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Product Endorsement by Celebrities and Implementation of Endorsement Laws in India

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ABSTRACT

Celebrity endorsement is an advertising strategy having great power which is used to promote brands in the market space. Celebrity endorsement refers to a claim by a celebrity or someone of authority that a product is good thereby certifying such product as a must use.

Before we form an opinion about whether the celebrity is liable or not it would be pertinent to identify the problem. The reason for the fault in the product can be either the hygiene issues in the manufacturing factory and the other would be that the product probably has not been tested enough and its side effects have occurred after prolonged use. It can be clearly said that in the first instance the celebrity can't be held liable, but in the second case celebrity can be held liable. But again how far can a celebrity test a product?

The celebrity endorsement can be a valuable boost to companies who want a push in brand awareness or gain higher returns. It is not just stars, actors, singers, cricketers and celebrities of all kinds and sports persons are roped into endorse food products, health supplements, personal care products, beverages and what not. Celebrities symbolize knowledge, belief, and aspiration in the eyes of consumers. Their mass appeal to attract target customers earns them huge endorsement amount and the consumers are too preoccupied to give much thought, so they go to the stores and purchase it blindly. They have a notion that if a product is good enough for the star, it is good enough for them.

Keywords: Juvenile, Delinquency.

I. INTRODUCTION

Juvenile Celebrity endorsement is an advertising strategy having great power which is used to promote brands in the market space. Celebrity endorsement refers to a claim by a celebrity or someone of authority that a product is good thereby certifying such product as a must use.

Before we form an opinion about whether the celebrity is liable or not it would be pertinent to identify the problem. The reason for the fault in the product can be either the hygiene issues in

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the manufacturing factory and the other would be that the product probably has not been tested enough and its side effects have occurred after prolonged use. It can be clearly said that in the first instance the celebrity can't be held liable, but in the second case celebrity can be held liable. But again how far can a celebrity test a product?

The government must engage with the advertising fraternity, clients, and experts to formulate a set of guidelines for celebrities to follow.

II. CELEBRITY

Celebrity or Famous Personality is related to the verb celebrate, which means to commemorate anything with the appropriate ritual. Celebrity is directly derived from the Latin word called *celebritatum*, which means famous. Celebrity is a state of fame and widespread public recognition of a person or group as a result of the media's focus on them. Nowadays, we use the term "celebrity" to describe actors, athletes, politicians, and even people who are connected to other celebrities. The term "celebrity" can also refer to fame itself.

Top sectors such as Hair care, Household products, Personal Healthcare, Food, Beverages, Tobacco, Shoes, Clothing and many more sectors are there which are using celebrity for endorsement. Famous Brands like Ugg is endorsed by Tom Brady, Blue Apron by Chrissy Teigen, FabfitFun by Gina Rodriguez, Living proof by Jennifer Aniston, Keds by Taylor Swift are few international celebrities who are involved in endorsing few of the products.² In India famous celebrity like Akshay kumar, Amitabh Bachhan, Alia Bhat, M,S Dhoni, Vidya Balan, Shah rukh Khan, Ajay Devgan, Kriti Sanon, Shraddha Kapoor and many more other celebrities are endorsing different products such as Electrical Appliances, Tobacco, Personal healthcare and many more.³

The companies are interested in involving celebrities as it will help in promoting of the product, helps in raising of awareness about the issues and will also promote that particular brand or service. They basically use the celebrities for advertising campaign and marketing strategy to mark their existence in the market. Celebrities are used as endorser by the marketers as they believe that the celebrities positive image will help the brand to grow and it well also influence the consumers. Celebrities are used by non-profit groups as well since they frequently appear in the media, which reaches a larger audience and helps them in raising funds.

² Amanda Tarlton, 10 Products Celebrities endorse that are actually worth buying, (18.12.2022), <https://www.reviewed.com/lifestyle/features/10-products-celebrities-endorse-actually-worth-buying>.

