

F. No. 6/FSSAI/Dir (A)/Office Order/2011-12  
**FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA**  
**FDA Bhawan, Kotla Road,**  
**New Delhi**

**Subject:- Advisory on Misbranding/ Misleading claims**

Food Safety and Standards (FSS) Act, 2006, Rules & Regulations, 2011 made there under are notified by Competent Authority of Central Government. The same has been enforced w.e.f 05<sup>th</sup> August, 2011. The provisions contained in earlier legislation on the subject are now repealed.

2. The various false claims made by the Food Business Operator about food articles and consequent violation, if any, are punishable under the provisions of FSS Act, 2006.

3. Violations related to food items, seriously jeopardize public health as well lead to unfair gains to Food Business.

4. Misleading advertisement related to food items are imputed with malafide intent on the part of person making the claim and is normally made to misguide a consumer to purchase food item without disclosing the complete details on the advertisement. Companies (Corporate bodies including firm or other association, individual) are also covered u/s 66, FSS Act, 2006

5. The burden of proof lies on the person willfully making false claims or engaged in misleading advertisement.

6. An advertisement is defined u/s 3 of FSS Act, 2006 as:- any audio or visual publicity, representation or procurement made by means of any light, sound, smoke, gas, print, electronic media, internet and website and included through any notice, circular, label, wrapper, invoice to other documents;

7. The provisions enshrined under Food Safety and Standards (Packaging and Labeling), Regulation, 2011 includes definition of Health Claims, Nutritional Claims and Claims for Risk Reduction. As per section 23, Packaging and Labeling of Foods of FSS Act, 2006;

1. No person shall manufacture, distribute, sell or expose for sale or dispatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labelled in the manner as may be specified by regulations.

Provision that the labels shall not contain any statement, claim, design or device which is false or misleading in any particular concerning the food products contained in the package or concerning the quantity or the nutritive value implying medicinal or therapeutic claims or in relation to the place of origin of the said food products.

2. Every food business Operator shall ensure that the labelling and presentation of food, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, does not mislead consumers.

As per section 24, Restrictions of advertisement and prohibition as to unfair trade practices of FSS Act, 2006;

- (1) No advertisement shall be made for any food which is misleading or deceiving or contravenes the provisions of this Act, the rules and regulations made thereunder.
- (2) No person shall engage himself in any unfair trade practice for purpose of promoting the sale, supply, use and consumption of articles of food or adopt any unfair or deceptive practice including the practice of making any statement, whether orally or in writing or by visible representation which-
  - a. Falsely represents that the foods are of a particular standard, quality, quantity or grade- composition;
  - b. Makes a false or misleading representation concerning the need for, or the usefulness;
  - c. Give to the public any guarantee of the efficacy that is not based on an adequate or scientific justification thereof;

Provided that where a defence is raised to the effect that such guarantee is based on adequate or scientific justification, the burden of proof of such defence shall lie on the person raising such defence. Further, any person who publishes, or is a party to the publication of an advertisement, which-

- a. falsely describes any food; or
- b. 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 ten lakh rupees.

8. All Food Business Operators as well as any person dealing with food articles are advised to be careful as well as alert and must strictly follow provisions contained in Food Safety and Standards Act, 2006 and Regulations thereof eschewing misleading claims which is not established by scientific evidence and validated by science as proof beyond reasonable doubts. Food items under section 22 of FSS Act, 2006, including Nutraceuticals, health supplements, functional food which have not taken product approval or operating only on the basis of NOC pending approval of sale cannot make any claim in their advertisement with any Health Claim, Nutraceuticals Claims or Risk Reduction Claim. FSSAI has already initiated actions against 19 firms on misleading & extravagant claims.

Director  
Food Safety and Standards Authority of India

**Distribution:-**

1. Food Safety Commissioner, States/ UTs
2. Adjudicating officers- All States
3. FSSAI Website.
4. Associations- Confederation of Indian Industry, FICCI, PHD Chamber of Commerce, Delhi.

