

PACKAGING AND LABELLING OF COSMETICS

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INTRODUCTION

Packaging and Labeling:

Packaging is an activity which includes designing and producing the container or wrapper of the product. Labeling involves providing verbal information about the product and the seller. Nowadays Packaging and Labeling has become very significant as it is being used as a marketing tool to attract the consumers. There are possibilities that sellers try to deceive and mislead the consumers through packaging and labeling. In order to prevent the exploitation of consumers and to standardize the bare minimum material information the government has enacted the Consumer Protection act, 1986. The Act outlines the six major rights of the Consumers. Out of which, 'Right to Information' and 'Right to Consumer Education' are the major rights which the sellers or manufacturers are supposed to keep in mind while Packaging and labeling their products. Packaging is also done from the point of view of creating a trademark for the products.

Cosmetics:

Definition of Cosmetic:

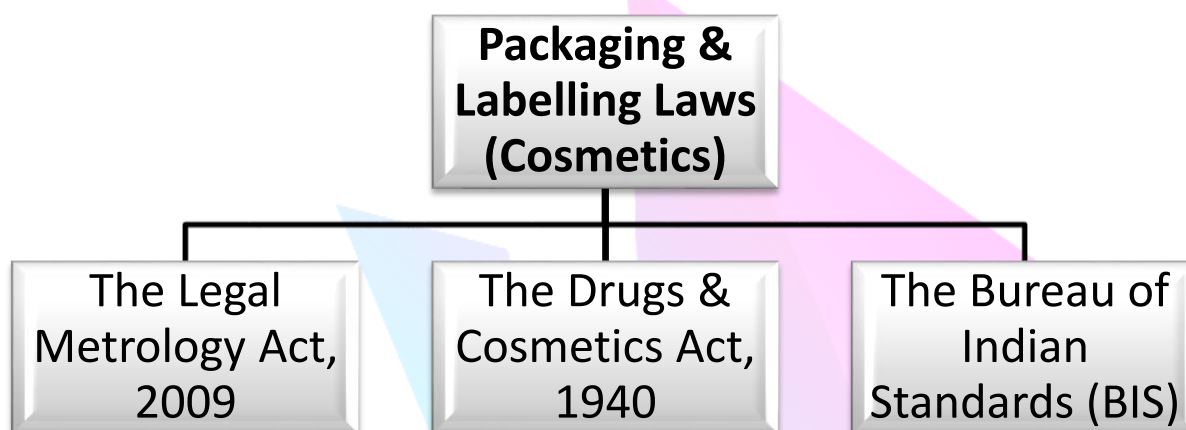
"Cosmetic" means any article intended to be rubbed, poured, sprinkled or sprayed on, or introduced into, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and includes any article intended for use as a component of cosmetic.¹

Initially soaps were not included in this definition, but later the words "but does not include soap" were omitted and soaps also started getting recognized in the category of Cosmetics.

¹Under section 3(aaa) of The Drugs and Cosmetics Act, 1940

LAWS APPLICABLE

Packaging and Labeling Laws applicable specifically in case of ‘Cosmetics’ are as follows:



