

Frequently Asked Questions regarding Advertising & Claims on Food Products

Food Safety and Standards Authority of India (FSSAI) has notified FSS (Advertising & Claims) Regulations pertaining to claims and advertisements by food business operators in respect of their food products.

1. What is the purpose of these regulations?

These regulations are aimed at establishing fairness in Claims and Advertisements of food products and make food businesses accountable for such claims/advertisements so as to protect consumers from any misleading advertisement and claims. These regulations define general principles for claims and advertisements and also define criteria for different types of claims viz. nutritional claims, health claims, conditional claims etc.

2. What is the date of compliance of these Regulations?

FSS (Advertising & Claims) Regulations has been gazette notified on 19th November, 2018. Due to some representations received on constraints in compliance, an amendment has been proposed and simultaneously operationalised on 28th June, 2019. The compliance of these Regulations will commence after gazette notification of this amendment.

3. What action can be taken by Authority in case of misleading claims made by FBOs on food products?

Any person, including a third party, who advertises or is a party to the publication of any misleading advertisements/claims, would be penalised for a fine extending upto Rs. 10 lakh, as per Section 53 of the Food Safety and Standards Act 2006.

4. What type of claims and advertisements are permitted for packaged food products?

FSS (Advertising & Claims) Regulations define criteria for different types of claims viz. nutritional claims, health claims, conditional claims, equivalence claims etc. For details may visit to these Regulations. Making any of such claims/advertisements on a particular food product, FBOs need to comply with the defined criteria.

5. Whether Foods for special dietary uses or foods for special medical purposes can make claims as per these Regulations?

Such products shall not carry a claim unless specifically permitted under Food Safety and Standards (Health Supplements, Nutraceuticals, Food for Special Dietary Use, Food for Special Medical Purpose, Functional Food and Novel Food) Regulations, 2016

6. Whether claims being made on food products like “as much fibre as apple”/ “as much Vitamin C asglass of orange Juice” are permitted?

Such claims are examples of “Equivalence Claims”. FBOs can make equivalence claims only if the product is complying with conditions specified for the same in FSS (Advertising & Claims) Regulations.

7. Whether FBO claiming “No added Sugar” on food products to promote sale to calorie conscious and diabetic person need to comply with some conditions?

This is a type of Non-Addition Claim. FBO must comply with conditions specified for “Non-Addition of Sugar” under these Regulations.

Further, Claims regarding the non-addition of sugars to a food may also be made, where sugars are naturally present in the food, and in such case the following indication shall also appear on the label.

‘CONTAINS NATURALLY OCCURRING SUGARS’.

8. Whether FBO can claim” Low Sugar” or “Sugar-Free” on their food products?

For making these claims, FBO need to comply with conditions specified for these under Schedule-I of these Regulations.

9. Whether adjectives such as “natural”, “fresh”, “pure”, “original”, “traditional are allowed to be used in brand name ?

Where the meaning of a trade mark, brand name or fancy name containing adjectives such as “natural”, “fresh”, “pure”, “original”, “traditional”, “authentic”, “genuine”, “real”, etc., appearing in the labelling, presentation or advertising of a food is such that it is likely to mislead consumer as to the nature of the food, in such cases an FBO can use these adjectives with a disclaimer (not less than 1.5mm size in case of pack size under 100sq. cm and not less than 3mm size in case of pack size above 100 sq. cm) stating that-

*“*This is only a brand name or trade mark and does not represent its true nature”*

10. Can a Claim be made on the packages of fortified food products?

Food articles that are fortified as per Food Safety and Standards (Fortification of Foods) Regulations, 2018 can make health claims as provided in Schedule IV of FSS (Advertising & Claims) Regulations, 2018 and flexibility in the wordings of the claim statement is acceptable, if the meaning of the claim is not altered.

11. Are the claims containing adjectives like “natural”, “fresh”, “pure”, “original”, “traditional”, “Authentic”, “Genuine”, “Real”,” permitted ?

Such claims are permitted subject to the compliance of the conditions specified in Schedule V of these Regulations.

12. Is it allowed to use phrases like- “recommended by the medical or nutrition or health professionals” on label of a food product?

The phrases “recommended by the medical or nutrition or health professionals” or any phrase/words which imply or suggest that the food is recommended, prescribed, or approved by medical practitioners or approved for medical purpose is not permitted on the label of any food package.

13. Whether it is necessary to specify number of servings in case claim is being made on a food product?

Yes. Claims shall specify the number of servings of the food per day for the claimed benefit.

