



## FSSAI'S ADVERTISING AND CLAIMS REGULATIONS, 2018

The Food Safety and Standards Authority of India (FSSAI) under the Ministry of Health and Family Welfare, Government of India, has notified Food Safety and Standards (Advertising and Claims) Regulations 2018<sup>1</sup>. This regulation is intended to establish fairness in advertisements and claims of food products and making food businesses accountable. Although FSSAI has packaging and labelling regulation in place, an exclusive regulation for misleading advertisements and claims is of significance. It is mandatory for Food Business Operators and Marketers to comply with all provisions of this regulation by 1<sup>st</sup> July 2019.

While undertaking any advertising activity or sale of food product or whenever the food product makes certain claims in their labels pertaining to its origin, nutritional properties, nature, processing, composition or otherwise, this regulation mandates certain obligations to be followed. The claims on food product should be truthful, unambiguous, meaningful and not misleading; it shall not encourage or condone excess consumption; shall not suggest that balanced and varied diet cannot provide appropriate nutrients; shall specify the number of servings to achieve claimed benefit; shall scientifically substantiate nutritional or health attributes; shall not be portrayed as meal replacement unless permitted; shall not be deceptive; shall not undermine healthy lifestyles; shall have claims in advertisement consistent with label; and shall have disclaimers conspicuous and legible.

This regulation impacts trademark and branding to a vast extent. As per this regulation, adjectives such as “natural”, “fresh”, “pure”, “original”, “traditional”, “authentic”, “genuine”, “real”, etc., shall be used in the trademark or brand or description of the product only when the product is so and fulfils such conditions of genuineness laid out in Schedule V (Attached). This is done with an intention to avoid misleading advertisements and claims. If such word forms the meaning of a trademark or brand name and is likely to mislead the consumers as to the nature of the food, then a Disclaimer stating that **“This is only a brand name or trademark and does not represent its true nature”** of not less than 3mm size shall be given on the label.

Further, nutrient content or comparative claims pertaining to the quantity (ex. high, low, free, zero, little, increased, rich, more, enhanced, contains, etc.) of calories, fat, cholesterol, protein, sugars, vitamins, sodium, fibre, probiotics, etc., can only be used when it meets the range criteria tabulated in the regulation. Claim of non-addition of sugar can be made only when certain conditions of genuineness are met. When despite non-addition of sugar, sugars are naturally present, then the indication that

***“Contains naturally occurring sugars”*** has to be specified. Claims like “home-made” or “home-cooked” shall not be used.

Similarly, certain conditions for use of no-addition of additives, no addition of salt, health claims, reduction of disease risk claim, healthy diet or dietary guidelines, etc. has been provided. Any claim on prevention, alleviation, treatment or cure of disease is prohibited unless specifically permitted by the Authority. No label should contain claim that the food is “recommended by medical or nutrition or health professionals”. The term “added nutrients” can be used only if new nutrients are added and not merely to compensate nutrients lost during processing. Claims giving rise to doubt or suspicion about safety of similar food or which may cause fear is prohibited. Advertisements or claims that undermines the product of other manufacturer shall not be made.

This regulation identifies broad kinds of claims such as 1) nutrition claims comprising of nutrient content claim, nutrient comparative claim, 2) health claim comprising of nutrient function claim, other function claim, and reduction of disease risk claims, 3) non-addition claims, 4) equivalence claims, 5) recommended dietary allowances claims, 6) dietary guidelines or healthy diet claims, and 7) conditional claims.

The Food Business Operator may seek approval of claim from the Authority and the procedure for approval has been formulated. A time-bound approach on redressal has been initiated wherein if any misleading claim may be referred to or suo moto taken by the Authority, the Authority would seek for clarification from the food business operator. The food business operator has to respond within 30 days and thereafter a speaking order should be passed by the Authority within 90 days. The authority has powers to order stoppage of advertisements immediately and to issue corrective advertisements in case of violated advertisements/claims.

The penalty for misleading advertisements shall be punishable under FSSAI Act which extends upto INR 10,00,000/- (Ten Lakh rupees). Even a third party who advertises or is party to a publication is liable.

