
A STUDY OF FALSIFICATION OF ADVERTISEMENTS, MISREPRESENTATION AND CONSUMER DECEPTION: AN ANALYSIS OF THE LEGAL PROVISIONS UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006

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ABSTRACT

The proliferation of misleading and deceptive advertisements in the food industry has intensified concerns relating to consumer protection, regulatory accountability, and truthful commercial communication. This study critically examines the phenomenon of falsification of advertisements and misrepresentation within the Indian food market by analysing the legal framework established under the Food Safety and Standards Act, 2006 (FSSA). It explores how food business operators employ exaggerated claims, manipulated imagery, and ambiguous disclosures that distort consumer perception and influence purchasing behaviour. The paper evaluates statutory provisions governing false, misleading, or unfair advertisements, particularly Sections 23, 24, 52, and 53 of the FSSA, and assesses the role of the Food Safety and Standards (Advertising and Claims) Regulations, 2018, in strengthening the preventive and punitive mechanisms against such practices. Further, the research highlights enforcement challenges such as inadequate monitoring, evidentiary burdens, digital advertising loopholes, and the limitations of penal consequences. Through doctrinal analysis, supported by case laws and administrative actions of the Food Safety and Standards Authority of India (FSSAI), the study underscores the need for stricter compliance structures and enhanced consumer awareness. The paper concludes that while the existing legal architecture offers a robust foundation, the dynamic nature of food marketing demands continuous regulatory evolution to effectively curb consumer deception and uphold public health standards.

Keywords: Advertising, Compliance, Consumer Deception, Falsification, Food Safety and Standards Act, 2006, Misleading Advertisements, Misrepresentation

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1. INTRODUCTION

False or misleading food advertising and inaccurate labelling are not merely minor irregularities or isolated market failures; they constitute systemic threats to public health, fair competition, and consumer autonomy. Food and beverage advertisements often make claims regarding nutritional value, purity, therapeutic benefits, “naturalness,” immunity enhancement, or safety. When these representations are exaggerated, unsubstantiated, or outright false, they distort consumer choice, especially in a country like India, where significant sections of the population rely heavily on packaging, advertisements, and endorsements as primary sources of product information.^[2] Empirical studies in behavioural economics show that consumers seldom verify claims independently and therefore place high trust in labels and promotional material. As a result, deceptive food marketing not only misleads individual consumers but also shapes broader consumption patterns that may undermine public health, exacerbate nutritional deficiencies, or contribute to lifestyle diseases.

In this context, the Food Safety and Standards Act, 2006^[3] forms the central statutory pillar governing truthfulness in food labelling and advertising. The Act, supplemented by an elaborate network of rules, standards and regulations (such as the Packaging and Labelling Regulations, Nutritional and Health Claims Regulations, and specific product standards for milk, beverages, oils, etc.), establishes mandatory disclosures, prohibits false claims, and empowers the Food Safety and Standards Authority of India (FSSAI) to regulate misbranded food, impose penalties, conduct recalls, and issue prohibition orders. Critically, the FSSA adopts a public health-centric regulatory philosophy, placing consumer safety and accurate information above commercial interests.^[4]

Parallel to this, the Consumer Protection Act, 2019,^[5] through the newly empowered Central Consumer Protection Authority (CCPA), addresses misleading advertisements at the level of advertising conduct itself, rather than product safety alone. The law defines “misleading advertisement” broadly, holds manufacturers, advertisers, publishers, and endorsers liable, and authorises the CCPA to issue cease-and-desist orders, levy penalties, and mandate corrective

² Mehta, R. and Bharadwaj, A., 2021. Food Advertising Targeting Schemes in India: Analysis and Implications. *Journal of Retailing and Consumer Services*, 59, p.102428.

³ The Food Safety and Standards Act, No. 34 of 2006.