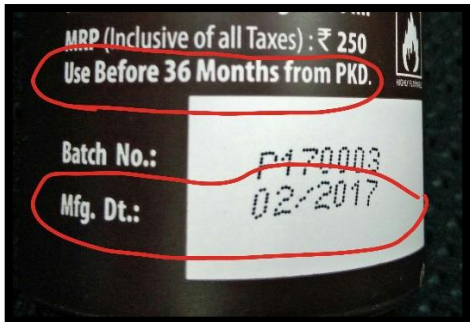


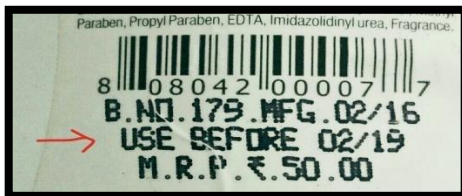
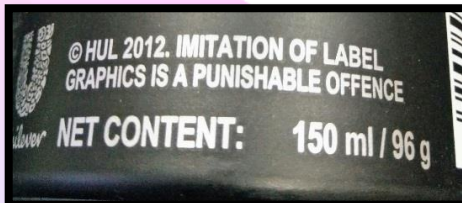
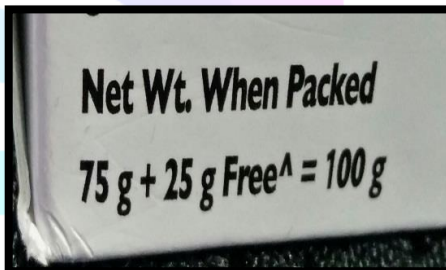
The Legal Metrology Rules, 2011 which was passed under section 52(2) of The Legal Metrology Act, 2009 provides for the general packaging rules for the packaged commodities. Since the key focus area of the study is ‘Cosmetics’, hence the relevant applicable laws are The Drugs & Cosmetic Rules 1945 passed under section 12 and 33 of the Drugs and Cosmetic Act, 1940 and supplementary labeling guidelines requirement as provided under relevant BIS². The BIS is national standards authority of India which formulate, recognize or promote the Indian Standards.

GENERAL REQUIREMENTS UNDER THE LEGAL METROLOGY (PACKAGED COMMODITIES) RULES, 2011 AND DRUGS & COSMETICS RULE 1945

The following table represents the general categories of labeling contents, manner of its declarations and the pictorial examples thereto:

²Toilet Soap- IS:2888, Toilet Soap liquid- IS 4199, Bathing Bars- 13498

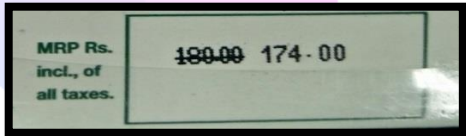

Categories	Manner of declarations	Examples
Common or generic name of the product.	<ul style="list-style-type: none"> Name of Cosmetics on both inner and outer labels If package has more than 1 product, name (and number of quantity) of each product to be mentioned on package. 	 <p><i>Yardley London Body spray for Men.</i></p>
Name & address of Manufacturer	<ul style="list-style-type: none"> On both inner and outer labels “Manufactured by....” Or “Packed by...” Name of the Manufacturer. Complete address of the premises where the product was manufactured Additionally, name and address of the packer or/and importer in relevant cases. If the size of the container is small- name + principal place of manufacture+ the pin code. 	 <p><i>Cinthol Deo Spray -Manufacturing and marketing address.</i></p>
Manufacture Date	<ul style="list-style-type: none"> Date of Manufacture, or Pre-packed or Import of commodity Rubber stamp can be used, but without overwriting. On both inner and outer label. 	

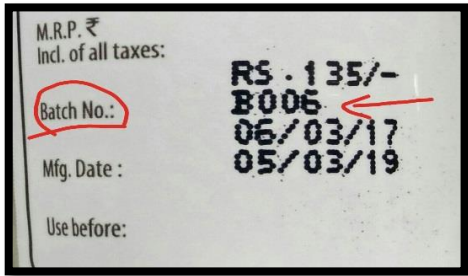
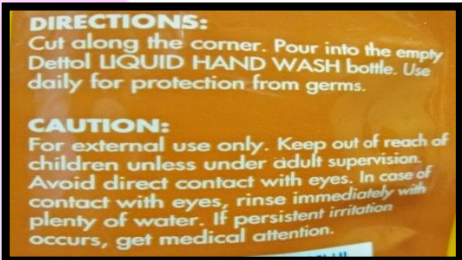
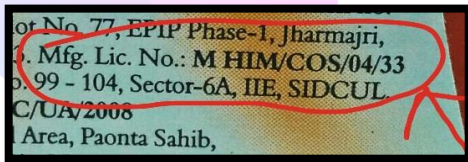
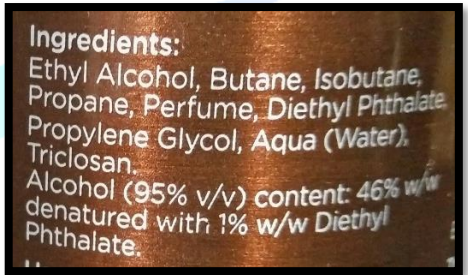
		<i>Fogg Body Spray</i>
Expiry date	<ul style="list-style-type: none"> • “Use before ... (Month and year)”- has to be labelled or the Expiry date.³ • On both inner and outer label. 	 <p><i>Ayur Cleansing Milk</i></p>
Net Quantity	<ul style="list-style-type: none"> • Standard unit of weight or measure • On outer Label. • Weight of wrappers/containers- excluded. • “Net Quantity”- if the commodity is not likely to vary on account of environmental conditions. • If likely to vary- “When Packed” • If package capacity is less than 10 cubic cm or less – quantity declaration to be made on tag, card, tape etc. • No Declaration required:- If the net content of the package of perfume, toilet water or the like, is less than 60 ml or 30 gm. 	 <p><i>AXE Deodorant Body Spray.</i></p>  <p><i>Pears Bathing Bar</i></p>

