REPORT

FOOD LABELLING, CLAIMS AND ADVERTISEMENTS

NEED TO STRENGTHEN REGULATORY FRAMEWORK AND IMPROVE PRACTICE

Centre for Science and Environment

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Need to strengthen regulatory framework and improve practice

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1. Introduction

Pullela Gopichand is a national hero, but not just because he has painstakingly coached two badminton Olympic medalists–first Saina Nehwal and now P V Sindhu. Gopichand is a national hero because he is the only Indian sportsperson who has publicly shunned endorsing soft drinks. He has made it clear that these drinks are not good for health and certainly not good for sportspersons, so he will not promote the product, whatever the financial inducement. This is important because these drinks are indeed junk–empty calories, which provide sugar without nutrition–and are today indicted for obesity world over. But the rest of our sports and film icons, from Mahendra Singh Dhoni to Shah Rukh Khan, are happy to make money by promoting products that are bad for our health.

Should they be allowed to do so? The government is considering amending the Consumer Protection Act to provide for five-year jail term or a penalty of ₹50 lakh to hold celebrities responsible for false and misleading claims. But there is a catch. The same amendment provides that there will be no liability if precautions are taken and due diligence is done before deciding to endorse a product. In other words, this amendment really amounts to nothing. Even then brand ambassadors and their lackeys are busy opposing the very idea of being held accountable, though they are ready to take all the money. And the government, weak-kneed as it is before powerful brands, has decided to take a relook.

Frankly, I believe this amendment was a distraction and is meaningless. What we really need is clear regulations against celebrity endorsement of products that are known to be junk and harmful to health. Marion Nestle, who teaches at the New York University, has in her recent book, *Soda Politics*, described the influence of marketing through which products that are literally flavoured water with loads of sugar have been turned into symbols of fun, happiness and glamour.

The strategy is twofold. One, to manipulate policy so that the health issues related to colas are obfuscated. Two, to unleash celebrity promotion so that the product is made aspirational–not a drink but a lifestyle choice. In her thoroughly researched volume, Nestle explains that it was in 1942, when the US Council on Food and Nutrition noted that a 20 per cent rise in soft drink consumption since 1939 was showing up in ill-health and obesity. In 1977, its advice was followed up in the US government's dietary goals that asked for a startling 45 per cent reduction in the intake of sugar to bring it down to 10 per cent or less of calories in people's daily diet. This was to be done by eliminating soft drinks from diet, said US guidelines.

But this advice was not adhered to. Instead, it was turned convoluted. Straightforward words like "avoid drinking" became "choose and prepare". Sugar as a problem disappeared in the dietary guidelines to become one with solid fats such as butter and animal fat. A new word called "SOFAS"–solid fat and sugar–was brought in. The advice was lost and the guidelines were diluted. It is interesting that the cola companies did the same in a recent Indian government committee (in which I was a member) by insisting that the word junk food be replaced by an acronym HFSS–food high in fat, salt and sugar. Business must go on as usual.

But when business learns that the writing is on the wall–obesity is a massive problem in the world today–companies accept the problem and change tack, but all to self-regulate. Nestle cites reports by the Yale Rudd Center, first in 2011 and then in 2014, to show how cola companies' voluntary guidelines to restrict marketing to children were meaningless. In 2014, the two major companies, Coca Cola and Pepsi Cola, spent US $866 million in the US alone to advertise unhealthy drinks. This was four times what they spent on their healthier options. There were 30-40 per cent more advertisements targeting children, particularly Hispanic, than before. This was their idea of being responsible. This is why there need to be clear codes on celebrity endorsement of such products. Governments are learning that self-regulation will not work. For instance, New Zealand has a Children's Code for Advertisement of Food, which clearly states that "persons or characters well-known to children shall not be used in advertisements to promote food as to undermine a healthy diet".

In India, the brand lobby is out to ensure that this does not happen. In 2014, the High Court of Delhi had asked the Food Safety and Standards Authority of India (FSSAI) to finalise and issue guidelines on junk food, including celebrity endorsement. But FSSAI members, for reasons best known to them, are sitting on the matter. Clearly, our health is not their concern, company profits are.

So let's celebrate Gopichand. Hope his breed will increase. We need him not just for sports excellence, but also for our health.

– Sunita Narain

2. Food Labelling and Claims

What is nutrition labelling?

Nutrition labelling is a description intended to inform consumers of the nutritional properties of a food. It comprises two components, i.e. nutrient declaration and supplementary nutrition information.[1] It is a regulatory tool that can guide consumers towards healthier food choices. The nutrient declarations provide quantitative information and usually appear on small print on the back of packages. The supplementary nutrition information commonly referred to as front-of-pack labelling is designed to assist in interpreting nutrient declarations.[2]

Nutrition labelling refers to the disclosure of the main nutrients, such as salt, fat, sugar and energy content, on the label of a food product. Labelling can also give a rating of whether a food has a high or low content of a particular nutrient, or set of nutrients, and can warn consumers about foods that are high in an unhealthy nutrient (e.g. sodium).[3]

Nutrition labelling to prevent and control non-communicable diseases (NCDs)

The Global Action Plan for prevention and control of NCDs (2013–20), recommends promoting nutrition labelling for all pre-packaged foods, including those for which nutrition or health claims are made.[4]

The 2016 report of Commission on Ending Childhood Obesity (ECHO) of the World Health Organization recommends implementing a standardized global nutrient labelling system and an interpretive front-of-pack labelling supported by public education of both adults and children for nutrition literacy.[5]

In order to promote intake of healthy foods and reduce the intake of unhealthy food and sugar-sweetened beverages, the Global Report on Diabetes, 2016 highlights nutrition labelling as a policy tool.[6]