⁴ Aswathy T, et al. Food Safety Standards Authority of India (FSSAI): A Multifaceted Approach Towards Food Safety, 2024. [Article ID: FTT20240102001]

⁵ The Consumer Protection Act, 2019, §10.

advertisements. This dual statutory framework, FSSA regulating the product and its labelling, and the CPA regulating promotional representation, creates a comprehensive but intricate regulatory environment. Where food advertisements make therapeutic or nutritional claims, both regimes may apply concurrently.^[6]

Recent high-profile controversies illustrate that food misrepresentation is not just a legal violation; it is a public-health flashpoint that has economic, ethical, and social implications. Advertising and labelling disputes now routinely escalate into national controversies, judicial proceedings, and market-wide disruptions.^[7] This demonstrates the critical importance of robust statutory safeguards, coordinated regulatory enforcement, and stringent judicial oversight, making a detailed legal study of falsification of advertisements, misrepresentation, and consumer deception under the FSSA both timely and necessary.

2. CONCEPTUAL FRAMEWORK – FALSIFICATION, MISREPRESENTATION & CONSUMER DECEPTION

A sound legal analysis requires clarity on the conceptual foundations of falsification, misrepresentation and consumer deception, particularly in the context of food advertising and labelling. Falsification of advertisements refers to situations where a trader knowingly publishes or disseminates untrue, fabricated or scientifically unsubstantiated claims meant to influence consumer choice. This may include false health assurances, manipulated comparative claims or fabricated endorsements.^[8]

Misrepresentation on food labels or promotional material can occur through affirmative falsehoods, such as claiming “100% natural,” “clinically proven benefits,” or “no added sugar” when these statements are unverifiable or materially inaccurate; or through negative misrepresentation, such as the omission of essential information about ingredients, allergens or artificial additives.^[9] Consumer deception is the practical outcome of these practices and occurs when an ordinary consumer, acting reasonably, forms an incorrect belief regarding the nature,

⁶ Sharma, N. and Bhavika, M., 2014. Advancing Consumer Protection through Smart Food Safety Regulation. *Indian Food and Feed Law Review*, p.91-104.

⁷ Finn, A. and Louviere, J.J., 1992. Determining the Appropriate Response to Evidence of Public Concern: The Case of Food Safety. *Journal of Public Policy & Marketing*, 11(2), p.12-25.

⁸ Sybirna, R. and Tymchuk, K., 2025. Falsification of Food Products in the Markets and Their Examination.

⁹ Van der Meulen, B., 2015. Is the Current EU Food Safety Law Geared up for Fighting Food Fraud?. *Journal*, 10 (Suppl 1), p.19-23.

composition, quality or health effects of the food product.^[10]

These ideas are operationalised through provisions of the Food Safety and Standards Act, 2006 and are reinforced by the Consumer Protection Act, 2019, which together create a statutory matrix for determining whether a claim is misleading. Judicial interpretation has played an important role in defining these boundaries. In **Hindustan Unilever Ltd. v. Gujarat Cooperative Milk Marketing Federation Ltd. (2017)**,^[11] the Delhi High Court held that advertisements that create a false impression about a rival product through innuendo or scientific exaggeration amount to misleading representation even if the statements are not explicitly false. Similarly, in **Colgate Palmolive (India) Ltd. v. Anchor Health & Beauty Care Pvt. Ltd. (2003)**,^[12] the Madras High Court noted that misrepresentation exists when an advertisement is likely to mislead even a segment of consumers, not necessarily the entire public. These cases illustrate that the law focuses not only on outright lies but also on subtler manipulations that distort consumer understanding.

2.1. WHAT THE LAW TREATS AS MISREPRESENTATION AND DECEPTION

The FSS Act provides substantial clarity through its definition of “misbranded food” under Section 3(1)(zf),^[13] which includes scenarios where the label or advertisement is false or misleading in any particular, where a food product is sold under the name of another food, where essential information is concealed, or where the packaging or presentation is likely to deceive the consumer. Section 24^[14] further prohibits any misleading advertisement related to the nature, substance or quality of food, and lastly, penalties are imposed for false or misleading claims.^[15] These provisions operate alongside Section 2(28) of the Consumer Protection Act, 2019, which defines “misleading advertisement” to include false descriptions, concealed information, unsupported guarantees, and exaggerated claims.