³ Akshay Kumar is the most visible brand endorser; M S Dhoni endorses maximum number of brands: TAM Report, (18.12.2022), <https://www.medianews4u.com/akshay-kumar-is-the-most-visible-brand-endorser-ms-dhoni-endorses-maximum-number-of-brands-tam-report>.

According to (Piyush, 2012), a firm that decides to employ a celebrity has a choice of using the celebrity as;

(a) TESTIMONIAL: This is when the celebrity has personally used the product or service and is in a position to confirm its quality.

(b) ENDORSEMENT: In this technique, celebrities offer their names to ads for products or services which they may or may not have any slim idea about the product.

(c) ACTOR: A celebrity may be asked to present a product as part of character enactment rather than personal testimonial. This might appear in a movie or a public place or environment.

According to Friedman and Friedman, a "celebrity endorser is an individual who is known by the public for his or her achievements in areas other than that of the product class endorsed". Compared to other endorser types, famous people always attach a greater degree of attention, recall and loyalty.

Brands due to the celebrities gain a lot of recognition as well as bad name. Few of the advantages are Instant brand Awareness, Brand Positioning, attracts new consumers, Personality Transfer, Define and refresh brand image and Influences consumer purchase. Few of the disadvantages includes Overshadowing, Overexposure, and Image Change. Along with this the celebrities also gain Positive popularity, Income, and fame. When a celebrity will endorse the product, it will build credibility and trust on that product, it will also help in entering and opening in the market and along with the help of the celebrity that product will stand out in the market. People will start using that brand as their favourite celebrity is endorsing it. While doing endorsement the celebrity might lose their proper image and it is expensive also as the company has to pay pretty small junk of money to the celebrity to endorse their product.⁴

Celebrity endorsement is a powerful advertising tactic that is utilised to advance brands in the marketplace. A celebrity or other authoritative figure recognising a product as good and essential for use is known as a celebrity endorsement.

Celebrity endorsement has grown significantly in Asian and African Continent as a crucial promotional strategy used by the advertisers to persuade customers about their well-known product. In the eyes of consumers, using a celebrity endorsement is the most effective technique to get their attention when compared to a non-celebrity featured commercial. Discussions about these celebrity sponsorships has become a routine between clients and agencies.

⁴ Kali Kraft, The pros and Cons of Celebrity Endorsements, (18.12.2022), <https://baerpm.com/2018/01/02/pros-cons-celebrity-endorsements>.

It is crucial to establish the issue before we decide whether the famous person is at fault. The product's flaw may have been because of sanitary problems in the production facility or a lack of adequate testing, which may explain why adverse effects only manifested after a lengthy use. It is obvious that while a celebrity is endorsing a particular brand it cannot be made accountable in the first situation, they may be made liable in the second. Set of Guidelines should be made by the government for the Advertising company, celebrity endorsing that brand and clients for a smooth running of the market.

When a consumer goes shopping, the products he chooses to buy are typically affected by opinion leaders. A group of people known as opinion leaders are those who consumers look to for validation before making a purchase. Opinion leaders vary from product to product that the consumer wants to buy and are typically persons like your neighbours, pharmacist, or hairstylist. These people would be more knowledgeable than the typical consumer regarding a good or service. As a result, they are crucial in influencing how consumers perceive a given good. In order to influence consumers decision, marketers and businesspeople converted celebrities into these opinion leaders, particularly at the national and international levels. Celebrity endorsement is the development of a relationship between a brand and a powerful person whose personality "fits" with the brand and appeals to the target market. The celebrity may promote the product in a variety of ways, such as through social media posts, media mentions, or appearances in commercials. Celebs like Bipasha Basu or Hrithik Roshan are mostly approached for any fitness brand advertisement. For example, Sports shoes called Easytone was launched by Reebok which declared that the calf muscles can be toned upto 11% just by wearing these shoes. Later on, it was found that the claim made by the shoe company was false. This brand was endorsed by Bipasha Basu and the company also faced consequences for showing deceptive advertisement.⁵

