

Dispute Resolution Hotline

February 21, 2019

COMPARATIVE ADVERTISEMENTS VS. PRODUCT DISPARAGEMENT: WALKING THE THIN LINE

This article was originally published on 6th February, 2019 in Master Class column of



SUMMARY:

With fast-paced competition, every brand wants to be in the evoked set of consumer's brand and hence, Companies often resort to comparative advertising in order to grab consumer attention. Companies use comparative advertisements to promote, compare and highlight the superiority of its product with that of the competitor. However, in doing so, there is a tendency to cross the line and stray into the realm of product disparagement.

In this article (to access click [here](#)), we inter alia discuss two recent judgments on the permissibility of comparative advertisements published by Amul (against Kwality) and Complan (against Horlicks).

We have provided a precedential backdrop w.r.t. the evolution of jurisprudential principles, thereby deliberating on the thin, yet shifting lines between comparative advertisement and product disparagement. The courts now appear to acknowledge the flexibility that an advertiser ought to be permitted to exaggerate the strengths of a product and indulge in puffery as long it's not misleading, unfair, deceptive and falsely disparages a rival product or even a class of products.

– Puja Saha & Siddharth Ratho

You can direct your queries or comments to the authors

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.

Research Papers

Taxing Offshore Indirect Transfers in India

February 28, 2025

Unlocking Corporate Philanthropy

February 27, 2025

Digital Health in India

February 26, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

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

Audio

CCI's Deal Value Test

February 22, 2025

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

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

SIAC 2025 Rules: Key changes & Implications

February 18, 2025

How Cross Border M&A Will Shape