Nutrition labelling laws and gaps in India

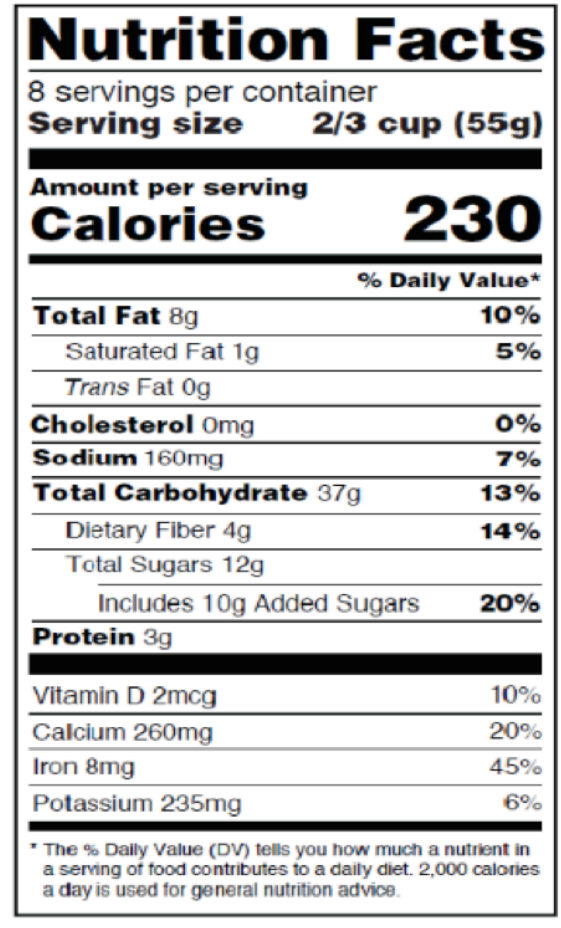
As per the Food Safety and Standards (Packaging and Labelling) Regulations, 2011:

- Energy, along with amount of protein, carbohydrate and fat, is required to be declared. The quantity of sugar is to be specified along with carbohydrate.
- The information could be mentioned as per 100 g or 100 ml or per serving of a product. In case of per serve declaration, serving measure is to be mentioned alongside.

Gaps with reference to best practice such as in the US:

- The amount of salt/sodium, added sugar, dietary fibre, vitamin and minerals is not mandatorily required. It is required only in case a claim is made.
- The amount of saturated fatty acids, monounsaturated fatty acid, polyunsaturated fatty acids, trans fatty acids and cholesterol are required to be declared only in case a claim is made on the amount or type of fatty acids or cholesterol.

Figure 1: Mandatory nutrient declaration as part of 'Nutrition Facts' in the US[7]



Nutrition Facts

8 servings per container

Serving size **2/3 cup (55g)**

Amount per serving

Calories **230**

	% Daily Value*
Total Fat 8g	**10%**
Saturated Fat 1g	**5%**
Trans Fat 0g	
Cholesterol 0mg	**0%**
Sodium 160mg	**7%**
Total Carbohydrate 37g	**13%**
Dietary Fiber 4g	**14%**
Total Sugars 12g	
Includes 10g Added Sugars	**20%**
Protein 3g	
Vitamin D 2mcg	10%
Calcium 260mg	20%
Iron 8mg	45%
Potassium 235mg	6%

* The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

Table 1: Salt/sodium declaration in popular packaged salted snacks/ foods

Brands	Yes/No
Instant noodles	
Nestle Maggi Noodles (70 g)	Yes
Nestle Maggi Veg Atta Noodles (80 g)	**No**
Top Ramen Yummy Masala Noodles (70 g)	**No**
Ching's Secret Hot Garlic Noodles (60 g)	Yes
Sunfeast Yippee Noodles (70 g)	**No**
Chips/puff snacks	
Lay's American Style Cream & Onion (29.5 g)	**No**
Kurkure Puffcorn Yummy Cheese (34 g)	Yes
Kurkure Masala Munch (59 g)	**No**
Haldiram's Chips Classic Salted (42.5 g)	**No**
Cereals (Oat-based)	
Saffola Masala Oats (40 g)	**No**
Kellogg's Masst Masala Oats (39 g)	Yes
Quaker Oats Homestyle Masala (40 g)	**No**
Quaker Oats Kesar flavour with Kishmish (sweet) (40 g)	Yes

Source: CSE analysis based on products sourced from market

- Per serve nutrient declaration is optional and so is serving size. Number of servings in a package/container is not required even in case of per serve declaration.
- Nutrient declaration as percentage of Daily Value or Recommended Dietary Allowance (RDA) is not required.
- No particular format of nutrient declaration suggested such as the tabular format of Nutrition Facts in the US

Selective disclosure of salt/sodium due to weak regulation

As the Indian food labelling laws do not require labelling of salt/sodium, companies are found to be selective in mentioning it. Not even salted snacks/ foods are consistently labelled for salt/sodium. A look at a few such products suggests:

- Only a few salted snacks declare the quantity of sodium. Even different products of same companies are inconsistent in labelling for sodium. For example, Quaker Oats, owned by Pepsico, has sodium labelled on its sweet variety but not on its salted one. Also, Nestle's Maggi atta noodles does not have a sodium declaration whereas the regular Masala pack does.
- While quantity of salt is easy to understand, sodium was found to be declared in all cases.
- Oat based cereals and instant noodles appear to be two categories with high salt on an average
  - One pack of Kellogg's Masst Masala Oats (39 g) has about 30 per cent of the RDA of salt
  - One pack of Nestle's Maggi noodles (70 g) has over 37 per cent of the RDA of salt

Importance of declaration of nutrients per serve and RDA

Information depicted as per 100 g or 100 ml does not help in easy understanding on the quantity of nutrient in a pack and in a portion one typically consumes.

Table 2: Countries with mandatory (M)/ optional (O) nutrition declaration

Country	Per serving	Per 100 g	Servings per pack	RDA / DV#
India	O	O	–	–
Taiwan[8]	M	O	M	M (if not per 100 g)
Thailand[9]	M (per pack information)	–	M	M (select items)*
Brazil[10, 11]	M	–	–	M
China[12]	O	O	M (if per serving)	M
Mexico[13]	M	–	M	M (for sodium, sugar, fat)
Canada[14]	M	–	–	M (for select nutrients)**
South Korea[15]	O	O	–	M (except for calories)
Australia and New Zealand[16]	M	–	M	O
United States[17]	M	–	M	M
EU[18]	O	M	M (if per serving)	M (vitamins, minerals)
UK[19]	O	M	M (if per serving)	M (vitamins, minerals)

**For five groups of snack foods: fried or baked potato chips, fried or baked popcorn, rice crisps or extruded snacks, crackers or biscuits, and filling wafers*

***Select nutrients include fat, cholesterol, carbohydrate, sodium, vitamins and minerals*

 # or similar reference value

However, it does help compare nutrients across different food categories. In order to help make informed dietary choices, several countries across the world are moving towards mandatory disclosure of quantity per serve. In most cases, the number of servings per pack and quantity of nutrient as part of the RDA or daily value is required to be labelled.

Per serve declaration is optional as per Indian food labelling laws. There is no requirement of information disclosure of number of servings per pack and nutrient content as per RDA, even when per serving declaration is present. It is important to have serving size of food items standardized to be able to adequately apply this.