The Central Consumer Protection Authority (CCPA) has actively used these provisions, including issuing recall orders and imposing penalties on several brands. Judicial interpretation

¹⁰ Brewer, M.S. and Prestat, C.J., 2002. Consumer Attitudes Toward Food Safety Issues. *Journal of Food Safety*, 22(2), pp.67-83.

¹¹ *Hindustan Unilever Ltd. v. Gujarat Cooperative Milk Marketing Federation Ltd.* 2017 (69) PTC 528 (Del)

¹² *Colgate Palmolive (India) Ltd. v. Anchor Health & Beauty Care Pvt. Ltd.* 108 (2003) DLT 51

¹³ The Food Safety and Standards Act, No. 34 of 2006, §3 cl. (1)(zf).

¹⁴ The Food Safety and Standards Act, No. 34 of 2006, §24.

¹⁵ The Food Safety and Standards Act, No. 34 of 2006, §53.

strengthens this statutory position. In the Patanjali misleading advertisements case (2024),^[16] the Supreme Court held that unscientific and exaggerated therapeutic claims constitute consumer deception and violate both the FSS Act and the CPA. Earlier, in **Horlicks Ltd. v. Zydus Wellness Products (2019)**,^[17] the Delhi High Court emphasised that claims suggesting superior nutritional value must be supported by empirical evidence, and that presenting selective facts that distort consumer perception qualifies as misleading representation. These judicial developments confirm that both overt falsehoods and subtle half-truths fall squarely within the legal meaning of misrepresentation and deception.

2.2. REGULATORY POLICY TENSION: PUBLIC HEALTH V. COMMERCIAL SPEECH

The regulation of food advertisements sits at a complex intersection of public health protection and commercial speech rights. Food claims, especially those relating to therapeutic, nutritional or preventive properties, can significantly affect public health. Misleading ORS claims in India, where flavoured beverages were marketed as medical oral rehydration solutions without meeting WHO-ORS formula standards,^[18] illustrate how deceptive representations can endanger consumers. In handling this controversy, regulators invoked FSS Act provisions on misbranding and misleading claims, reinforcing that commercial speech cannot override health considerations. Courts have consistently supported this stance.

In **Hamdard Dawakhana v. Union of India (1960)**,^[19] the Supreme Court held that commercial advertisements do not enjoy the same level of constitutional protection as political or artistic speech, especially when they relate to health claims. This principle continues to influence contemporary jurisprudence. At the same time, advertising often involves competitive comparisons and puffery, requiring regulators to allow some room for commercial expression. In **PepsiCo India Holdings Pvt. Ltd. v. Hindustan Coca-Cola Beverages Pvt. Ltd. (2003)**,^[20] the Delhi High Court differentiated permissible puffery from actionable misrepresentation and held that exaggeration becomes illegal when it misleads the average consumer. The Advertising Standards Council of India (ASCI) also plays a role in balancing

¹⁶ Sunil J (2025;), "A Case Study on Patanjali's Purpose and Ethical Conduct". International Journal of Ethics and Systems, Vol. 2.

¹⁷ Horlicks Ltd. v. Zydus Wellness Products, CS (COMM) 464/2019

¹⁸ Pallav Mishra, Centre Says Only WHO-Approved Products Will Be Labelled ORS, NDTV (Oct. 16, 2025).

¹⁹ Hamdard Dawakhana v. Union of India, AIR 1960 SC 554

²⁰ PepsiCo India Holdings Pvt. Ltd. v. Hindustan Coca-Cola Beverages Pvt. Ltd., 2003 (27) PTC 305 (DEL)

the two interests by filtering deceptive claims while allowing non-deceptive competitive marketing. The constant calibration between public health imperatives under the FSS Act, consumer welfare under the CPA, and permissible commercial communication forms the core of the regulatory tension that continues to evolve through legislative reform and judicial oversight.

