

Dispute Resolution Hotline

February 21, 2019

COMPARATIVE ADVERTISEMENTS VS. PRODUCT DISPARAGEMENT: WALKING THE THIN LINE

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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

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