

GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
DEPARTMENT OF CONSUMER AFFAIRS

RAJYA SABHA
UNSTARRED QUESTION No. 1504

TO BE ANSWERED ON 15.12.2023

MISLEADING INFORMATION ABOUT NUTRITIONAL CONTENT

1504. SHRI KARTIKEYA SHARMA

Will the Minister of CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION be pleased to state:

- (a) the measures taken by the Ministry against practices of publishing/printing misleading information pertaining to nutritional content and health benefits on the packets of edible food items; and
- (b) whether the Ministry has taken steps or plans to take steps in the light of recent Supreme Court judgment on ethical marketing practices adopted by companies selling alternate medicines, ayurvedic and natural products with claims of health benefits, if so, the details thereof?

ANSWER

THE MINISTER OF STATE, CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(SHRI ASHWINI KUMAR CHOUBEY)

(a) : The Food Safety and Standards Authority of India(FSSAI) has notified the Food Safety and Standards (Advertising and Claims) Regulations, 2018 and the Food Safety and Standards (Labeling and Display) Regulations, 2020 to ensure fairness in claims and advertisements of food products and to make food businesses accountable for such claims/ advertisements so as to protect consumer interests.

According to sub-regulation 6 of regulation 4 of the Food Safety and Standards (Advertising and Claims) Regulations, 2018 *"the claim that a food has certain nutritional or health attributes shall be scientifically substantiated by validated methods of characterising or quantifying the ingredient or substance that is the basis for the claim"*. Additionally, regulations 5 and 7 of the Food Safety and Standards (Advertising and Claims) Regulations, 2018 provide prerequisites for making nutrient and health claims respectively, ensuring accuracy and transparency in advertising food products.

The provisions for use of certain words or phrases (Natural, Fresh, Pure, Original etc.) are specified under Schedule –V. The Food Safety and Standards Act 2006 (FSS Act, 2006) provided various legal provisions for Offences & Penalties wherein Section 53 of FSS Act, 2006 specified the provisions of penalty for misleading advertisements. Details of Enforcement Samples analysed, found non-conforming and penal action taken during last three years are at **Annexure**.

Under the Consumer Protection Act, 2019, misleading advertisement in relation to any product or service is defined as an advertisement, which— (i) falsely describes such product or service; or (ii) gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or (iii) conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or (iv) deliberately conceals important information.

Under the provisions of the Consumer Protection Act, 2019, the Central Consumer Protection Authority (CCPA) has been established w.e.f 24.07.2020 to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers as a class.

The CCPA has notified the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 on 9th June, 2022. These guidelines inter-alia provide for; (a) conditions for an advertisement to be non-misleading and valid; (b) certain stipulations in respect of bait advertisements and free claim advertisements; and, (c) duties of manufacturer, service provider, advertiser and advertising agency.

(b) : Licence related provision in respect of Ayurvedic, Siddha and Unani drugs are prescribed under Rule 151 to 169 of Drugs and Cosmetics Rules, 1945. It is emphasis that the guidelines for issue of license with respect to Ayurveda, Siddha or Unani(ASU) drugs are defined under Rule 158-B of Drugs & Cosmetics Rules, 1945 and Section 3(a) and (h) of the Drugs and Cosmetics Act, 1940.

Further, As per Rule 161(2) of the Drugs and Cosmetics Rules, 1945 the drug containing ingredients mentioned in Schedule E(1) of the D&C Act, 1940 has to be labelled conspicuously with the words “Caution: To be taken under medical supervision” both in English and Hindi language.

Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and Rules thereunder encompass the provisions for prohibition of misleading advertisements and exaggerated claims of drugs and medicinal substances including Ayush medicines, which appear in the print and electronic media and Government has taken note thereof. State/UT Governments are empowered to enforce the provisions of Drugs & Magic Remedies (Objectionable Advertisements) Act, 1954 and Rules there under.

Pharmacovigilance Centres for Ayurveda, Siddha, Unani and Homoeopathy (ASU&H) Drugs set up in different parts of the country under the Central Scheme of Ministry of Ayush are mandated to monitor and report the misleading advertisements to the respective State Regulatory Authorities. A three tier structure comprising of a National Pharmacovigilance Co-ordination Centre (NPvCC), Intermediary Pharmacovigilance Centres (IPvCs) and Peripheral Pharmacovigilance Centres (PPvCs) is established. All India Institute of Ayurveda (AIIA), New Delhi under Ministry of Ayush is the National Pharmacovigilance Co-ordination Centre (NPvCC) for the implementation of the National Pharmacovigilance program for Ayurveda, Siddha, Unani & Homoeopathy drugs. Objectionable advertisements are being reported to the respective State Licensing Authorities by PPvC at regular intervals.

The CCPA on 14th July 2022 has issued an Advisory to e-commerce entities concerning the sale of Ayurvedic, Siddha and Unani drugs containing ingredients listed in Schedule E (1) of the Drugs and Cosmetics Rules, 1945. E-commerce platforms have been advised that the sale or facilitating the sale of such drugs shall be done only after a valid prescription of a registered Ayurveda, Siddha or Unani practitioner respectively is uploaded by the user on the platform. Consuming such drugs without medical supervision can lead to severe health complications.

ANNEXURE REFERRED TO IN REPLY TO PART (a) OF RAJYA SABHA UNSTARRED QUESTION NO.1504 FOR 15.12.2023 REGARDING MISLEADING INFORMATION ABOUT NUTRITIONAL CONTENT BY SHRI KARTIKEYA SHARMA.

Details of Enforcement Samples analysed, found non-conforming and penal action taken during last three years.

Year	No. of Samples Analysed	No. of Samples found non-conforming	Non-Conforming Samples			Civil Cases			Criminal Cases		
			Unsafe	Sub Standard	Labeling defects/ Misleading / Miscellaneous	No. of Cases Launched	No. of Convictions	Penalties Raised (Cr Rs.)	No. of Cases Launched	No. of Convictions	Penalties Raised (Cr Rs.)
2020-21	1,07,829	28,347	5,220	13,394	9,733	24,195	14,817	49.92	3,869	506	0.83
2021-22	1,44,345	32,934	4,890	16,582	11,462	28,906	19,437	53.39	4946	671	1.38
2022-23	1,77,511	44,626	6,579	21,917	16,130	38,096	28,464	33.23	4818	1188	2.75