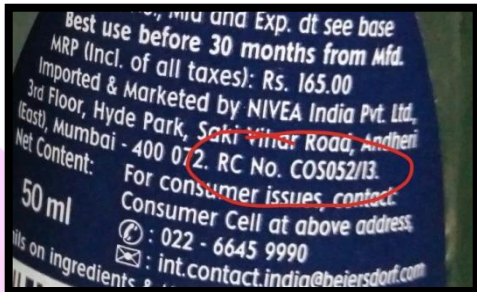
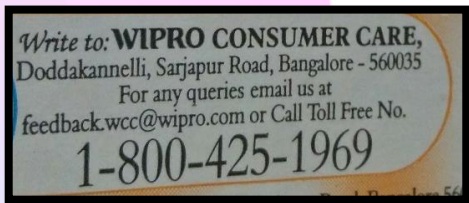
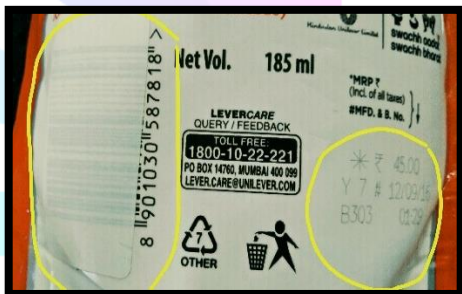
³“Use Before”- Not marketable/Sale



“Best before”- Quality may not be the same, but safe for consumption.

“Expiry date”- Cannot be used.

	<ul style="list-style-type: none"> • Area surrounding the quantity declaration should be free from printed information. (Rule 8(1) of LM (packaging rules, 2011) • The maximum permissible error, in excess or in deficiency should be as per Schedule one of L.M. (Packaging) Rules 2011. • In case of wholesale packages, the total number/ net quantity of retail package contained 	
Retail Sale Price	<ul style="list-style-type: none"> • Of the package. • Packages' containing alcoholic beverages or spirituous liquor – State Excise laws applies. • For reducing MRP, a sticker with revised MRP may be affixed inclusive of all taxes. • But such sticker should not cover the MRP declaration by manufacturer or packer on the package. 	 <p><i>Fiama Di Wills Gel Bar</i></p>  <p><i>Axe Deodorant Body Spray.</i></p>

Batch number	<ul style="list-style-type: none"> Batch number not required- If cosmetic is of 10 grams or 25 milliliters or less. Soaps- instead of batch number, the month and year of manufacture may be given. 	 <p><i>Santoor Body Deodorant</i></p>
Warning or Caution if hazard exists	<ul style="list-style-type: none"> On the inner label. Directions for sale use A statement of names and quantities of the hazardous or poisonous ingredients. 	 <p><i>Dettol Liquid Hand Wash</i></p>
Manufacturing License Number	<ul style="list-style-type: none"> Preceded by letter "M". 	 <p><i>Santoor Hand Wash</i></p>
Ingredients	<ul style="list-style-type: none"> Preceded by the word "INGREDIENTS" Ingredients present in concentration of more than 1% - listed in the descending order of weight/volume. Followed by- those in concentration of less than or equal to 1%, in any order. 	 <p><i>Ingredients of a Deodorant bottle in descending order of its volume</i></p>