III. CASE STUDY ON A FAMOUS CASE: MAGGI CASE

Nestle owned an international brand, named Maggi since the post-independence. Julius Maggi was the founder of this company since 1872. Maggi was known for its instant noodles, instant soups, soups, ketchups, and sauces. This company bagged famous celebrities who had great influence on the society like Pretty Zinta, Madhuri Dixit and Amithab Bachhan for endorsing this infamous brand called Maggi. For past 12 years Pretty Zinta and Amithab Bachhan are

⁵ Yashodhara Hennayake, Effectiveness of Celebrity Endorsement: A review on related concepts and Empirical Applications, (19.12.2022), 319135835_Effectiveness_of_Celebrity_Endorsement_A_Review_on_Related_Concepts_and_Empirical_Applications.

endorsing this advertising campaign of Maggi which is “Me and meri maggi-2 minutes mein khushiyan” and Madhuri Dixit was endorsing Oats Maggi. Since inception Maggi has been consumed by each person in their respective households and Maggi was very infamous throughout the country as consumers were addicted to the taste of this brand. It contains labelling that states, "No added MSG" (monosodium glutamate), and the manufacturers also asserted that the lead concentrations were frequently verified and checked in well recognised certified labs. But few years back Nestle had to go through a huge controversy because of the FSSAI. When samples were tested by the authorities it was seen that the product contained excessive lead (17.2ppm) than the permissible limit (2.5ppm) and were also charged for mislabelling with regard to monosodium glutamate (MSG) content on its product which is regarded as unsafe for health, its presence in blood in high levels may cause lead poisoning, which can cause severe mental and physical impairment in a person. It adversely affects the brain, causes nausea, chest pain, affects the development process, weaken the bones, causes kidney failure, affects the learning abilities in the children and it is also harmful for pregnant ladies. According to the Food Safety and Standards Rules, 2011, MSG is a “flavour enhancer” that is found to be harmful for our health. It is mandatory for all the companies to mention on the packaging if MSG has been added. After this case immediately few countries such as New Delhi, Gujarat, Tamil Nadu, Uttarakhand, Jammu & Kashmir, Andhra Pradesh and Assam government banned Maggi. As the celebrities lead public lives, these celebrities are ought to have exercised caution before accepting their endorsements without first verifying them. They ought to have known that they had a bigger moral and personal duty and that is why they have a big social impact. However, according to FSSAI, it is illegal for anybody to make a misleading claim regarding a product's effectiveness or nutritional worth without offering any supporting evidence. A FIR against the celebs for supporting Maggi had been filed with the Bihar court. However, in practise, these regulations have little impact on these celebrities because they will always find a workaround, and they are unable to make up for the harm that Maggi consumption has caused to customers' wallets and health. Due to ban on Maggi other competitive products like SunFest Yippie gained a lot of popularity among the people as consumers shifted from Maggi to SunFest. After the ban was removed in year 2015 Maggi tried to get back the trust of their honest consumers by focusing on the safety and standards of the product rather than on celebrity endorsement. It was seen that the product has already lost its value and people were consuming this product as they were influenced by the celebrities. The celebrities should consider FSSAI certificate as a prerequisite to endorse it and they can also seek the assistance from Advertising Standards Council of India (ASCI), a self-regulatory voluntary organization

of the advertising industry to verify whether the ad is in alignment with the ASCI code and laws of the country. In this way, they bear responsibility for maintaining both their reputation and the community's safety. Therefore, since a brand ambassador's main responsibility is to raise client's knowledge on that particular product, he/she is endorsing, they shouldn't mislead them with inaccurate data or figures. People frequently purchase a particular good solely because their favourite celebrities recommend them. As a result, this demonstrates that they are more accountable and responsible. Consumers trust and belief on their favourite celebrity makes them buy those products which is endorsed by their favourite celebrity. For safeguarding the interest of the consumers at large it is the responsibility of the celebrities to verify all the required guidelines and make sure that they are not endorsing such brands which may mislead the public at large.⁶