This regulation is a good initiative from the FSSAI in protecting consumer interests and it attempts to curtail misleading advertisements on food products. As a direct consequence, this regulation largely would require businesses to relook their trademark portfolio and branding strategy. There are innumerable brands that use or trademarks that contain the word “natural”, “fresh”, “pure”, “original”, “traditional”, “authentic”, “genuine”, “real”, “free”, “zero”, “no”, “without”, “low”, “little”, “reduced”, “lower”, “fewer”, “less”, “higher”, “increased”, “more”, “rich”, “enhanced”, “provides”, “contains”, etc.; and now such words can only be used if it meets the criteria specified in this regulation. Certain word in the labels require a legible disclaimer as mentioned above. Such restrictions would prevent Food Business Operators and Marketers from using these words merely as a branding strategy even when there is a mismatch with the actual product. Food Business Operators must henceforth ensure that their trademark, brands, tagline, their description, and the statements and claims made in the label therein is truthful, not misleading, and has to meet the criteria specified under this regulation. However, the proof of the pudding is in the eating. This regulation in its various schedules has narrated when such above-mentioned words may be used. Whether these obligations are sufficient to accomplish genuineness in advertisements, claims, packaging, and labelling of food products or it results in inspector raj remains to be seen.

1 - [https://fssai.gov.in/dam/jcr:a7a9e742-dc09-4c64-8208-15dfb9f6ef9e/Draft\\_Notification\\_Advertisement\\_Claims\\_23\\_03\\_2018.pdf](https://fssai.gov.in/dam/jcr:a7a9e742-dc09-4c64-8208-15dfb9f6ef9e/Draft_Notification_Advertisement_Claims_23_03_2018.pdf)

## Schedule V

Sl No.	Column 1	Column 2
1	Natural	<p>The word may be used to describe:</p> <p>(a) A single food, derived from a recognised source viz., plant, animal, microorganism or mineral and to which nothing has been added and which have been subjected only to such processing which would only render it suitable for human consumption like:</p> <p>(i) smoking without chemicals, cooking processes such as roasting, blanching and dehydration and physical refining;</p> <p>(ii) freezing, concentration, pasteurization, sterilisation and fermentation; and</p> <p>(iii) packaging done without chemicals and preservatives.</p> <p>(b) Permitted food additives that are obtained from natural sources by appropriate physical processing.</p> <p>(c) Composite foods shall not themselves be described directly or by implication as “natural” but such foods may be described as “made from natural ingredients” if all the ingredients or food additives meet the criteria in (a) and (b) above:</p> <p>Provided that, the above principles shall also apply to use of other words or expressions such as “real”, “genuine”, when used in place of “natural “in such a way as to imply similar benefits.</p> <p>Provided further that the, claims such as “natural goodness”, “naturally better”, “nature’s way” shall not be used.</p>
2	Fresh	<p>(a) The term “fresh” shall only be used on products which have not been processed in any manner except, washed, peeled, chilled, trimmed or cut, irradiated by ionizing radiation not exceeding 1kGy or other processing necessary for making the product safe for consumption without altering its basic characteristics in any manner. If such processing also leads to extension in the shelf-life of the product the term “fresh” shall not be used.</p> <p>(b) The term “fresh” or “freshly” shall have no other connotation than the immediacy of the action being described. A food containing additives or subjected to packaging, storing or any other supply chain processes that control freshness shall not be termed as “freshly stored”, “freshly packed”, etc.:</p> <p>Provided that “Fresh” may be permitted to be used along with “frozen” if it is clear from the context. - “Frozen from fresh” “fresh frozen” “Freshly frozen” – which would indicate that the food was quickly frozen while still fresh.</p>
3	Pure	<p>(a) The term “pure” shall only be used to describe a single ingredient food to which nothing has been added and which is free from avoidable contamination and the levels of unavoidable contaminants shall need to be below the levels prescribed in the Food Safety and Standards (Contaminants, Toxins and Residues) Regulations, 2011 or in any other standard given under Food Safety and Standards Act, Rules and Regulations thereof.</p> <p>(b) Compound foods shall not generally be described, directly or by implication, as “pure” but such foods may be described as “made with pure ingredients” if all the ingredients meet the criteria in (a) above.</p>

		(c) "Pure" shall not be included in any brand or fancy names, nor in coined or meaningless phrases, in such a way as to imply that a food that does not meet the criteria above is pure or made from pure ingredients.
4	Authentic, Genuine, Real	These terms may be used only if the label or advertisement also clarify in what way the overall quality is tangibly justified and why the particular term has been used.
5	Traditional	The term "traditional" shall demonstrably be used to describe a recipe, fundamental formulation or processing method for a product that has existed for a generation (thirty years), should have been available substantially unchanged, for that same period.
6	Original	(a)The term "original" shall only be used to describe a food that is made to a formulation, the origin of which can be traced, and that has remained essentially unchanged over time. It should not contain replacements for major ingredients. It may similarly be used to describe a process, provided it is the process first used in the making of the food, and which has remained essentially unchanged over time, although it may be mass-produced. (b) To be termed "original", a product shall not have changed to any material degree and shall remain available as the 'standard' product when new variants are introduced. A product re-introduced onto the market after a period of absence shall only be described as "original" if it can be shown to meet these criteria.

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