	<ul style="list-style-type: none"> Not required to appear for the packs of less than 60 ml or 30 gm. 	
Registration Certificate Number (RCN)	<ul style="list-style-type: none"> Only the label of imported cosmetics should bear RCN of the product. The name and address of the registration certificate holder for marketing the said product in India. 	 <p><i>Nivea Men Deodorant</i></p>
Consumer Care Details	<ul style="list-style-type: none"> Name, address, telephone number, E-mail address Of the person who can be contacted in case of consumer complaints. 	 <p><i>Santoor Hand Wash</i></p>
Using Stickers	<ul style="list-style-type: none"> Not permissible for altering or making declaration. Except in the case of reducing MRP, but same should not cover the MRP declaration made by the manufacturer/ packer. 	 <p>(Bar code of individual packs are stickered)</p> <p><i>Lifebuoy Hand wash pouch- Offer Buy 2 @ Rs. 69/-</i></p>

Brown/Red or green dot	<ul style="list-style-type: none"> For the package of soap, shampoos, tooth pastes and other cosmetics and toiletries. Non-Vegetarian origin- Brown dot Vegetarian origin- Green dot. 	 <p><i>Roop Mantra- Neem&Tulsi Soap</i></p>
'Not a standard pack size under Legal Metrology(Packaged commodities) Rules, 2011'	<ul style="list-style-type: none"> Specific Cosmetics should be packed in the standard quantities as mentioned in the Second Schedule of the said rule. If packed in size other than that prescribed in the schedule, then it should be prominently labeled in the said manner. Value Based packages⁴ can be sold without complying with the Second Schedule. 	 <p><i>TriguniEze Eats- Rasa Vada</i></p>

DOS AND DON'TS WHILE MAKING THE DECLARATIONS

DOS:

- Declarations should appear on Principal Display Panel
- Should be legible and prominent
- Retail sale price and net quantity –painted, printed or inscribed in contrasting color.

⁴ Packages which are in terms of Re. 1/-, Rs. 2/-, Rs. 3/-, Rs. 4/-, Rs. 5/-, Rs. 6/-, Rs. 7/-, Rs. 8/-, Rs. 9/- and Rs. 10/-

- Declarations to be either in Hindi or English (in addition to this, other languages also allowed)
- If declarations are in the form of handwriting or hand-script, such declarations should be clear, unambiguous and legible.
- If only one label is present, such label should contain all the information required to be shown on both inner and outer labels.
- If there is an outside container or wrapper, it should also contain all the declarations.
- A label for making the declarations can be affixed on imported packages.
- If a commodity consists of number of components for the sale of a single commodity, all the declarations are required to be made on the main package or such declarations may be given on individual packages and intimation to that effect may be given on main package.

DON'TS:

- No person/ manufacturer is allowed to alter, obliterate or deface any inscription or make any mark on the container, label or wrapper of any cosmetic unless allowed by the Licensing Authority.
- The labeling or packaging of cosmetic should not convey any false or misleading claims.
- An export package cannot be sold in India unless the manufacturer or packer has re-packed or re-labeled the commodity.
- The Legal Metrology (Package Commodity) Rules 2011 do not apply to any package containing a commodity of net content less than or equal to 10 milliliter or 10 gram.
- If a commodity consists of number of components for the sale of a single commodity, then the components cannot be sold as spare parts unless all the declarations are given on individual package.

DATA ANALYSIS

For the purpose of analyzing the compliance of the said laws on the packaging and labeling of products, the following three categories of Soap (Cosmetics) were taken into consideration.

- Bathing Bar
- Toilet Soap
- Toilet Soap- Liquid

The packaging and labeling on the following brand of products under the above-mentioned categories were analyzed by looking into both the general requirements as per the rules and specific requirements under the Bureau of Indian Standards. The deviations were recorded and comments followed by the reasons, suggestions and solution were given.

