation of consumer rights, unfair trade practices, misleading ads etc.<sup>83</sup> On basis of an investigation, if the CCPA is of the opinion that there is sufficient evidence to show violation of consumer rights or existence of any unfair trade practices, it has the authority under Section 20 of CPA, 2019<sup>84</sup> to pass necessary orders including:

- Recalling of dangerous, hazardous, or unsafe goods or services<sup>85</sup>;
- Reimbursement of the prices of goods and services so recalled<sup>86</sup>;

c. Discontinuation of practices which are unfair and prejudicial to consumers' interests.<sup>87</sup>

Additionally, if the CCPA is satisfied upon investigation that any advertisement is false or misleading in nature, it may, by order, issue directions to the concerned manufacturer, trader, advertiser, advertising agency, or service provider to discontinue such advertisement or to modify the advertisement.<sup>88</sup> Further, the CCPA may impose a penalty which may extend to 10 lakh rupees in respect of such false or misleading advertisements by manufacturers or endorsers.<sup>89</sup> For every subsequent contravention, the CCPA may impose a penalty extending to 50 lakh rupees.<sup>90</sup>

Further, as per Section 89 of the CPA, 2019, any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers may be punished with imprisonment for a term of up to two years and with fine which may extend to ten lakh rupees. Every subsequent offence is punishable with imprisonment for a term of up to five years and with fine which may extend to fifty lakh rupees. Cognizance of any offence under Section 89 can be taken by a competent court only upon receipt of a complaint from the CCPA or an officer designated by the CCPA.<sup>91</sup> Therefore, a complaint for penal action cannot be initiated by a consumer.

Offences under Section 89 are compoundable offences.<sup>92</sup>

As against endorsers who have been found guilty, the CCPA may, by order, prohibit the endorser of a false or misleading advertisement from endorsing any product or service for a period extending to one year<sup>93</sup> which may, on subsequent contraventions, be increased to three years.<sup>94</sup> However, Section 21(5) clarifies that an endorser will not be subject to a penalty if they have exercised due diligence to verify the veracity of the claims made in the advertisement regarding the product or service being endorsed by them.<sup>95</sup>

Any person aggrieved by an order passed by the CCPA under Section 20 and Section 21 may file an appeal to the National Commission within a period of thirty days from the date of receipt of such order. An appeal from an order of the National Commission will lie before the Supreme Court.<sup>96</sup>

## TAKEAWAY

While the Guidelines are a positive step toward empowering consumers and fostering an ecosystem free of misinformation and false claims, there is a risk of multiple proceedings arising from complaints filed under the CPA, 2019, ASCI Code, and other sector-specific laws and regulations such as laws prohibiting advertisements with respect to alcohol, cigarettes, etc.

Further, some of the provisions of the Guidelines contain subjective terms which will remain open to interpretation. This could also result in multiple complaints. Entities may benefit from formulating internal thresholds with respect to puffery and some of the other aspects covered in the Guidelines, especially, children targeted/using children. Further guidance from the CCPA in the form of explanations in the Guidelines itself will be helpful for entities to form their internal policies regarding their own advertising standards.

— Raashi Vaishya, Aparna Gaur, Indrajeet Sircar & Gowree Gokhale

You can direct your queries or comments to the authors

---

<sup>1</sup> The CCPA has been established under the CPA, 2019 (Section 10) to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class.

<sup>2</sup> Available at: <https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/CCPA%20Notification.pdf>

<sup>3</sup> Section 18 of the CPA grants CCPA the power to issue necessary guidelines to prevent unfair trade practices and protect consumers' interest.

<sup>4</sup> Section 3(a) of the Guidelines

<sup>5</sup> Section 3(b) of the Guidelines

<sup>6</sup> The Guidelines have inserted the definition of an "advertiser" to mean "a person who designs, produces and publishes advertisements either by his own effort or by entrusting it to others in order to promote the sale of his goods, products or services and includes a manufacturer and service provider of such goods, products or services;"

<sup>7</sup> The Guidelines define an "advertising agency" as "a person or an establishment providing services in designing and production of advertisements or other related services for a commission or fee;"

<sup>8</sup> Section 4 of the Guidelines

<sup>9</sup> Section 4(1)(a) of the Guidelines

<sup>10</sup> Section 4(1)(b) of the Guidelines

<sup>11</sup> Section 4(1)(c) of the Guidelines

<sup>12</sup> Section 4(1)(d) of the Guidelines

<sup>13</sup> Section 4(1)(e) of the Guidelines

<sup>14</sup> Section 4(1)(f) of the Guidelines

<sup>15</sup> Section 4(1)(g) of the Guidelines

<sup>16</sup> Section 4(2) of the Guidelines

<sup>17</sup> Section 4(2)(a) of the Guidelines

<sup>18</sup> Section 4(2)(b) of the Guidelines

<sup>19</sup> Section 4(2)(c) of the Guidelines

<sup>20</sup> Section 11 of the Guidelines

<sup>21</sup> Section 11(1)(a) of the Guidelines

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> Section 11(1)(b) of the Guidelines