Serving size not declared due to weak law

Serving size refers to the quantity of a food item typically consumed in one eating occasion. It varies with food categories. If labelled, it gives a sense on how much one may eat from a pack and quantity of nutrients that could be sourced through one such serving. In the US, it is known as 'Reference Amount Customarily Consumed Per Eating Occasion' (also known as reference amount), which is used to help food labelling. India does not have standardized serving size of foods as of now. It is not required to be labelled. A look at few popular snacks suggests:

- Serving size is most often declared wherein the pack size is typically similar to what could be consumed in one sitting, such as in noodles. However, average serving size mentioned in this category is higher than 25 g of reference amount in the US for pastas, dry and ready-to-eat, e.g. fried chow mein noodles.
- Serving size is not declared in case of bigger but commonly available packs (non-family packs), such as in biscuits and chips/puff snacks wherein it is most required due to high possibility of over eating/snacking. The reference amount for cookies and chips is 30 g.

Table 3: Inconsistent practice of labelling serving size

Popular snacks/foods	Serving size declared	Common pack size available
Biscuits/cookies		
Britannia NutriChoice Essentials Oat Cookies*	**No**	150 g
Britannia NutriChoice Essentials Ragi Cookies*	**No**	150 g
Britannia NutriChoice Digestive	**No**	120 g
Unibic Multigrain Breakfast Cookies	**No**	75 g
McVities Digestive	**No**	120 g
Sunfeast Farmlite Digestive All Good	**No**	100 g
Sunfeast Marie Light	**No**	100 g
Chips and puff snacks		
Kurkure Puffcorn Yummy Cheese	30 g	34 g
Haldiram's Classic Salted Chips	**No**	42.5 g
Kurkure Masala Munch	**No**	59 g
Lay's American Style Cream & Onion	**No**	29.5 g
Instant Noodles		
Nestle Maggi Noodles	70 g	70 g
Sunfeast Yippee Noodles	**No**	70 g
Ching's Secret Hot Garlic Instant Noodles	60 g	60 g
Nestle Maggi Veg Atta noodles	80 g	80 g

**The pack contains few small packs within the 150 g pack, but does not mention per serve information or refer small packs as per serve*

Figure 2: Illustration of difference in labelling on package and website (per serving and sodium)

Source: CSE analysis based on products sourced from market

Front-of-pack labelling

Front-of-pack, or FoP, labelling is an interpretive form of nutrition labelling which helps in easy understanding of it. Mentioned on the front of the pack, it comprises either or both of a text or symbol. As per the WHO Global Diabetes Report, 2016, FoP labelling may encourage manufacturers to make the composition of retail food products healthier to achieve competitive advantages or to avoid unfavourable disclosures about food composition. There is evidence that simple, FoP labels on packaged foods, or point-of-purchase information in grocery stores, cafés or restaurants, can be beneficial to support healthier options.[20] In recent years, more countries are favouring FoP labels. In low- and middle-income countries that have rising/high levels of NCDs and/or obesity, FoP labels are made mandatory. In general, FoP labels are aimed to limit the intake of one or more of salt/sodium, sugar, fat, saturated fat. There is no formal FoP labelling adopted in India.

Table 4: FoP labelling—mandatory or based on government guidelines

Country	Name	Mandatory / government guidelines (voluntary)	Year
Mexico[21]	Front of pack	Mandatory	2015
Ecuador[22]	Traffic light system	Mandatory	2014
Australia and New Zealand[23]	Health star rating system (HSR)*	Government guidelines (voluntary)	2014
Thailand[24]	Front of pack^	Mandatory	2011
United Kingdom[25]	Traffic Light Label	Government guidelines (voluntary)	2006
Singapore[26]	Healthier choice symbol (HCS)#	Government guidelines (voluntary)	1998
Sweden	Nordic keyhole[27]**	Government guidelines (voluntary)	1989
Denmark			2009
Norway			
India	**NA**	**NA**	**NA**

**The stars are rated starting from half to five. The higher the number of stars, the healthier the food is.*

^Nutrients to be declared for certain snacks, such as fried or baked potato chips, fried or baked popcorn, rice crisps or extruded snack, crackers or biscuits, and filling wafers. In case of larger food packs, number of servings per package is also to be declared.

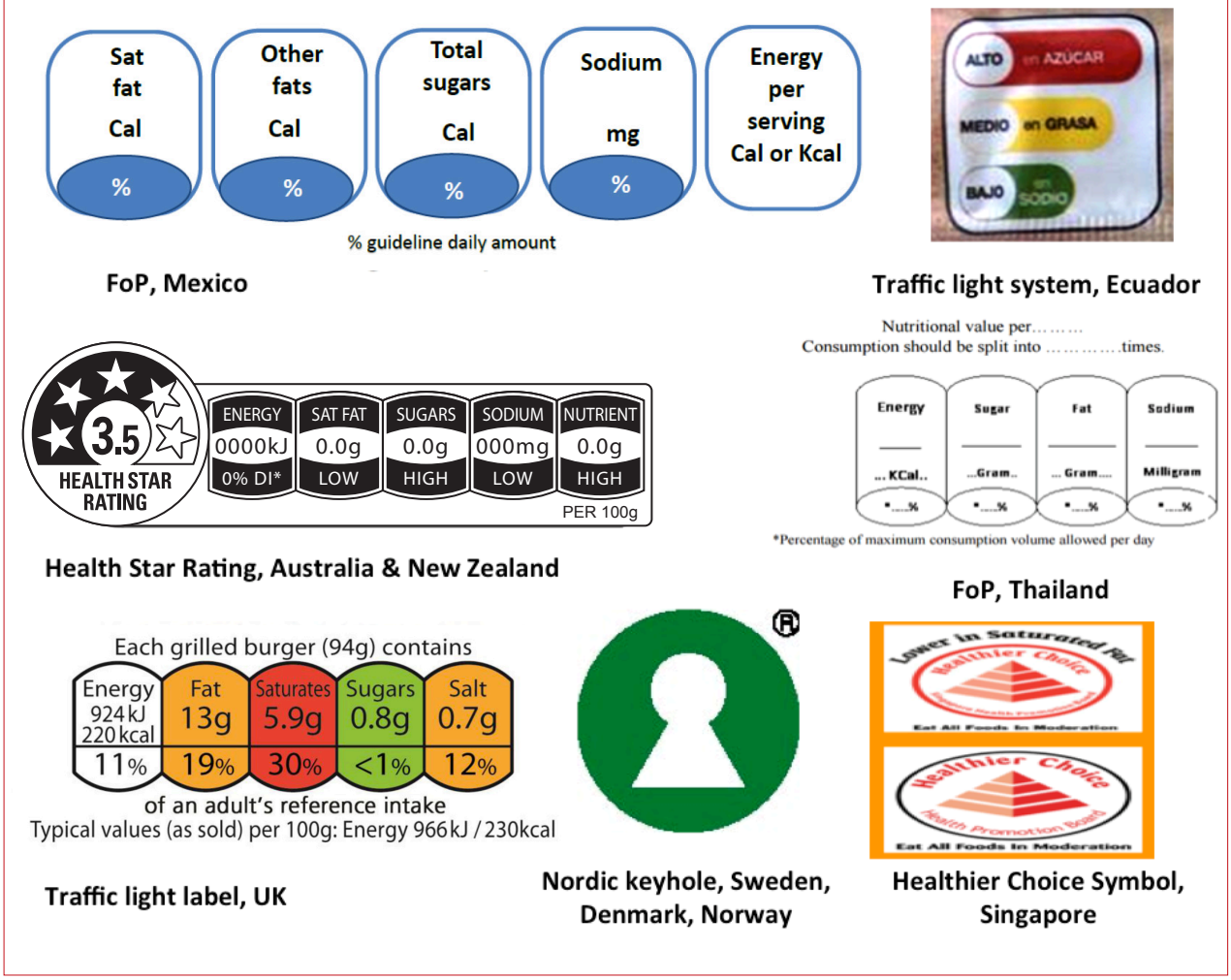
#Food products with HCS are generally lower in total fat, saturated fat, sodium and sugar.

