



## Brands – Role & liability of celebrity endorsers

The marketing and advertising industry has grown as an organised industry using innovative ideas, which are designed to engage the aspirations of the viewers and form a bond with the public.

Today majority of the brands, irrespective of the category of products or services, seek prominent celebrities to endorse the brand and through celebrity endorsements attach themselves to the reputation and familiarity associated with the celebrity. In essence, the equity attached with the celebrity's name is extended to the brand endorsed by it and enhances the brand's value by leaps and bounds. For instance, the endorsement of a special variant of cornflakes by the famous Indian actor Deepika Padukone allows millions of viewers to instantly associate with the product, drawing assurance from representation that an actor of such repute lost weight by consuming the said product. Similarly, in the advertisement for instant noodles, Madhuri Dixit, a renowned Indian actor and mother of two children, claimed health benefits of particular noodles while offering the same to her on-screen children – imparting a sense of assurance with respect to the quality of the product to millions of viewers. Consequently, obtaining celebrity endorsements and producing advertisements featuring prominent celebrities praising the products is one of the most successful modes of marketing.

The relationship between these celebrity endorsers and the manufacturers/producers of such goods is governed by the endorsement contract executed between the two parties, which generally indemnify the celebrities of any liability incurred with respect to such commercials/advertisements. Hence, these endorsers, being prominent figures in their respective industries/fields, are often seen promoting, consuming and recommending varied range of products, including fast food items, health/energy drinks and other consumables claiming high nutrient value, health benefits and other superior characteristics. The veracity or truthfulness of such claims is generally immaterial and the endorsers are free to make any claim or statement about the product as suggested by the producers notwithstanding the fact that the endorsers may not have used the product as claimed in the advertisement.

There are various laws in India, which regulate the content of advertisements and impose liability on manufacturers and producers for misleading advertisements, however none of them cast any direct liability of the endorser. The current law namely (i) Consumer Protection Act, 1986; (ii) The Food Safety and Standards Act of India (FSSAI) and (iii) the Advertising Standards Council of India (ASCI) Code all prohibits unfair trade practices including misleading advertisements; false claims about the nutritional value or efficacy of the product without providing any scientific justification; but none actually put any onus on the celebrity endorsing the product. In November 2012, FSSAI issued notices to 38 brands, directing the brands to withdraw their misleading advertisements, which falsely claimed that the benefits of consumption of their products were proven by research, leaving the celebrities endorsing the product out from the whole issue.

On the other hand, in countries like USA, the law imposes restrictions on celebrities prohibiting them from endorsing products they haven't personally used and making false claims or misrepresentations. In India, however, there is no such law which establishes restrictions on the celebrities as regards their endorsements or requires them to even have used the product themselves before endorsing it. In essence, conduct of the celebrities in connection with brand endorsements and featuring in advertisements is to a great extent unregulated under law.

Thus, in the absence of any law or regulation, the celebrities are free to portray anything under the sun being totally oblivious of the effect of their endorsed product leaving the responsibility solely on the government authorities to regulate and monitor the quality and standard of products being offered in the market and to prescribe rules and regulate the content of advertisements. However, in light of Nestle India's controversy wherein its instant noodle was banned by the Food Safety and Standards Authority of India (FSSAI), - the statutory body responsible for