<sup>25</sup> Section 11(1)(c) of the Guidelines

<sup>26</sup> Section 11(2) of the Guidelines

<sup>27</sup> Sections 11(2)(a) and (b) of the Guidelines

<sup>28</sup> Section 11(2)(c) of the Guidelines

<sup>29</sup> Section 11(2)(d) of the Guidelines

<sup>30</sup> Section 11(2)(e) of the Guidelines

<sup>31</sup> Section 2(1)(d) of the Guidelines

<sup>32</sup> Section 5 of the Guidelines

<sup>33</sup> Section 5(a) of the Guidelines

<sup>34</sup> Section 5(b) of the Guidelines

<sup>35</sup> Section 5(c) of the Guidelines

<sup>36</sup> Section 5(c)(i) of the Guidelines

<sup>37</sup> Ibid

<sup>38</sup> Section 5(c)(ii) of the Guidelines

<sup>39</sup> Section 5(c)(iii) of the Guidelines

<sup>40</sup> Ibid

<sup>41</sup> Section 5(d) of the Guidelines

<sup>42</sup> Section 7 of the Guidelines

<sup>43</sup> Section 7(a) of the Guidelines

<sup>44</sup> Section 7(c)(i) of the Guidelines

<sup>45</sup> Section 7(c)(ii) of the Guidelines

<sup>46</sup> Section 7(c)(iii) of the Guidelines

<sup>47</sup> Section 7(d) of the Guidelines

<sup>48</sup> Section 7(e) of the Guidelines

<sup>49</sup> Section 8 of the Guidelines

<sup>50</sup> Section 2(1)(e) of the Guidelines defines "child" as child as defined in clause (12) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) where a "child" is defined as a person who has not completed eighteen years of age.

<sup>51</sup> Section 8(1)(a) of the Guidelines

<sup>52</sup> Section 8(1)(b) of the Guidelines

<sup>53</sup> Section 8(1)(c) of the Guidelines

<sup>54</sup> Section 8(1)(e) of the Guidelines

<sup>55</sup> Section 8(1)(o) of the Guidelines

<sup>56</sup> Section 8(1)(d) of the Guidelines

<sup>57</sup> Section 8(1)(i) of the Guidelines

<sup>58</sup> Section 8(2)(a) of the Guidelines

<sup>59</sup> Section 8(3) of the Guidelines

<sup>60</sup> Available at:  
[https://www.fssai.gov.in/upload/uploadfiles/files/Gazette\\_Notification\\_Safe\\_Food\\_Children\\_07\\_09\\_2020.pdf](https://www.fssai.gov.in/upload/uploadfiles/files/Gazette_Notification_Safe_Food_Children_07_09_2020.pdf)

<sup>61</sup> Section 3 of the Food Safety and Standards (Safe Food and Balanced Diets for Children in School) Regulations, 2020

<sup>62</sup> Section 5 of the Food Safety and Standards (Safe Food and Balanced Diets for Children in School) Regulations, 2020

<sup>63</sup> Section 8(4) of the Guidelines

<sup>64</sup> Section 2(1)(h) of the Guidelines

<sup>65</sup> Section 6 of the Guidelines

<sup>66</sup> Section 6(1) of the Guidelines

<sup>67</sup> Section 6(2)(a) of the Guidelines

<sup>68</sup> Section 6(2)(b) of the Guidelines

<sup>69</sup> Proviso to Section 6(2) of the Guidelines

<sup>70</sup> Section 12 of the Guidelines

<sup>71</sup> Section 12(b) of the Guidelines

<sup>72</sup> Section 12(c) of the Guidelines

<sup>73</sup> Ibid

<sup>74</sup> Section 12(d) of the Guidelines

<sup>75</sup> Section 12(e) of the Guidelines

<sup>76</sup> Section 2(1)(f) of the Guidelines

<sup>77</sup> See <https://www.nishithdesai.com/SectionCategory/33/Media-Hotline/12/38/MediaHotline/4713/1.html> for our analysis on the ASCI Guidelines

<sup>78</sup> Section 13 of the Guidelines

<sup>79</sup> Section 21(5) of CPA, 2019

<sup>80</sup> Section 13(1) of the Guidelines

<sup>81</sup> Section 14 of the Guidelines

<sup>82</sup> ASCI Guidelines for Influencer Advertising available at:<https://ascionline.in/images/pdf/guidelines-for-influencer-advertising-in-digital-media-final.pdf>

<sup>83</sup> Section 18 of CPA, 2019 sets out the powers and functions of the CCPA.

<sup>84</sup> Section 20 of CPA, 2019 lays down the power of the CCPA to pass necessary orders as may be required.

<sup>85</sup> Section 20(a) of the CPA, 2019

<sup>86</sup> Section 20(b) of the CPA, 2019

<sup>87</sup> Section 20(c) of the CPA, 2019

<sup>88</sup> Section 21(1) of the CPA, 2019

<sup>89</sup> Section 21(2) of the CPA, 2019

<sup>90</sup> Proviso to Section 21(2) of the CPA, 2019

<sup>91</sup> Section 92 of the CPA, 2019

<sup>92</sup> Section 96 of the CPA, 2019

<sup>93</sup> Section 21(3) of the CPA, 2019

<sup>94</sup> Proviso to Section 21(3) of the CPA, 2019

<sup>95</sup> Section 21(5) of the CPA, 2019

<sup>96</sup> Section 67 of the CPA, 2019

---

## DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.