***The keyhole symbol, in Sweden, is used on a list of 25 products, including ready meals, on a voluntary basis. It indicates better fat quality (low fat content), less sugar, less salt and more fibre in foods.*

Warnings as FoP labelling

WHO's recent 'SHAKE the Salt Habit' report of 2016 provides a technical package for member states for salt-reduction policies. The 'A' in the acronym is attributed to the recommendation to 'Adopt Standards for Labelling and Marketing'. It mentions two interventions, i.e. 'Adopt interpretive front-of-pack nutrition labelling systems' and 'Implement strategies to combat the misleading marketing of foods that are high in salt'. It notes that standards should be implemented to prevent marketing and labelling that misrepresents salty foods as healthy options because they contain beneficial amounts of other nutrients. The suggested strategies range from salt-warning labels and front-of-pack colour-coded labelling systems.[29] There are few examples wherein warning labels are mandatory.

Figure 3: Illustration of front-of-pack labelling



Source: GAIN Report Mexico (2014), FSANZ, GAIN Report Thailand (2011), Health Star Rating Industry Kit (2015), Guide to creating a front of pack (FoP) nutrition label for pre-packed products sold through retail outlets in UK (2013), National Food Agency Sweden, Food Politics- FoP in Ecuador,28 Health Promotion Board Singapore

Table 5: Mandatory warning labels (examples)

Country	Warning	Year
Chile[30]	Black stop signs with the legend 'High in salt, sugar, energy or saturated fat'	2015
New York City[31]	Sodium icon placed next to the name of food items in menu list having high sodium	2015
Finland[32]	'High salt content' warning label on foods high in salt	1990

Figure 4: Illustration of mandatory warning labels

Black stop signs, Chile

Sodium icon, New York, USA

High salt warning label, Finland

Source: Jewel Samad/AFP/Getty Images[33] (Menu Warning label in New York City); Center for Science and Public Interest website (Warning label in Chile)[34]

Difference in FoP labels

With FoP labels being adopted formally in the UK and Mexico, unlike in India, the difference in practice is evident. For example, in the Indian context, the fact that all calories in Coca-Cola are from sugar is not as evident as in the UK and Mexico.

Figure 5: Difference in FoP labels on Coca-Cola cans in UK, Mexico and India

UK with % reference intake declaration	Mexico with % guideline daily amount declaration	India with calories only
		

Source: Coca-Cola country websites (UK and Mexico), India–based on product available in market

Menu labelling for non-packaged food

- **South Korea:** Since 2010, chain restaurants with 100 or more establishments require mandatory nutrient information on menus
- **US:** Calorie labelling on menu and menu boards of chain restaurants with more than 20 or more outlets is mandatory from 2016. Labelling is also mandatory for any non-packaged food that makes claim. California, King County, Washington State and New York City have implemented calorie labelling on menus and display boards.
- **Australia**: The Australian Capital Territory and the states of New South Wales and South Australia require restaurant chains equal to or greater than 20 outlets in the state or 50 or more across Australia, to display the calorie content and RDA on their menu boards
- **Sweden:** Voluntary labelling of fresh foods and restaurant foods with the keyhole symbol. The Keyhole Restaurant Association, established by the National Food Administration, certifies restaurants to use keyhole symbol.
- **UK:** Voluntary calorie labelling on menus and display boards of leading companies. These are to be labelled as per government guidelines.

Food claims: what are nutrition claims?

As per Codex Alimentarius, a collection of internationally recognized standards, codes of practice, guidelines, and other recommendations relating to foods, food production, and food safety, **nutrition claim** refers to any representation which states, suggests or implies that a food has particular nutritional properties including but not limited to the energy value and to the content of protein, fat, carbohydrates, vitamins and minerals. These include:

- **Nutrient content claim** that describes the level of a nutrient contained in a food. For example, 'source of calcium', 'high in fibre and low in fat'.
- **Nutrient comparative claim** that compares the nutrient levels and/or energy value of two or more foods. For example, 'reduced', 'less than', 'fewer', 'increased' and 'more than'.
- **Non-addition claim** means any claim that an ingredient has not been added to a food, either directly or indirectly. The ingredient is one whose presence or addition is permitted in the food and which consumers would normally expect to find in the food.

What are health claims?

As per Codex, **health claim** refers to any representation that states, suggests, or implies that a relationship exists between a food or a constituent of that food and health. Types of such claims include:

- **Nutrient function claims:** A nutrition claim that describes the physiological role of the nutrient in the growth, development and normal functions of the body.
  - For example, 'Nutrient A (naming a physiological role of nutrient A in the body in the maintenance of health and promotion of normal growth and development). Food X is a source of/ high in nutrient A.'
- **Other function claims:** These claims concern specific beneficial effects of the consumption of foods or their constituents in the context of the total diet on normal functions or biological activities of the body. Such claims relate to a positive contribution to health, improvement of a function, modifying or preserving health.
  - For example, 'Substance A (naming the effect of substance A on improving or modifying a physiological function or biological activity associated with health). Food Y contains x grams of substance A.'
- **Reduction of disease risk claims:** Claims relating the consumption of a food or food constituent, in the context of the total diet, to the reduced risk

of developing a disease or health-related condition. Risk reduction means significantly altering a major risk factor(s) for a disease or health-related condition. Diseases have multiple risk factors and altering one of these risk factors may or may not have a beneficial effect. The presentation of risk reduction claims must ensure, for example, by use of appropriate language and reference to other risk factors, that consumers do not interpret them as prevention claims.