Bathing Bars	Toilet Soap	Toilet Soap-Liquid
1) Pears 2) Fiam Di Wills 3) Chandrika	1) Godrej No. 1 2) Cinthol 3) Lux 4) Dettol 5) Lifebuoy 6) Santoor 7) Yardley	1) Santoor 2) Lifebuoy 3) Chandrika 4) Dettol

Table 1: General labeling requirements for Bathing Bars and Toilet Soap.

SOAPS ➔	Godrej No. 1	Cinthol	Lux	Pears	Fiam Di Wills	Dettol	Lifebuoy	Santoor	Chandrika	Yardley
GENERAL REQUIREMENTS ➔										
Common Name of the Product	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Name & Address	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Month & Year	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Net Quantity	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Price	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Batch Number	✗	✗	✗	✗	✓	✗	✗	✗	✗	✓
Warning	----	----	----	----	----	----	----	----	----	----
Manufacturing License No.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Ingredients	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
RCN	----	----	----	----	----	----	----	----	----	----
Name, address, telephone, email	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Dimensions	----	----	----	----	----	----	----	----	----	----
Stickers	----	----	----	----	----	----	----	----	----	----
Red/Green dot	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
“Not a std. Size...”	✗	----	----	----	----	----	✗	----	----	----

Table 2: Specific Labeling Requirements (BIS) for Bathing Bars

S. No.	SOAPS (Bathing Bars) ➔	Pears	Fiama Di Wills	Chandrika
	SPECIFIC REQUIREMENTS ↓			
1	Name of the product namely 'bathing --bar' in a conspicuous manner	✓	✓	✓

2	Manufacturer's name	✓	✓	✓
3	Brand name and recognized trade-mark, if any	✓	✓	✓
4	Net mass when packed	✓	✓	✓
5	Batch number or lot number in code or otherwise; wherever possible	✗	✓	✗
6	Year and month of manufacture	✓	✓	✓
7	A statement that the material has been tested for dermatological safety and found safe to human skin.	✓	✓	✓
8	The packages may also be marked with the Standard Mark	----	----	----

Table 3: Specific Labeling Requirements (BIS) for Toilet Soaps

S. No.	TOILET SOAPS → SPECIFIC REQUIREMENTS ↓	Godrej No. 1	Cinthol	Lux	Dettol	Lifebuoy	Santoor	Yardley
1	Brand name and recognized trademark, if any	✓	✓	✓	✓	✓	✓	✓
2	Grade of the material	✓	✓	✓	✓	✓	✓	✓
3	Net mass when packed	✓	✓	✓	✓	✓	✓	✓

4	Batch No. or Lot No. in code or otherwise	✗	✗	✗	✗	✗	✗	✓
5	Total fatty matter	✓	✓	✓	✓	✓	✓	✓
6	Any other ingredients	✓	✓	✓	✓	✓	✓	✓
7	The criteria for which the product has been labelled as ECG-Mark	----	----	----	----	----	----	----
8	Ingredients: Total fatty matter (TFM) and Water insoluble matter in descending order of quantity, percent by mass, for ECO-mark.	✗	✗	✗	✗	✗	✗	✗
9	The packages may also be marked with the Standard Mark.	----	----	----	----	----	----	----

Table 4: General Labeling Requirements for Toilet Soap- Liquid

HAND WASH ➔				
GENERAL REQUIREMENTS ⬇	Santoor	Lifebuoy	Chandrika	Dettol
Common Name of the Product	✓	✓	✓	✓
Name & Address of Manufacturer	✓	✓	✓	✓
Month & Year	✓	✓	✓	✓
Net Quantity	✓	✓	✓	✓

Retail Sale Price	✓	✓	✓	✓
Batch Number	✓	✓	✓	✓
Warning/Caution/Directions	✓	✓	✓	✓
Manufacturing License Number	✓	✓	✓	✓
Ingredients	✓	✓	✓	✓
RCN	----	----	----	----
Name, address, telephone, E-mail.	✓	✓	✓	✓
Dimensions	----	----	----	----
Stickers	----	----	----	----
Red/Green dot	✗	✗	✗	✗
“Not a std. Size...”	✓	✓	✓	✓

