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## Deceptive Food Advertisements in India

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### Abstract

In the increasingly health conscious society we live, the benefits to the advertisers of making health claims about their products and services cannot be understated. Advertiser must make valid claims which can stand the test of factual truthfulness and nothing misleading should appear in the copy that goes public. The FSSAI put many products under its scanner over the misleading claims and has begun prosecution proceedings in 19 cases under the Food Safety and Standards (FSS) Act. In order to protect consumer interest, the government should establish an independent broadcast regulator that will design a strict code of practise particularly for tele marketing services so that only those products that do not go against FSSAI act and proven significance get endorsed in media. Consumers and their organizations must assert their rights against dishonest businessmen indulging in such practice and bring such cases to the notice of the enforcement group, which in turn have to play the role of a watch dog of public interest.

**Keywords:** Consumers, Deception, FSSAI, Food advertisement

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### Introduction

In the increasingly health conscious society we live, the benefits to the advertisers of making health claims about their products and services cannot be understated. It is a potential regulatory minefield. There is a great deal of pressure from consumer groups and regulatory bodies to ensure that there is possibility of misleading claims being made and to force advertisers to stand by their claim [1]. As per the norms of advertising, the advertiser must make valid claims which can stand the test of factual truthfulness and nothing misleading should appear in the copy that goes public.

Indian market has been witnessing changes in character and complexity of advertising. These changes include a higher reach of mass media, particularly due to an increased penetration of satellite channels, availability of a greater assortment of products and services, a higher level of consumer spending on items other than basic necessities, and more discerning choice behaviour exhibited by consumer preference for better value for

money spent on products and services. A gradual development of the economy has indeed influenced these changes [2].

Advertising is widely criticised not only for the role it plays in selling the product but also for the way it influences our society. In the era of cut throat competition, the advertisers resort to certain practices such as puffery, deception which leads to misleading advertising. The consumers are being led up the garden path by manufacturers of food and health products, making tall claims in advertising [3]. The issue is not of misleading but issues of governance are involved [4].

The Food Safety and Standard Authority of India (FSSAI) is responsible for protecting and promoting public health through the regulation and supervision of food safety. According to the Food Safety and Standards Act 2006, “any person who publishes or is party to the publication of an advertisement, which (i) falsely describes any food or (ii) is likely to mislead as to the nature or substance or

quality of any food or gives false guarantee, shall be liable to a penalty which may extend to Rs 10 lakh” [5].

The FSSAI put many products under its scanner over the misleading claims and has begun prosecution proceedings in 19 cases under the Food Safety and Standards (FSS) Act [6].

**Summary of cases of violation of section 24 of FSS ACT, 2006 & FSS (Packaging and labelling) regulation, 2011 [6, 7, 8]**

**1. Complian:** The claim on the advertisement of the product that one can grow two times after taking Complian is misleading and violates Section 24 of FSS Act, 2006.

**2. Complian memory:** The declaration, viz: (i) Complian with Memory chargers (ii) 5 Brain chargers (iii) helps to improve memory, are misleading and violate Section 24 of FSS Act, 2006. The product label shows the pictures of students with books which will mislead the public that after taking this drink they will become good in studies.

**3. Boost:** The claim that ‘Boost provides 3 times more stamina than sadharan chocolate drink’ is misleading and violates Section 24 of FSS Act, 2006. The producer has not submitted any specific study on this product to substantiate the claims.

**4. Horlicks:** The advertisement claims that after taking Horlicks, children become ‘taller, stronger, sharper’ which is deceptive in nature. It violates Section 24 of FSS Act, 2006.

**5. Emami - healthy and tasty soyabean oil:** The label contains a logo/picture in which it is written ‘7 stage European refining technology, ‘Suraksha Shakti’ which are violating Clause 2.3.1.5. of FSS (Packing and Labelling) regulations, 2011.

**6. Saffola:** The use of heart symbol and the claim ‘the heart of a healthy family’ Saffola encourages you and your family to take care of your heart by using less oil and low saturated fat diet, and ‘use of word losorb technology’ etc; on the advertisement are misleading in nature.