- For example, 'A healthful diet low in nutrient or substance A may reduce the risk of disease D. Food X is low in nutrient or substance A.'

Claims approved in India

The Food Safety and Standards (Packaging and Labelling) Regulations, 2011 briefly mentions nutrition and health claims. Only two claims are approved, which are essentially based on content of nutrients but mentioned as health claims. Importantly, India does not have serving size standardized, but the condition for claim 'trans fat free' is based on serving size. Claim for dietary fibre has been recently approved in mid-2016.

In contrast to best practices in certain parts of the world, there is no mention of several other types of nutrition claims. There is no list of approved or non-approved health claims. There is no mention of the need for an approval process, the approval process, or the kind of scientific substantiation required.

Table 6: Standards for approved claims in India

Nutrient	Type of claim	Condition
Trans fat	Trans fat free (as a health claim)	< 0.2 g per serving of food[35]
Saturated fat	Saturated fat free (as a health claim)	Does not exceed 0.1 g per 100 g or 100 ml of food
Dietary fibre (Dextrin-Soluble fibre)[36]*	Source of dietary fibre	Not less than 3g per 100 g or 1.5g per 100 kcal
	High source of dietary fibre	Not less than 3 g per 100 g or 1.5 g per 100 kCal and Not more than 6g per 100 g or 3 g per 100 kCal

**In case of select food products such as flakes and ready-to-eat dry breakfast cereals; noodles and pasta; salad dressing or toppings and spreads; table top fibre as filler or carrier and cereals; other snack food or savouries; bakery products, including biscuit, cookies, bread, cakes mix and pastries; other products where dextrin is allowed.*

How food claims are regulated internationally?

The EU has a list of permitted nutrition claims and maintains a register of authorized and non-authorized health claims. Details of the approval process are mentioned. Similarly, in the US, standards are available for almost all nutrients of concern and details on the kind of health claims that can be made along with approval process. Even the Codex guidelines which the Indian food laws intend to harmonize with have standards laid out for nutrients of concern, such as salt, sugar, fat, saturated fat etc.

Malpractice due to weak regulations in India

- Claims made other than those for which standards are not set are invalid. These include claims made on fat, sugar, salt etc.
- There are claims made in India which otherwise are not allowed in other countries. For example:
  - Kellogg's Special K makes the claim of being 98 per cent fat free. In the EU, no food can make a claim of being 'X per cent fat free'.

Table 7: Nutrition claim standards in the EU[37]

Nutrient/Energy	Conditions	Similar permitted claims*
Low energy	Not more than 40 Kcal per 100 g for solids Not more than 20 Kcal per 100ml for liquids	Energy free, Energy reduced
Sugars- free	Not more than 0.5 g per 100 g or 100 ml	Low sugar, with no added sugars
Fat free	Not more than 0.5 g per 100 g or 100 ml Claims expressed as 'X % fat-free' shall be prohibited	Low fat, high polyunsaturated fat, high unsaturated fat, high monounsaturated fat, high omega-3 fatty acids, source of omega-3 fatty acids
Saturated fat free	Sum of saturated fat and trans-fatty acids does not exceed 0.1 g of saturated fat per 100 g or 100 ml	Low saturated fat
Low sodium/salt	Not more than 0.12 g sodium or equivalent salt per 100 g or 100 ml	Very low sodium/salt, Sodium free or salt free, No added sodium/salt
Source of fibre	At least 3 g of fibre per 100 g or at least 1.5 g of fibre per 100 kcal	High fibre
Source of protein	Atleast 12% of energy value of food is provided by protein	High protein

**Others include, source/high (name of vitamins and/or minerals), Reduced/increased/contains (name of nutrient); naturally/ natural; light/lite*

- Health claims of dietary fibre and cardiovascular disease are not authorized in the US. In India we find such claims being made
- The claim made by Bournvita lil champs, i.e. 'Contains DHA known for brain development' falls under the category of unacceptable health claims in Canada
- With no pre-approvals, scientific substantiation of health claims made appears to be largely unscrutinized
- The use of images such as of heart, kids, celebrities, words such as 'all good', 'healthylicious', 'whole wheat at its heart' along with tiny font-size of disclaimers are not well regulated on food package labels
- There are claims which may not technically fall under the category of nutrition content claims or health claims. India's food labelling laws are inadequate to address these. For example, Bournvita's '*Tan ki shakti, man ki shakti*' and *'Grain shakti*'

The Indian food safety laws recognize that a food marketed with false, misleading or deceptive claims, either through advertisement or through label, is considered to be misbranded. A penalty of up to ₹3 lakh is set, and if required a corrective action can be directed or the concerned food article could be destroyed. However, in reality the penalty is not really serving much purpose.

Table 8: Claims made by popular food products and issues

Product	Claims	Issue
Britannia Nutrichoice Essential Oat Cookies	Diabetic friendly, 0% sugar added, High dietary fibre, Complex carbohydrates	High fat content (19%)
Britannia Nutrichoice Digestive	High fibre	High fat content (19.6%)
Sunfeast Farmlite Digestive All Good	Contains fibre, no added sugar, no maida	High fat content (22.7%)
McVities Digestive	Whole wheat at its heart, high in fibre, trans fat zero, cholesterol zero	High fat content (21.2%)
Bournvita	Tan ki shakti, man ki shakti, pro health vitamins	High sugar content (71%); per serve (20g) has 14.2 g, which is ~57% of recommended upper daily limit; possibly very high intake with milk and added sugar and if consumed more than once
Complan	34 vital nutrients, 100% milk protein, more protein faster growth, triple action milk protein, 2X milk proteins, all essential amino acids, absorbs better in body	High sugar content (29%); per serve (33g) has 9.57 g, which is 38% of recommended upper daily limit; possibly very high intake with milk and added sugar and if consumed more than once

Source: Based on CSE analysis of products sourced from market

How healthy are foods with claims?

