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SC ON SELF-DECLARATION BY ADVERTISERS

On May 7, 2024, the Supreme Court (“SC”), in the *Indian Medical Association* case,¹ mandated issuance of a self-declaration by the advertiser or advertising agency before an advertisement is printed, aired or displayed (“**Declaration**”), to protect consumers from misleading advertisements.

Overview

The Declaration was mandated as a part of Rule 7 of the Cable Television Networks Rules, 1994, during an ongoing writ proceeding before the SC against Patanjali Ayurved Limited for advertising and publishing ‘misleading claims’ about ayurvedic products.

The SC observed that although mechanisms exist under the Guidelines for Prevention of Misleading Advertisements and Endorsements of Misleading Advertisements, 2022 (“**Guidelines**”), robust mechanism to ensure to adhere to the Guidelines by advertisers is absent.²

While issuing the Declaration, the SC held that: “[A]dvertisers/ advertising agencies and endorsers are equally responsible for issuing false and misleading advertisements” and it is imperative for them to act with responsibility while endorsing any product and take responsibility for the same.³

The Declaration must be uploaded by the advertiser/advertising agency on the ‘Broadcast Seva Portal’ (“**Portal**”) to be established by the Ministry of Information and Broadcasting (“**MIB**”) within four weeks from the judgement date. It also ruled that once the Portal is established, no advertisements shall be permitted to be run on the relevant channels, print media or internet without uploading the Declaration.

Conclusion

As per the press release issued on June 3, 2024, the MIB stated that the Portal⁴ was created on June 4, 2024, and the Certificate must be submitted by all advertisers and advertising agencies for all new advertisements published on or after June 18, 2024. It also provides exceptions from the Declaration for classifieds (not directly relating to consumer products/services), personal advertisements, statutory advertisements, public information notices, tenders, and advertisements related to public functions.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

This is not legal advice and must not be treated so. For any clarifications, please contact us at: info@counselence.com. Past issues of *Counselence Connect* are available at the ‘Newsletters’ page of our website (www.counselence.com).

¹ *Indian Medical Association v. Union of India*, 2024 LiveLaw (SC) 381.

² Paragraphs 22 and 23 of the Judgement.

³ Paragraph 21 of the Judgement.

⁴ Self-Certification for Advertisers on the Broadcast Seva Portal is accessible [here](#).