

RCD-15001/6/2021-Regulatory-FSSAI [E-1475]
Food Safety and Standards Authority of India
(A Statutory Authority established under the Food Safety and Standards Act, 2006)
Regulatory Compliance Division (RCD)
FDA Bhawan, Kotla Road, New Delhi-110002

Dated, 14th July, 2022

ORDER

Subject: Usage of the term “ORS” along with brand names-reg.

Reference is invited to FSSAI's direction dated 08.04.2022 regarding misleading advertisement and marketing of ORS substitute products vide which the use of terms 'ORS' or similar to 'ORS' and/or depiction of the food products as 'ORS' on the food labels or through advertisement was restricted and the Commissioners of Food Safety of all States/UTs and Central Licensing Authorities were advised to issue improvement notices to such FBOs for rectification of such food labels.

2. In view of representations received from the FBOs and the personal hearings given to them, as per the directions of Hon'ble High Court of Delhi in the Writ Petition No. (C) No. 9051/2021 titled Rupa Singh vs. GoI and Ors, the matter has been reviewed by FSSAI. It has been noted that few FBOs are having valid trademarks similar to the term 'ORS' for the name of their products, and as a consequence the matter has already been taken up with the O/o Controller General of Patents, Designs and Trademarks, Mumbai (CGPDTM) with the request to review such trademarks as per the provisions of the Trade Marks Act, 1999 and inform FSSAI so that further action in the matter may be taken. However, the response/decision from the CGPDTM is awaited in the matter.

3. In view of above, and considering that the FBOs have valid trademarks granted under the Trade Marks Act, 1999, it has been decided to allow those FBOs with valid trademarks to manufacture such products under their respective Trademarked names till the decision of the CGPDTM is received. The decision of the CGPDTM shall be binding and final on all such FBOs. In case the decision of CGPDTM is against such products/FBOs, they shall stop the production of such products forthwith from the date of such a decision and recall the products available in the market as per extant regulations. No further extension for manufacture of such products and/or for use of existing pre-printed packaging material shall be granted.

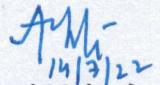
4. Also, reference is drawn to the sub-regulation 2.2.1(3) of Food Safety and Standards (Packaging and Labelling) Regulations, 2011 and sub-regulation 4(3) of Food Safety and Standards (Labelling and Display) Regulations, 2020, which stipulates that, "*Pre-packaged food shall not be described or presented on any label or in any labelling in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.*".

In accordance with the said provisions, such FBOs are further directed to provide a prominent declaration on their Front-of-Pack either through non-detachable stickers or printing that, ***'The product is NOT a ORS formula as recommended by WHO'*** or the FBOs may use similar meaning phrases without changing the intent.

5. Further, for FBOs who are presently manufacturing such products but have not trademarked the same before the date of this order shall discontinue the same. Such FBOs shall be required to submit an undertaking to this effect to FSSAI, HQs, after which they shall be provided six months' time from the date of this direction to exhaust the existing stock/inventory of such products in the market along with the pre-printed packaging material.

This issues with the approval of Competent Authority.

Yours sincerely,


(Anil Mehta)

Director (Regulatory Compliance)

Encl: As above

Copy To:

1. All Regional Directors, FSSAI
2. All Central Licensing Authorities, FSSAI
3. The Commissioners of Food Safety of all States and UTs
4. The Controller General of Patents, Designs and Trademarks, Mumbai (CGPDTM, Mumbai
5. The petitioners concerned under the W.P. (C) No. 9051/2021 in the Hon'ble High Court of Delhi.