There is a clear trend of focussing on a single attribute of a product while making claims, completely missing the concept of wholesome food or a balanced diet. A look at the content of a few popular packaged food claims suggests that these could be unhealthy due to nutrients other than those claimed.

3. Food Advertisements and Claims

What are advertisements?

Advertisement is a part of marketing, where 'marketing' refers to any form of commercial communication or message that is designed to, or has the effect of, increasing the recognition, appeal and/or consumption of a particular product or service. It comprises anything that acts to advertise or otherwise promote a product or service.[38]

In the context of food, Codex recognizes advertising as any commercial communication to the public, by any means other than labelling, in order to promote directly or indirectly, the sale or intake of a food through the use of nutrition and health claims in relation to the food and its ingredients.[39]

A 2010 WHO report on marketing of foods and non-alcoholic beverages to children notes that 'Advertising and other forms of food and beverage marketing to children are extensive and primarily concern products with a high content of fat, sugar or salt. Evidence shows that television advertising influences children's food preferences, purchase requests and consumption patterns. Further, a wide range of techniques are used to market these products, reaching children in schools, nurseries, and supermarkets; through television and the Internet; and in many other settings.'[40]

Advertisement regulations in India

Food advertisement comes under the purview of several government departments/agencies. However, it is largely self-regulated through the Advertising Standards Council of India (ASCI), which is an industry association with no punitive powers of its own. There is no approval process for claims in food advertisements. Also, in contrast to certain best practices in other parts of the world and in view of aggressive marketing of foods high in salt, sugar or fat, there are no specific restrictions or framework on broadcast timings of food advertising targeted at children and celebrity endorsements.

The Food Safety and Standards Act, 2006 has provisions to prohibit food advertisements that are misleading in nature. It mentions imposing restriction on any person for engaging in unfair trade practices and has provision for penalizing the person involved in publishing the advertisement which is

Summary: ASCI's self-regulation guidelines on advertising of foods & beverages (F&B)[41]

Advertising of F&B especially the ones with high fat, salt and sugar should be done with caution and care. Advertisement should not mislead consumers by suggesting that a product will result in changes in intelligence, physical ability or exceptional recognition. If made, such claims should be adequately substantiated. Advertisements should not disparage good dietary practice. It should not encourage over- or excessive consumption or show inappropriately large portions of food or beverage. Advertisements should not undermine the importance of healthy lifestyles, role of parental care and guidance in ensuring proper food choices. Advertisements should not promote or portray food and beverage as meal replacements. Advertised claims should be consistent with package labels. Advertisements should not claim or imply endorsement by any government agency, professional body, independent agency or individual in a particular profession unless there is a prior consent.

misleading in nature with ₹10 lakh. It, however, does not approve and monitor food advertisements by itself. It has a Memorandum of Understanding (MoU) with ASCI, which primarily acts based on complaints through its code on food advertisements. The Department of Consumer Affairs addresses complaints on misleading advertisement through its portal, i.e. GAMA (Grievances against Misleading Advertisements), which are directed to ASCI.

Misleading advertisements

The Consumer Protection Act of 1986 recognizes misleading advertisements as 'Any advertisement or promotion through television, radio, or any other electronic media, newspapers, banners, posters, handbills, wall-writing etc. to misrepresent the nature, characteristics, qualities or geographic origin of goods, services or commercial activities so as to mislead the consumer could be broadly defined as a misleading advertisement.'[42] A recent Consumer Protection Bill of 2015, aimed to replace the current Act, has been presented in Lok Sabha. It has provisions for a Central Consumer Protection Authority to deal with misleading advertisements.

In some cases, based on complaints from industry competitors or otherwise, the advertisements of certain foods get upheld by ASCI, sometimes repeatedly for one or another claim.

Damage continues

- ASCI is a self-regulatory body. It does not have the power to impose punitive measures due to which violators may repeat offences. Also, members may not always comply with the codes.
- The issue of delay in evaluation of any complaint and the decision by the ASCI leaves a lot of room for the intended outcome of the food marketing campaign, which is anyway designed for a limited duration.
- Companies keep changing their campaigns, moving from nutrition, health and even emotional tags that help them move past scientific scrutiny.

Changing Claims

In 2011, Bournvita advertised through the tag line of 'Badhaye doodh ki shakti' where the theme related to Vitamin D present in Bournvita, which can help in calcium absorption from milk. The ad showcased a child saying to the mother that calcium goes waste without vitamin D, which is present in Bournvita, in presence of a doctor who supported this viewpoint. In 2013, the focus shifted from health to emotion, where the 'Tayari jeet ki—Adatein' ad campaign was launched, where a mother and son are found racing in the woods. Through a voiceover, the mother says, '*Toh jis din woh mujhe harayega, main jeet jaoongi*' (So, the day he defeats me, I will win). Finally, one day, the son defeats the mother in their race. Another ad campaign 'Tayari har exam ki', in 2016, showcased a school principal saying that parents should focus on their children's learning and not on their marks.

Celebrity endorsement and liability

Endorsement of foods high in salt, sugar and fat by celebrities, such as prominent sports icons, actors and TV personalities, is a huge concern the world over. The impact on buying behaviour is not limited to children. In India, most popular packaged foods are endorsed by one or another film celebrity. The situation is more damaging in the case of sugar sweetened beverages.

Table 9: Misleading advertisement claims of popular foods/snacks (upheld by ASCI over two to three years)