Table 5: Specific Labeling Requirements (BIS) for Toilet Soap- Liquid

HAND WASH ➔				
SPECIFIC REQUIREMENTS ⬇	Santoor	Lifebuoy	Chandrika	Dettol
Indication of the source of manufacture	✓	✓	✓	✓

Volume of the material	✓	✓	✓	✓
Batch No. or Lot No. in code or otherwise.	✓	✓	✓	✓
Year and month of manufacture	✓	✓	✓	✓
Ingredients-Total fatty matter (TFM) and Matter insoluble in alcohol in descending order of quality.	✗	✗	✗	✗
The packages may also be marked with the Standard Mark	----	----	----	----

OBSERVATIONS AND COMMENTS

Let us now look into the deviations observed and reasons behind such deviations, thereby cross-checking with the law on whether such deviations are legally valid or not.

a) Batch Number:

In the Table 1, 2 and 3 the Batch Number was seen only on the label of Fiana Di Wills and Yardley. Under the Drugs and Cosmetic Rules 1945, proviso clause of section 148(4) provides, *“in case of soaps, instead of batch number, the month and year of manufacture of soap shall be given on label”* Since the word ‘must’ is not mentioned in the language of the proviso clause, so it does not become mandatory to label Batch Number on the package of both Bathing Bars and Toilet Soap. Hence the provisions of the law have not been violated in this aspect.

b) Standard Quantity:

Another deviation was regarding the standard weight of Godrej No. 1 and Lifebuoy in Table 1. As per the Second Schedule of the Legal Metrology (Packaged Commodities)

Rules 2011, Bathing Soap and Toilet soap can be packed only in the quantities – “15g, 25g, 50g, 60g, 75g, 100g, 125g, 150g and thereafter in multiples of 50g” and if packed in the size other than this then a declaration must be given⁵. But no declaration was seen on the package of Godrej No. 1 and Lifebuoy. In this particular case, it cannot be called as deviation from the law because there is another side to these provisions, that is; about the value based products which can be sold in any of the sizes without any requirement of giving the declaration. In our case both Godrej No.1 and Lifebuoy are value based packs of @ Rs. 10/- each⁶, hence there has not been any violation of provisions.

c) Ingredients-Total fatty matter (TFM) and Matter insoluble in alcohol/water in descending order of quality:

In the Table 1 and Table 5 there was absence of the above two ingredients in descending order of their quantity, which is one of the specific requirements under BIS for Toilet Soap⁷. This deviation is allowed because these details are technical in nature and difficult for a common man to understand. Whenever such details are inquired by any individual, the Research and Development department of the product company readily provides for such details. But absence of such information in descending order is not the violation of law.

⁵**Section 5(1): Specific commodities to be packed and sold in recommended standard packages:**“The commodities specified in the Second Schedule shall be packed for sale, distribution or delivery in such standard quantities as are specified in that Schedule: Provided that if a commodity specified in the Second Schedule is packed in a size other than that prescribed in that Schedule, a declaration that 'Not a standard pack size under the Legal Metrology (packaged Commodities) Rules, 2011 or 'non-standard size under the Legal Metrology (packaged Commodities) Rules, 2011' shall be made prominently on the label of such package.”

⁶ **Section 5(3):** “Notwithstanding anything contained in the second schedule, the manufacturer or importer may sell the value based package in terms of Re. 1/-, Rs. 2/-, Rs. 3/-, Rs. 4/-, Rs. 5/-, Rs. 6/-, Rs. 7/-, Rs. 8/-, Rs. 9/- and Rs. 10/- after making the other declarations specified in rule 6.”