Regarding the accountability of the celebrities who are the brand ambassadors of the "Maggi", as per the Consumer Affairs official Gurucharan, "brand ambassadors and retailers who sold Maggi with knowledge about their side effects would be liable for action, if FSSAI identified irregularities. India is a land of people well known for their love of stars. They always want to be like them to the extent of idolizing. The celebrities in India are the role models for many and results in following the trends of their dressing, styles, habits and preferences. Courts in Muzaffarpur and Barabanki on ordered FIRs against Madhuri Dixit, Amitabh Bachchan and Preity Zinta for endorsing Maggi. According to the Gurucharan, "They would be liable for action if the advertisements are found to be misleading. It becomes a misleading advertisement if it is found that the product does not have the attributes that the manufacturer professed and if the brand ambassador has promoted that product and said specifically that the product has those attributes, they are also certainly liable for action.

IV. LEGAL FRAMEWORK WITH RESPECT TO ENDORSEMENT OF CELEBRITY

Certain guidelines for celebrities were set by the ASCI Code (or "Code") by the Advertising Standards Council of India. According to these rules, assertions made in celebrity endorsements cannot be deceptive, untrue, or unsupported. The rules stated that celebrities should be aware of the Code and reiterated that it was the advertiser's and the advertising or other agency's responsibility to inform the celebrities aware of guidelines. In order to verify the accuracy of their claims, the Code also required the celebrities to perform adequate due diligence on the claims and statements they made about the good or service they were endorsing.

⁶ Dr. P. Balasubramanian, Anjalu V. Gopal and S Reefana, Case Study on Misleading Celebrity Endorsements and its impact on Consumer Behaviour, (19.12.2022), <https://journals.indexcopernicus.com/api/file/viewByFileId/399576.pdf>.

However, with modifications to the 30-year-old Consumer Protection Act, 1986 that were adopted in August 2019, India's stance on deceptive advertising and celebrity endorsements has gained strength. Penalties can be imposed on the endorsers who make false ads as per the new The Consumer Protection Act of 2019 (CCPPA 22001199). The Central Authority under the Act may require the removal or adjustment of a deceptive or false advertisement that is harmful to consumers' interests or violates their legal rights as per The Consumer Protection Act of 2019 under section 21. The penalty can start from 10 Lakh rupees to 50 Lakh rupees and jail up to 5 years for subsequent contraventions for false or misleading advertisement and the Central Authority can impose it on the endorser as well as ban the endorser for one year or up to three years for every subsequent contravention as per The Consumer Act of 2019.

However, the endorsers' only defence to help themselves avoid the penalties under the Consumer Protection Act, 2019 is to demonstrate that they took reasonable steps to confirm the accuracy of the statements made in the advertisement regarding the good or service they were endorsing. The negotiations and wording of contracts between celebrities and such companies/brands should be altered with the help of modifications. Lawyers for celebrities will demand specific statements from the brands on product quality as well as compliance with laws governing product advertisement because the celebrities will now bear more responsibility and liability than they did before the amendment.⁷

In addition, celebrities will ask brands for strong indemnity clauses to pay any future fines and legal fees they could face. It will also be interesting to examine how the legal framework governing the level of care that public figures must exercise develops over time. All things considered; it is reasonable to predict that this will increase the cost of celebrity endorsement deals in the future. These changes will also make sure that businesses and public figures are more cautious about the goods and services they recommend and the claims they make. The Consumer Protection Act 2019 will therefore assure greater consumer protection overall because it reiterates the idea that the consumer is king, which was the motivation of the Act in the first place.