Product name	Misleading claims based on which the advertisements were upheld
Fortune Rice Bran Health	· 'Antioxidant power' – content of antioxidant does not necessarily correspond to 'power'. · 'Make the healthiest choice for your heart' was misleading by implication, 'recommended by doctors' violated FSSAI rule, 'highest cholesterol lowering oil' was not adequately substantiated.
Saffola Gold Oil	· The claim of 'It's not just oil. It's High Science' when read with 'What happens when a cooking oil applies high science to make heart care simpler?' was considered misleading by exaggeration as it is a rhetorical question which connects to heart care. · Claims of 'When it benchmarks itself not with others oils but with the best advancements in heart care', 'The result is cutting edge scientific solution that delivers like no others' were not substantiated and were considered misleading by implication. · Claim of 'So every drop of Saffola is not just oil but high science that your family's heart truly deserves' was not substantiated.
Jivo Canola	· Claims of 'Jivo Canola, Healthiest among all cooking oils of the world', 'finally a cooking oil that reduces belly-fat, bad cholesterol, joint pain and strengthen the heart' were considered to be misleading by ambiguity.
Maggi Vegetable Atta Noodles and Maggi Oat Noodles	· Claim of 'Health bhi', 'health ko mazedar banane ka ek aur tarika' were considered misleading on both the noodle variants. Considering the fat and high calorific value as mentioned on the pack, TVC was found to be misleading as it implied noodles to be a healthy food option for regular consumption. · Claim of 'real vegetables' in oats noodles was found to be misleading as the dehydrated vegetables are not significant source of nutrients both in terms of quantity and quality.
Kellog's special K	· Claim of '2 week challenge and eating 2 bowls everyday: 1 for breakfast, 1 for lunch/ dinner for only 2 weeks' was considered misleading by omission of the specific conditions of the diet plan.
Dabur Chyawanprash	· Claim that Dabur Chyawanprash gives 3 times immunity which helps making kids strong from within was found to be inadequately substantiated with clinical data.
Complan	· Claim comparing only the quantum of milk protein while ignoring other types of protein was considered to confer artificial advantage to the advertisement. · Claim of 'Jisse bacche badhe tezi se' was not substantiated. Claim of '2X milk protein' was considered misleading.
Horlicks	· TV commercial suggesting that consumption of Horlicks can be initiated at the time of examinations for better concentration. The ad visuals give an impression of instant effect on consumption of product where the longitivity of consumption is necessary for efficacy. It was considered distorting the facts and misleading. · Another claim by same product of having high protein which protects body from cell damage was not found to be substantiated with proof of efficacy in in-vivo situation.
Junior Horlicks	· Claim stating that 'Added supplement contents like DHA and CHOLINE in the product are important for child's brain development' was found not to be substantiated adequately.
McVitie's digestive biscuits	· Claim 'every biscuit has 'maida', whereas McVitie's digestive biscuit also has whole wheat' was found to be misleading as content of maida in the product was found to be more than that of whole wheat.
Cremica Biscuits	· Claim of healthy oatmeal cookies being rich in vitamins was not substantiated with supporting data

Source: ASCI

Table 10: Popular packaged foods endorsed by celebrities (over the last couple of years)

Packaged food products/brands	Celebrity
Kellogg's K Special	DeepikaPadukone
Thums Up	Salman Khan
Kellogg's Oats Masst Masala	Ranvir Singh
Coca-Cola	Sidharth Malhotra, DeepikaPadukone, Alia Bhatt
Ching's Secret	Ranvir Singh
Mc Vities Whole Wheat Marie	Kajol
Mc Vities Digestive Biscuites	Bipasha Basu
Maggi Atta Noodles	Madhuri Dixit
Maggi Oats Noodles	Madhuri Dixit
Pepsi	Anushka Sharma, Ranbir Kapoor, Virat Kohli
Lay's Chips	Ranbir Kapoor
Kurkure	Juhi Chawla, Parineeta Chopra

- In the wake of recent issues around celebrity endorsements and realizing the need to fix accountability, the expert committee on the Consumer Protection Bill, 2015 aiming to replace the current Act has recommended stringent measures to tackle misleading advertisements and fixing liability on endorsers or celebrities. The committee recommended a penalty of ₹10 lakh and imprisonment of up to two years or both for the first offence. For the second offence, a fine of ₹50 lakh and imprisonment for five years has been proposed and for subsequent offences, the penalties increase proportionally, based on the sales volume of such products.
- There are two main issues with the proposed provisions. One, the manufacturer has been left out of such penalties. The other issue is that celebrities may not be able to understand the science behind the claims and conduct due diligence.

How the world is regulating celebrity food endorsement

Countries aim to reduce the power and exposure of advertisements through a mix of policy approaches. These include prohibiting celebrities to advertise food and keeping a check on broadcast timings of the advertisements of foods high in salt, sugar or fat.

Table 11: Countries regulating celebrity endorsement (examples)[43,44]

Country, year	Regulation
Norway, 1992	Use of persons or figures who have played prominent role on radio and TV programmes for children and young adults in past 12 months cannot be used for commercial advertising.
Ireland, 2009	Featuring of celebrities to children under the age of 18, and characters and personalities from children's programming to children under age 15 during food advertising is not allowed.
Brazil, 2014	Any form of market communication (including TV, radio, internet, apps) intended to persuade children and adolescents to consume a product or service using strategies such as celebrities that appeal to children, comics or animations are prohibited.

Countries with regulations on broadcast advertising[44]

- **Canada, 1980:** Quebec, a province in Canada, banned fast food advertisements on print and electronic media targeting children under 13 years of age.
- **Norway, 1992:** Marketing directed at children under 18 and advertising in connection with children's programmes on television, radio and teletext is prohibited. The ban includes food and beverages.
- **France, 2004:** Television and radio commercials for foods and beverages with added sugar, salt or artificial sweeteners should display: 'For your health, do not eat foods that contain too much fat, too much sugar or salt; Eat at least 5 servings of fruit and vegetables every day; Avoid eating snacks; Do physical exercise regularly'.
- **Iran, 2004:** Broadcast advertising of soft drinks is prohibited.
- **UK, 2006:** Statutory restrictions to prevent advertisement of foods high in salt, fat and sugar to be shown around children programmes, specifically to those under the age of 16.
- **Sweden, 2008:** Advertising of unhealthy food and beverages targeted at children under the age of 12 during and before children's programmes on TV and radio is banned.
- **Ireland, 2009:** Advertising, sponsorship, teleshopping and product placement of foods high in fats, sugars or salt, as defined by a nutrient profiling model, are prohibited during children's TV and radio programmes where over 50 per cent of the audience are under 18 years old. There is also an overall limit on advertising of foods high in fats, sugars and salt adverts at any time of day to no more than 25 per cent of sold advertising time and to only one in four advertisements. Remaining advertising targeted at children under the age of 13 must not include nutrient or health claims or include licensed characters.
- **South Korea, 2010:** TV advertising for specific food categories has been restricted to children under 18 years of age before, during and after programmes shown between 5 p.m. and 7p.m. and during other children's programmes.
- **Chile, 2015:** Advertising directed to children under the age of 14 of foods 'high in' calories, saturated fat, sugar or sodium content is restricted. Regulation defines advertising targeted to children as TV programmes or websites directed to children or with an audience of greater than 20 per cent children, or in commercial breaks before, during or after these shows, and according to the design of the advertisement. Advertising is also restricted through radio and magazines.
- **Mexico, 2014:** Advertising of foods and sweetened beverages is restricted on TV programmes classified as 'A' between 2.30 p.m. and 7.30 p.m. on weekdays and 7 a.m. to 7.30 p.m. on weekends, where over 35 per cent of the audience is under the age 13. Advertising for such foods is also restricted in films classified as 'A'. It is applicable to sweetened drinks, potato chips, chocolates and confectionary and other foods covered by the nutrient profiling model.
- **Taiwan, 2016**: Restricted food products such as snacks, candies, drinks are banned from being advertised on dedicated TV channels for children between 5 p.m. and 9 p.m.

