



FSSAI notifies draft regulations pertaining to claims, adverts by FBOs

Tuesday, 03 April, 2018, 08 : 00 AM [IST]

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FSSAI has notified the draft regulations pertaining to claims and advertisements by food business operators (FBOs) in respect of their food products. They state that advertisements in respect of a food product that either undermines the importance of healthy lifestyles, or portrays the food product as a complete replacement for a normal meal, are not permitted.

Further, food businesses have also been prohibited from advertising or making claims undermining the products of other manufacturers, so as to promote their own food products or influence consumer behaviour.

“Any person, including a third party, who advertises or is a party to the publication of any misleading advertisement not complying with these regulations, would be penalised with a fine extending upto Rs 10 lakh under Section 53 of the Food Safety and Standards Act, 2006,” stated the regulations.

The country’s apex food regulator has invited suggestions and objections from stakeholders within 30 days from the publication of the draft regulations. These regulations, after consideration of stakeholder comments and finalisation, will come into force on the date of their final publication in the Gazette on India.

In a statement, it has said this had been done to protect consumer interests, as many claims, listed in various schedules of these regulations with related criteria, are permitted to be made by FBOs without the need to seek prior approval from FSSAI.

“FSSAI added that the claims must be truthful, unambiguous, meaningful, not misleading and help consumers to comprehend the information provided,” stated the regulations, adding, “However, other types of claims not standardised under these regulations may require approval from the Food Authority and should be supported with

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basis.”

These regulations have sections detailing the definitions, the general principles for claims and advertisements, the criteria for nutrition claims (including nutrient content or nutrient comparative claims), non-addition claims (including non-addition of sugars and sodium salts), health claims (reduction of disease risks), claims related to dietary guidelines or healthy diets, and conditional claims; claims that are specifically prohibited and procedures for approval of claims and redressal of non-compliance under these regulations.

In respect of nutrients or components, the claims may refer to a nutrient such as energy, fat, cholesterol, saturated fat, trans-fat, sugar, or sodium salt being low or absent, and unsaturated fat being high in a food; a food being a source of or high in respect of nutrients like dietary fibre, protein, vitamins or minerals; a food being low in glycaemic index (indicative of increase in blood sugar level after the food intake), etc.

The FSSAI’s statement said, “Likewise, the regulations list nutrient/food health relationship and standardised statements for health claims (reduction of disease risk). For instance, a food low in sodium may have a label claim as diets low in sodium may reduce the risk of high blood pressure; a disease associated with many factors. Such claim statements have been specified for several nutrients with health impacts and include calcium, Vitamin D, dietary saturated fat, cholesterol, potassium, soluble dietary fibre, plant sterols/stanols, vitamins, minerals, etc. The conditions and standardised claim statements specified in these regulations are based on available scientific information and international best practices.”

As per these regulations, food business cannot use such words/phrases as natural, fresh, original, traditional, premium, finest, best, authentic, genuine, real, etc. on the food labels except under specific conditions detailed therein. Foods can be claimed to be fresh only if they are not processed in any manner except washed, peeled, chilled, trimmed or cut or have undergone other processing necessary to make the product safe without altering its basic characteristics in any manner.

An official with the FSSAI said, “Such restrictions are primarily aimed at restricting an open-ended use of these words/phrases by food businesses on frivolous grounds.” However, experts have opined that all was not well with the regulations, and there was ample scope of reconsideration on several subjects.

Supreme Court advocate and food law expert Charu Mathur stated that although FSSAI’s claim and advertisement guidelines were a laudable effort, there was scope for

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improvement.

“F&B companies are here for business. It is understandable that public health is not their number one priority, but maintaining quality of their products may be. To enhance their market share, F&B companies routinely indulge in suggestive advertisements, and gullible consumers fall for it,” she added.

“These regulations allows a product to claim health or nutrition benefits based on one attribute, even if the product is bad on other nutrients or attributes. For example, the advertisement is product meets 100 per cent dietary fibre requirement, which will the lower risk of, say, heart disease, but fails to inform that it is a high-sugar product,” Mathur said.

“This reductionist approach is more harmful. It is a misleading advertisement. This is an existing problem, but the new regulation does not address this aspect,” she added.

Mathur stated that FBOs need to give a complete picture of the product and not be misleading. “It may not be an outright fraud, but it will certainly be misleading. The food safety officer (FSO) needs to be proactive on such aspects,” she added.

Another ambiguity in the regulations is that they make provisions to exhibit quantitative limits on nutrients, but fail to inform the consumer how much recommended daily upper limit is being served.

“They are not in complete compliance with the Codex Guidelines for Nutrition and Health Claims, as they fail to establish the criteria for a balanced diet that defines a minimum/maximum amount of all nutrients,” she said, adding that labelling requirements should be stringent.

The label shows the product to be low in salt or sugar, but nowhere does it say that it is high in salt or trans-fats.

Moreover, the regulations were silent on celebrity advertisement. There should be high accountability of celebrity advertisements as F&B directly affect health.