

State Consumer Helpline Knowledge Resource Management Portal
(SCHKRMP)
(A National Nodal Agency)

Ref.No. IIPA/SCHKRMP/Medical/2014-15
Dt. 08/03/2016

Sub: Misleading and Unethical advertisement of Sensodyne Toothpaste- endorsing product by Doctors in violation of Indian Medical Council Regulations, 2002 and not substantiating their claims in the advertisement

Dear Shri *Sastri*,

A complaint against an advertisement of Sensodyne Toothpaste was made before Advertising Standard Council of India (ASCI) vide letter No. IIPA/SCHKRMP/Medical/2014-15 dtd. 22/09/2014. The advertisement of Sensodyne Toothpaste is in violation of Indian Medical Council (Professional, Conduct, Etiquette and Ethics) Regulations 2002 issued under the Indian Medical Council Act, 1956. A copy of the said complaint is attached for ready reference. Sensodyne is continuously violating the Indian Code both in TV media as well as print media. A copy of the latest advertisement appearing in The Times of India dtd. 05/03/2016 is attached for perusal.

Advertising Standard Council of India vide email dtd. 08/10/2014 has intimated that the complaint has not been upheld by CCC with a conclusion that the **“depiction of dentist in the TVC referred to as a practising doctor in UK” was not found objectionable**. It has been further stated that **“The dentists being shown in the advertisement are not India based”**.

The attention of Department of Consumer Affairs was also drawn vide letter ref. No. **IIPA/SCHKRMP/Medical/2014-15 dtd. 08/10/2014** (copy attached for ready reference). As brought out in our complaint to ASCI as well as Department of Consumer Affairs that under Sec 6.1.1 of the Indian Medical Council (Professional, Conduct, Etiquette and Ethics) Regulations 2002, ***a physician shall not give to any person, whether for compensation or otherwise, any approval, recommendation, endorsement, certificate, report or statement with respect of any drug, medicine, nostrum remedy, surgical or therapeutic article, apparatus or appliance or any commercial product or article with respect of any property, quality or use thereof or any test, demonstration or trial thereof, for use in connection with the name, signature, or photograph in any form or manner of advertising through any mode nor shall be boast of cases, operations, cures or remedies or permit the publication or report thereof through any mode.***

The advertisement of tooth paste being endorsed by Dr. Niharika Gulati and Dr. Nisha Farma therefore violates the code of Indian Medical Council. There are several Doctors from UK endorsing the product “Sensodyne Toothpaste”. Now the question arises whether the professional ethics are applicable to only Indian Doctors practising in India or it could be applicable to the advertisements aired in India depicting Indian Doctors practising outside India. The pertinent point irrespective of whether the action can be taken or not against the practicing Medical Professional, would be whether the product can be advertised on various electronic and print media for Indian Consumers. The advertisement by Sensodyne by the practising professionals is banned in UK and India is being covered by aggressive product endorsement by Indian Doctors practising in UK. Before we address the issue of practising Doctors are in India or outside India, it seems to be clear that the advertisement is based on the certificate/endorsement of the product by a medical professional and hence the advertisement could be categorized into an unethical /unprofessional advertisement misleading the consumers about endorsement of the product by a Doctor.

In our view the following points are pertinent to the advertisements;

1. The role of Dr. Niharika Gulati, Dr. Nisha Farma endorsing toothpaste for sensitivity violates the code for medical professional.
2. If the advertisement has been through endorsement by professional Doctors (irrespective of originality of the Doctors) in violation of the code of the regulations, the advertisement itself becomes violative of the respective regulations. T
3. In view of point No. 2 above, therefore the advertisement being aired by e-media for Indian Consumers becomes violative of the respective regulation of our country.
4. Shri S.K.Virmani, Project Manager (SCHKRMP) has requested Sensodyne to substantiate their claims of "80-90% doctors recommending Sensodyne toothpaste". The request was made to the company on 28/01/2015 and 29/04/2014 (reminder). The company just acknowledged the mails on 28/01/2015 and 05/05/2015 respectively. However, no further documents have been provided.
5. The company seems to be using Indian Doctors practising in UK for endorsing the product for Indian market in violation of Indian Code of Ethics for medical professional to avoid any penal action against the Doctors under the provisions. Whether the penal action can be taken or not but the advertisements in violations of the rules of Indian Authorities could be considered to be banned like in UK.

ASCI has also not taken note of decision of Advertising Standards Authority, UK stating that the Sensodyne advertisers have broken the rules by implying dentists recommended their product. **"The Advertising Standards Authority ruled that Colgate Palmolive and GlaxoSmithKline breached the spirit of rules which ban references to dentists approving or expressing preferences for any product or ingredient."**

In view of foregoing, the advertisement being aired in Indian channel as well as print media is in violation of Indian Medical Council Regulations 2002 and therefore there is a need for:

6. To ban the said advertisement of Sensodyne being aired by Indian TV Channels and print media till the advertiser removes the endorsement part of the dentists.
7. To refer the case to Indian Medical Council to take appropriate action against the said doctor endorsing the product for Indian Market. Merely the ground that the said doctor is practising in the UK may not be allowed to be supporting the advertisement for Indian market and violating the law of the land.

Department of Consumer Affairs may like to take up the issue appropriately with appropriate authorities.

Regards

Yours sincerely

Suresh Misra

(Prof. Suresh Misra)
Project Director

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