New-age medium: an emerging challenge

There is hardly any regulatory preparedness and framework in India to prevent targeted advertising of foods high in fat, salt or sugar to children through new-age mediums such as internet and smart phones. WHO's 2016 report on 'Tackling

food marketing to children in a digital world: trans-disciplinary perspectives' recommends that:

- Government should acknowledge the duty of protecting children from digital marketing of foods high in fats, salt or sugar through statutory regulation.
- A comprehensive regulation of all types of marketing in the digital environment, including social media platforms, websites, game platforms and apps, such as advergames has been recommended. Regulations should be flexible to incorporate new and evolving digital marketing.
- Regulatory agencies and policymakers would have to delegate parts of the task to Internet platforms, obligating them to remove digital marketing of HFSS foods accessible to children. Governments should develop appropriate sanction and penalty mechanisms for non-compliance.

Importance of the role of state

A 2014 UN report 'Right of everyone to the enjoyment of the highest attainable standard of physical and mental health' underscores the importance of formulating regulatory framework to reduce children's exposure to aggressive marketing.[45] It highlights that states should intervene when food companies use their position to influence dietary habits by directly or indirectly encouraging unhealthy diets, which negatively affect people's health. The Global Report on Diabetes, 2016 states that interference by food and beverage companies in policymaking and conflicts of interest can lead to the adoption of industry self-regulatory schemes that tend to be less effective than government regulation.[46]

Typically, in self-regulatory initiatives, the age of children and nutrition criteria are inconsistently defined. Companies have their own selection criteria about foods that are not to be advertised. Self-made rules are narrow and limited in what is to be covered, poorly or inconsistently defined, erratically or insufficiently monitored, and weakly or inconsistently enforced.

4. CSE Recommendatons

In view of the growing prevalence of diet-related NCDs and steeply upward trends of misleading food claims, it is time that India is aggressive in containing the influence of unhealthy foods. A policy shift is required to strengthen food- and food-promotion-related laws to prevent public health and attain development goals.

Food labelling and claims

- The current nutrition labelling or nutrition facts labelling needs to strengthen. It should include:
  - Mandatory labelling of salt/sodium, added sugar, saturated fats and trans fats.
  - Nutrient declaration per serve should be made mandatory. It should no longer be optional. Accordingly, serving size, number of servings in a pack must be mentioned wherever applicable. Serving size must be standardized for food categories to help per serve information disclosure.
  - Per serve nutrient information should be mentioned along with percentage contribution to the daily value or RDA. The reference value used for calculating percentage should also be mentioned.
- An easy-to-understand front-of-pack labelling system should be developed. This could be done based on a colour-coded format. It should include energy, salt, sugar and fat and percentage contribution to daily value or RDA. It would also require identification of foods high in salt, sugar, fat or energy, which could be done through nutrient profiling or a similar approach developed for the Indian context to categorize unhealthy foods. If need be, guidelines should be developed first for voluntary adoption of front-of-pack labeling, and gradually it should be made mandatory.
- A system to ensure display of warning symbols at the front-of-pack should be developed. A criterion needs to develop to ascertain the threshold value. Salt, sugar and energy could be the focus to begin with. Warning labels of certain categories like soft drinks which offer empty calories should clearly warn consumers and be conceptualized similar to labelling of tobacco-based products.
- Menu labelling and other point-of-purchase labelling mechanism should be developed and formalized for non-packaged foods high in salt, sugar or fat. This should begin with fast food or quick-service restaurant chains.
- A specific format for nutrition labelling needs to be finalized and enforced with a focus on calories, salt, sugar and fat.
- With reference to nutrition claims, nutrients for which claims can be made should be ascertained. The kind of content claims allowed for a particular nutrient along with limits suitable to the Indian context should be finalized. All other nutrition claims should be prohibited.
- Only authorized health claims should be allowed. A procedure to approve health claims should be developed. A well-defined criterion for requirement and evaluation of scientific substantiation of claims needs to be worked upon. A detailed list of health claims which are unacceptable should be formalized.
- An online system for all information related to claims should be set and made available to all stakeholders, including public. It should include an updated repository of approved and unapproved nutrition and health claims.

- Public health campaign on nutrition, food labelling and misleading claims should be initiated at all levels, starting from schools to mass media campaigns.

Food advertisements and claims

- Food advertisements, particularly of those high in salt, sugar or fat, should be approved prior to screening. They should be based on approved and unapproved claims finalized by the FSSAI. The evaluation should also include the design and target constituency of the advertisement. There should be an integrated advertisement approval and monitoring team from different stakeholder ministries, such as Ministry of Consumer Affairs, Information Broadcasting, and Health and Family Welfare. ASCI should also be involved in this. To begin with, this should cover advertisements in mass media such as television, radio and print media.
- With an aim to limit the power and exposure of advertisements to children and adolescents:
  - Celebrities such as personalities from entertainment, film, TV, media and sports should not be allowed to endorse foods high in salt, sugar or fat.
  - There should be no advertisements allowed for certain categories such as soft drinks (non-dairy, non-fruit-based sugar-sweetened beverages) on the lines of tobacco-based products.
  - Framework for broadcasting regulations for foods high in salt, sugar or fat should be developed. This should include restricting food advertisements during sports, cartoon and other programmes/channels viewed mostly by children. This should also check for design of advertisement and presence of children and adolescents as their presence should be prohibited.
  - There should be no advertisements of food high in salt, sugar or fat at places where children aggregate, such as stadiums, theatres, schools and roadside billboards. Municipal corporations and other civic bodies should be involved in implementing this.
- There should be enforceable guidelines to restrict disguised promotion of foods high in fat, salt or sugar in schools and mass media and companies selling such products. Such initiatives (e.g. Support My School campaign) should not be viewed as an activity under corporate social responsibility. Besides food companies, both schools and mass media should be directed accordingly.
- Advertisements of foods high in salt, sugar or fat in social media and other new-age media platforms need to be regulated. A comprehensive framework should be developed and implemented.
- There should be stringent legal and financial penalties for misleading claims (labelled and/or advertised). The liability should be aligned with the scale of damage. The penal provisions should be directed towards food manufactures and/or marketers who bring the food to the market such as in case of imported products.

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