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# Brands face higher costs for celebrity endorsements

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NEW DELHI

**F**ashion photographer and film producer Atul Kasbekar, known for his Kingfisher Calendar shoots, has been busy making calls to lawyers after a parliamentary panel on Tuesday suggested that celebrities be held accountable for the brands they endorse.

Kasbekar hasn't been seeking advice for himself but for a bunch of celebrities managed by his company Bling Entertainment Solutions Pvt. Ltd. Among them are Bollywood actors Sonam Kapoor, Farhan Akhtar, Shruti Haasan and Vidya Balan, and cricketer Yuvraj Singh.

In its recommendations, the parliamentary panel said that if ads which show celebrities endorsing a brand are found to be misleading, the brand ambassadors could be fined as much as ₹50 lakh or given a jail term of up to five years.

Even though the Bill is yet to be formalized, the proposal has sent shivers down the spines of the brand endorsement indus-

# Celebrity endorsements set to get more expensive for brands



GETTY IMAGES

**Brand trouble:** M.S. Dhoni recently resigned as the brand ambassador of realty firm Amrapali Group after residents of a housing society launched a protest against the builder, highlighting the cricketer's endorsement, on social media.

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Once implemented, the new rules could impact the way the business of brand endorsements is conducted in India.

Experts in the business say that new clauses could find their way into the endorsement contracts, that brand ambassadors could start charging more and a new insurance scheme could become the industry norm.

"Holding celebrities accountable for endorsement does not make any sense. But if the government makes it a law, the only thing that we can do is to find ways to protect celebrities who can be easy targets," said Kasbekar. "Insurance is inevitable. So is an additional clause (in the contract) to reinforce protection measures."

By insurance, Kasbekar means "legal expenses insurance" or "professional liability insurance"—products that are common in markets like the US.

These insurance schemes, usually availed when a celebrity signs an endorsement contract with a brand owner, cover legal expenses, litigation charges, out-of-court settlements (if required), and also presumptive loss of brand value of the celebrity in case of a future litigation.

"All future endorsement contracts are bound to include this where the brand owners pay the insurance premium. For the

existing ones, we'll have to look for a way out, considering that they are close-ended contracts. We may, however, suggest them to avail insurances on their own, if that is legally permitted," explained Kasbekar.

The existing endorsement contracts will have to be restructured if the law is enforced, said Shailendra Singh, joint managing director at Percept Ltd. Percept has managed brand deals for filmstars Amitabh Bachchan, Shah Rukh Khan, Hrithik Roshan, Priyanka Chopra, Katrina Kaif and Kareena Kapoor, and cricketer Sourav Ganguly.

"All these contracts already have clauses of obligation (that take care of celebrities). Celebrities actually have an easy way out as they can further draft the contract to include (a clause that) they are in no way responsible for the product and its quality standards. They already have a legal way out," said Singh, adding that celebrities are likely to renegotiate and restructure their existing contracts. "Insurance, if that offers a safeguard, is bound to be included in the new contracts. We'll obviously suggest to our clients to consider this seriously," he said, adding that the government risks complicating the existing system of celebrity brands endorsement contracts even further.

Ashni Parekh, a Mumbai-based media and entertainment lawyer who has given legal sup-

port to a number of Bollywood actors, including Saif Ali Khan, Priyanka Chopra, Sushmita Sen and blockbuster films like *3 Idiots*, *Love Aaj Kal* and *Kaminey*, believes contracts will change because the celebrities will need stronger protection measures as the risk factors multiply.

"After the Maggi issue, celebrities became aware and they have already put in necessary clauses for protection in the endorsement deals," Parekh said.

The accountability of celebrity brand endorsers came into focus after Nestle India Ltd's Maggi Noodles, whose brand endorsers included Bollywood actors Amitabh Bachchan, Madhuri Dixit and Preity Zinta, was banned by the food regulator for allegedly containing excess lead and the additive monosodium glutamate.

The ban was later overturned by the Bombay high court.

Some celebrities have been criticized for endorsing brands that are alleged to have misled consumers. Recently, the Indian cricket team's limited-overs skipper M.S. Dhoni resigned as the brand ambassador of realty firm Amrapali Group after residents of a housing society launched a protest against the builder, highlighting the cricketer's endorsement, on social media.

Rhiti Sports, the firm managing Dhoni, declined to comment on the issue.

Anirban Das Blah, managing director of Kwan Entertainment

and Marketing Solutions Pvt. Ltd, which manages brand deals for actor Deepika Padukone, said that celebrities are already protected by a clause covering legal costs in case of a controversy.

"The celebrities have indemnity. The brands are legally liable for not lying—otherwise celebrities have a right to pursue litigation both in a civil and a criminal court. We don't want brands to lie. We say that there has to be civil and criminal liability," said Blah.

According to Sasikumar Adidamu, chief technical officer (non-motor) at Bajaj Allianz General Insurance Co. Ltd, there are products in the international markets that provide coverage for reputational risks and this cover could soon become a part of Indian insurance policies too. "So far, we have not received any request by brand ambassadors or celebrities for such a cover. However, in the future, it could be an important cover for celebrities," he added.

The company has sold professional liability insurance to medical practitioners, media persons and engineers, besides similar products to companies to safeguard directors.

The premium for these insurance covers is not high. For the director and officers, it ranges between 0.25% and 1% of the sum insured, while professional indemnity policy premium is around 0.4% to 2.5% of the sum insured and sometimes higher depending on the potential risk.

According to data available with Insurance Regulatory and Development Authority of India, the total premium for the liability-related insurance industry in India was ₹1,768 crore in the year ended 31 March.

Insurance products covering celebrities can be purchased by brand owners, or the company that manages the celebrity, or the celebrities themselves, said Adidamu.

K. Sanath Kumar, chairman and managing director of state-run general insurer National Insurance Co., didn't respond to calls.

"Prices of the celebrity contracts are bound to go up as they will include possible penalties and litigation charges. All these prices have to be borne by the brand itself," said Harsha Joshi, executive vice-president (group trading), Dentsu Aegis Network Ltd, a global media and digital marketing communication firm.

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