**7. Engine mustard oil:** Claims like ‘health and vigour’ and ‘cholesterol 0 g’ on the advertisement are misleading.

**8. Nutrcharge men:** The claims like “Enhance your energy, stamina and immunity with smart nutrition. Smart nutrition means nutrcharge. Powered by 10 vitamins, 11 minerals, 11 antioxidants and 3 amino acids. Heart and brain health” are misleading and deceptive in nature.

**9. Kellogg special K:** The claim that “research shows that people, who eat low fat breakfast like Kellogg’s Special K, tend to be slimmer than those who don’t” is misleading and deceptive in nature.

**10. Britannia nutrichoice biscuits:** The claims on advertisements like: No added sugar, complex carbohydrates, diabetic friendly are misleading commercial violates Section 24 of FSS Act, 2006.

**11. Kellogg extra museli:** The label of the said product appeared as if it contains a number of fruits. This type of labels is misleading, which gives an idea that the said product contains so many fruits.

**12. Bournvita little champs:** The producer has claimed presence of DHA in their product and its benefits which are not proved. This is deceptive in nature.

**13. Today premium tea:** The claims by the producer shows the following which is misleading as per Section 24 of FSS Act, 2006: 100% natural. Rich in antioxidants. “Thakawat hataye chusti laye”

**14. Pediasure:** The claim on the product label and advertisement is ‘Helps in child’s growth and development’ which is misleading as per Section 24 of FSS Act, 2006 and FSS (Packaging and labelling) regulation, 2011.

**15. Real active fibre +:** Advertisements of the said product shows the following which are misleading : Snack healthy, manages weight and keeps you fit, keeps digestive system healthy, maintains heart health.

**16. Nutrilite:** Claims “if you are not taking a truly adequate and well balanced diet the nutrilitte daily may be convenient once a day choice for supplemental nutrients you have been looking for” “Each tablet supplies 13 vitamins, 11 minerals and phyto factors plant compound from nutrilitte’s exclusive plant concentrate. Nutrilite

exclusive nutria lock makes tablet easier to swallow” are misleading and deceptive in nature.

**17. Kissan cream spread:** Advertisement shows the claim that ‘Kissan creamy spread contains 3 times more essential nutrients than sadharan butter’, which is misleading.

**18. Rajadhani besan:** Newspaper advertisement has a heart logo and slogan ‘karlo dil se dosti’ which are misleading as per Section 24 of FSS Act, 2006.

**19. Britannia vita marie:** Claims like heart friendly, helps reduce cholesterol, are misleading as per section 24 of FSS Act, 2006.

It was found that the health value of a product in advertising and on the label were different. Food Safety and Standards Act (FSSA) states that any nutrition value by visual, written, as well as orally has to be backed by scientific data [9, 10].

The concept of gender marketing of foods is gaining momentum, especially when it comes to those targeted at health conditions. Special K cereal and Diet Coke are sold as ways to keep slim for women, while healthy cooking oils are directed at men to keep the heart attacks at bay. Marketing for probiotics is also directed at women [11]. The conclusion we can draw from these three products is that women struggle with obesity and sensitive stomachs

while men grapple with the constant risk of a heart attack. This could not be further from the truth: Obesity is as much of a problem for men and heart conditions are common in women too.

So perhaps companies who make these assumptions to sell their products should do some more homework?

### **Conclusion**

In order to protect consumer interest, the government should establish an independent broadcast regulator that will design a strict code of practise particularly for tele marketing services so that only those products that do not go against FSSAI act and proven significance get endorsed in media. As for other advertisements that are found to be false or misleading, corrective advertisements at the cost of advertiser who issued deceptive advertisement earlier are the best solution. Another option is to revitalize the Monopolies and Restrictive Trade Practices Commission (MRTPC) as Unfair Trade Practices Commission with definite purpose of checking illegal advertisements. Consumers and their organizations must assert their rights against dishonest businessmen indulging in such a practice and bring such cases to the notice of the enforcement group, which in turn have to play the role of a watch dog of public interest.

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