⁷ “Cosmetics industry fights notification on product tagging”; Deccan Herald; Available on: <http://www.deccanherald.com/content/432982/cosmetics-industry-fights-notification-product.html>
Accessed on: June 22nd 2017

d) Red/ Green Dot:

With respect to this section 6(8) Of the Legal Metrology (Packaging Rules) 2011 is considered *Sub Judice*. On 16th June 2014, a controversial notification⁸ was passed by the Department of Consumer Affairs under the Legal Metrology Act, 2009 and Legal Metrology (Packaged Commodities Rules, 2011) which made labeling of Red/ Green Dot on the package of Cosmetics compulsory. The Indian Beauty and Hygiene Association (IBHA) challenged the notification in the High Court of Bombay. On 9th November the High Court stayed the order directing the Metrology Authorities not to take coercive action against the companies. The Centre was asked to file a response by 5th November. In January 2016, the Consumer affairs Department even said that they will be holding a meeting to listen to the manufacturers and those pursuing mandatory display of such signs for consumers' convenience. Till now there are no updates on this matter, we can only wait to see that how the case goes and what would be the decision of the court and the government. Hence, as of now the absence of Red/Green Dot on the cosmetic products presently available in the market cannot be considered as violation of Law.

e) Absence of TFM in Toilet Soap- Liquid:

Even though we have taken into consideration the BIS requirements of 'Toilet Soap-Liquid' for Hand Wash, but none of the package of Hand wash products is labeled with the category of "Toilet Soap-Liquid", which implies that it's not mandatory to follow the BIS requirements for them. Hence non-soap based liquid Hand Wash falls into the ambit of proprietary products which means that it has no specific requirement category under BIS. Therefore, even if the manufacturer doesn't mention the quantity of TFM present as required by BIS (Toilet Soap- Liquid) on the package, it wouldn't be considered as a violation of law.

⁸**Section 6 (8):** Inserted through the notification vide GSR137(E) dated 16-6-2014, w.e.f. 1-7-2014: "Every package containing soap, shampoo, toothpaste and other cosmetics and toiletries shall bear at the top of its principal display panel a red or a brown dot for products of non-vegetarian origin and a green dot for products of vegetarian origin,"

CONCLUSION

On inferring from the observations, it's evident that the soap manufacturing companies have not violated any of the provisions of the Legal Metrology Act 2009 or the Drugs and Cosmetics Act 1940. Even though the deviations were seen in certain cases, but none of the deviations violated the laws. The whole thing was about how well the legal advisors of these companies have tweaked the law for balancing the interest of the companies as well as the consumers. Both the Laws along with the BIS requirements are supplement to each other and goes parallel to the Consumer Protection Act 1986.

In case of Hand Wash , there is no mention of the words “ Toilet Soap- Liquid” on the package of any brand of Hand Wash, because the companies don't want to follow the BIS requirement of including TFM which is a mandatory ingredient in case of ‘Toilet soap-Liquid’. Reason behind is TFM on being an expensive ingredient would have raised their cost of manufacture. Skipping such requirement is easy because till now it's not clear that Hand Wash falls into which category of the BIS requirements. This has helped in achieving twin fold objectives, firstly the manufacturers are able to produce cost effective Hand Wash without using TFM, and secondly the consumer's rights are still protected. Another example was when the company did not manufacture the soaps as per Standard weights, in which the law was tweaked by just labeling the product with the word ‘Value Pack’.

Regarding the controversial notification of mentioning red/Brown or green dot on the package of cosmetic, I believe that the cosmetic package must be labeled with such dots. No doubt the manufacturing companies will suffer loss as a result of this, but the law says that the balancing of the interest of manufacturers and consumers cannot be done by concealing the material information about the product. And here mentioning red/green dots are a part of material information.

The major loophole in the Laws with respect of packaging and labeling is that the Labeling requirements are mainly divided into two categories of ‘General and Specific requirements’ and not into ‘Mandatory and Optional requirements.’ This creates confusion when the packages of the products are small or the principal display area is less. It's obvious that the companies want the logo and brand name of their product to appear more prominent on the package from

the perspective of marketing and to create a strong consumer base. While doing this they end up reducing the labeling area on the package for legibly printing other mandatory requirements under the law. Hence in order to protect the rights of the Consumers' it has become a necessity to categorize the requirements as 'Mandatory and Optional requirements.'