As per The Consumer Protection Authority (Prevention of Misleading Advertisements and Necessary Due Diligence for Endorsement of Advertisements) Guidelines 2022 the Union government has notified stricter norms related to mass advertising in print, television, and social media. Surrogate advertisement such as advertisement related to consuming Liquor and

⁷ India-Celebrity Endorsements And Liability under the Consumer Protection Act,2019,(20.12.2022), <https://conventuslaw.com/report/india-celebrity-endorsements-and-liability-under>.

chewing tobacco companies are banned as per the new framework. This 2022 guidelines also deal with the explicit definition of what constitute “fair and valid advertisements”. The new rules target celebrity endorsements which may be unlawful, ads that can be detrimental for children, and surrogate advertising. Consumer Affairs Secretary Rohit Kumar Singh stated that “There are already provisions to handle misleading ads, but the new guidelines make them more explicit and clearer to the industry, so the advertisement agency, celebrity and the lawyer knows what exactly the framework.” “Specific due diligence” should be the basic requisite which has to be followed by the celebrity endorsing any product. The new guidelines say that “The endorsement must be based on adequate information about, or experience with the identified goods, product or service” and this rule specifically came when gaming apps, gambling apps and tobacco was endorsed by very influential actors and cricketers. As they have great influence in the society consumers will also start following them. Additional secretary in the consumer affairs ministry Nidhi Khare stated that “An important aspect is whether celebrities endorsing products have made due diligence and enquiry about a product or a service to which they are using their celebrity status or image. Who is a celebrity? this word is not defined in the guidelines the term is understood to be well recognised or famous person such as an actor or sportsperson. A celebrity is generally recognised to be a well-known or renowned person, such as actors or sports figures, even though the standards do not define the term.

Only when an advertisement satisfies a set of requirements outlined in the new regulations only then it will be deemed legitimate and not deceptive. A few examples of these are "truthful representations" that do not "exaggerate accuracy, scientific validity, or practical utility, capability, or performance."

According to the laws, an advertisement should not hide the material information about products or services, including risks associated with their usage, and cannot promote legal rights that consumers already have as a distinguishing feature of the product.

The new regulations prohibit surrogate advertising, a method in which a vendor advertises a product that is not permitted by passing it off as another product. Such actions are frequently used in liquor advertisements, often in the pretence of selling soda, CDs, or even holiday packages.

The new guidelines of 2022 also say that “No surrogate advertisement or indirect advertisement shall be made for goods or services 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 and services the advertising of which is not prohibited by law.”

According to the officials it was quoted in the second case, that the government has taken a significant number of actions against a variety of products, including paints and shirts, that allegedly demonstrated Covid-protection quality.

A representative for the Advertising Standards Council of India stated, "We have been working closely with the Consumer Affairs Ministry and a co-regulation model will work better to improve standards of consumer advertising."⁸

V. CONCLUSION

Celebrity endorsement can be a valuable boost to companies who want a push in brand awareness or gain higher returns. It is not just stars, actors, singers, cricketers and celebrities of all kinds and sports persons are roped into endorse food products, health supplements, personal care products, beverages and what not. Celebrities symbolize knowledge, belief, and aspiration in the eyes of consumers. Their mass appeal to attract target customers earns them huge endorsement amount and the consumers are too preoccupied to give much thought, so they go to the stores and purchase it blindly. They have a notion that if a product is good enough for the star, it is good enough for them.

When the advertisement, which the celebrities are featuring is found to be misleading or lying about something with regard to the product, the question arises with respect to whether these celebrities should be made accountable? Yes, the Celebrities should be made liable. Because if they cannot vouch for a credibility of certain product then they should not vouch for it.

By definition, the word 'endorse' means that 'I support it and I back it'. So, by endorsing a particular product the celebrities are agreeing to give their support and accepting that product. Therefore, the influence of misleading celebrity endorsements on the consumer behaviour plays an enormous role.

So celebrities have to possess a sense of moral and ethical responsibility while endorsing any product whether it is consumable or otherwise. Celebrity should do due diligence to ensure that all description, claims and comparisons made in the advertisements they appear in or endorse are capable of being objectively ascertained and capable of substantiation and should not mislead or appear deceptive.

⁸ Celebs liable for misleading ads: New Rules, (20.12.2022), <https://www.hindustantimes.com/india-news/celebs-liable-for-misleading-ads-new-rules-101654885245666.html>.