14. Whether claims such as “Low Calorie”, Fat Free”, Low Cholesterol” can be made without prior approval from FSSAI?

Yes. These are Nutrient Content Claims which can be made without any prior approval from FSSAI. However, FBOs need to comply with conditions specified under Schedule – I of these Regulations while making such claims.

15. For claiming a food “Trans Fat Free”, what condition needs to be complied with?

If the trans fat content is less than 0.2g per 100g or 100ml of food, then the said claim can be made.

16. Are the edible vegetable oils claiming “High in MUFA/PUFA” need to comply with certain conditions?

The minimum limits for claiming High in MUFA/PUFA have been defined under Schedule-I of these Regulations.

17. What types of advertisements/claims are prohibited?

Advertisements/Claims in respect of food product that undermines the importance of healthy lifestyles or portrays the food product as a complete replacement of normal meal are not permitted. Further, food businesses are also prohibited to advertise or make claim undermining the products of other manufacturer to promote their own food products or influence consumer behavior. For more details, Regulations may be referred.

18. What is a corrective advertisement and under what condition, a FBO will need to issue such advertisement?

If an advertisement is found to be in violation of the provisions of these regulations, the Food Authority may, by order, require the concerned food business operator or advertiser to stop it immediately and to issue corrective advertisement within thirty days through the same medium for neutralising the effect of such advertisement.

19. When do a FBO need to apply for Claims Approval from FSSAI?

If an FBO wishes to make “disease risk reduction” (DRR) claim on a food product which is not listed in Schedule III of Regulations, then he/she should seek prior approval from FSSAI. “DRR claims” refers to claims that state, suggest or imply that consumption of such foods or food constituents, in the context of total diet, reduce the risk of developing a disease or health related condition.

20. What procedure needs to be followed while applying for claims approval?

FBO who wish to seek prior approval of claims for a food product/ingredient in food product shall submit duly filled application as per format given by the Authority along with a fee of Rs. 50,000/- (Fifty thousand) payable to Senior Accounts Officer, FSSAI. The detailed note regarding claims approval and application form is available on FSSAI’s website at following Link:
www.fssai.gov.in/upload/advisories/2019/09/5d7871bfd7ab9Notice Fees Claims_05_09_2019.pdf.

21. What is the mode of application and whom does the application need to be addressed?

Currently the applications are being made manually. The application shall be addressed to the CEO, FSSAI, FDA Bhawan, Kotla Road, New Delhi -110002 or Advisor (Science & Standards), FSSAI, FDA Bhawan, Kotla Road, New Delhi -110002.

22. What is the fee and mode of fee payment?

A fee of Rs. 50,000/- only (Fifty thousand only) per application (per product or per ingredient) needs to be submitted via demand draft, payable to Senior Accounts Officer, FSSAI.

23. How many claims statements can be assessed per application?

Maximum of three claim statements shall be assessed per application.

24. Is the fee submitted along with the application refundable?

No. The fee once submitted is not refundable if any tangible action is initiated w.r.t. the processing of application.

25. Is there any specific format and list of documents which need to be submitted while applying for claims approval?

Yes. The documents shall be submitted as per requirements of Form annexed in notice dated 4th September, 2019. The succinct summary of published scientific data comprising in-vitro, in-vivo and human studies should be submitted along with the application form.

26. Whether the Claims approved by FSSAI can be used for purpose of promotion of the product linking it with FSSAI?

Claims approved by FSSAI shall not be construed for purpose of promotion of sale, supply, use and consumption of articles of foods, specifically ascribing it to FSSAI logo or license number in any way.

27. What mode does FSSAI use to respond to the FBO on scrutiny of Claim approval application?

The FBO will receive the clarifications sought by the Authority in both soft and hard copy. The contact details (email, contact address etc.) as provided in the application form will be used by the Authority for such communication.

28. How should the FBO respond to the clarification sought by the authority?

The FBO shall send the hard copy of the replies to the queries sought by the Authority which should be duly attested by the Authorized person. In addition, they shall also send the scanned copy of the same through email.

29. What is the time duration given to the FBO to reply to the clarification?

FBOs will be given 30 days' time period to submit the necessary clarification from the date of issue of the clarification letter.

30. Whether the approval or rejection is granted to a specific firm or it can be applicable to any FBO?

Approval or rejection is for the specific firm which applied for Claims approval based on their documents submitted.