3. AN INTEGRATED ANALYSIS OF THE LEGAL FRAMEWORK

The regulatory landscape governing falsification of advertisements, misrepresentation and consumer deception in the food sector is not a single-statute regime but a layered architecture. The Food Safety and Standards Act 2006 forms the substantive backbone, while its subsidiary regulations operationalise standards, disclosures and claims. Parallel frameworks under the Consumer Protection Act 2019 and self-regulatory bodies add distinct enforcement pathways targeting advertising conduct and endorsements.^[21] This section integrates these sources into the contexts where they arise: misbranding on packaging, misleading claims in advertisements, endorser accountability, recall mechanisms, criminal liability, administrative penalties and civil consumer remedies.

3.1. FOOD SAFETY AND STANDARDS ACT, 2006

The FSS Act establishes FSSAI and empowers it to set food standards, mandate labelling, enforce safety norms and prosecute misbranding. Its definitional clauses drive enforcement. The definition of “misbranded food” is especially central because it treats any false, misleading or exaggerated label or advertisement as a statutory wrong. Courts rely heavily on this definition when analysing whether advertising claims cross the boundary from permissible commercial speech to punishable deception.^[22]

3.1.1. DEFINITION OF MISBRANDED FOOD

Section 3(zf)^[23] covers false or misleading claims on labels or advertisements, the sale of food under another product’s name, imitation without clear disclosure, inaccurate statements regarding ingredients, and failure to declare additives. This definition allows FSSAI to target

²¹ Shukla, S., and Singh, S.P., 2014. Food Safety Regulatory Model in India. *Food Control*, 37, p.401-413.

²² Adish, A., 2025. Food Safety and Public Health: A Critical Analysis.

²³ The Food Safety and Standards Act, No. 34 of 2006, §3 cl. (zf).

both packaging misstatements and misleading marketing campaigns.^[24]

3.1.2. STATUTORY PENALTIES

Section 52^[25] provides penalties for misbranded food (up to three lakh rupees). Section 53 separately penalises misleading advertisements even when the product itself is not unsafe. Other provisions address sub-standard food, adulteration, unhygienic processing and extraneous matter. Enforcement tools include suspension or cancellation of licences, prohibition orders, seizure, recall and mandatory destruction or correction of defective batches.^[26]

3.1.3. PRACTICAL IMPLICATION

Claims such as “No Added MSG”, “100% natural”, “clinically proven immunity boost”, or “sugar-free” without a factual basis can amount to misbranding under the Act. The Maggi controversy, involving undeclared additives and allegedly misleading health claims, and recent actions involving Patanjali’s immunity claims, illustrate how FSSAI uses these powers to direct recall, impose fines and mandate reformulation of labels or advertising content.^[27]

3.2. PACKAGING, LABELLING AND OTHER REGULATIONS UNDER FSSA

The Food Safety and Standards (Packaging and Labelling) Regulations 2011,^[28] along with the more recent consolidated Labelling and Display Regulations,^[29] translate the broad statutory duties into precise compliance requirements. These regulations require that information be clear, conspicuous and not misleading. They mandate declarations on ingredients, allergens, nutrition, additives, batch details, best-before dates and FSSAI licence numbers. They also prohibit descriptors that create unwarranted impressions, such as implied medicinal benefits, unverified nutritional superiority or deceptive imagery.^[30]

²⁴ Kohli, C. and Garg, S., 2015. Food Safety in India: An Unfinished Agenda. MAMC Journal, 1(3), pp.131-135.

²⁵ The Food Safety and Standards Act, No. 34 of 2006, §52

²⁶ Newton, P.I., 2023. FSSA, 2006, Punishment: Unsafe Food Products, No. 1 Int'l JL Mgmt. & Human., 6, p.1950.

²⁷ Dhara, D., Biswas, S., Das, S.K. and Biswas, O., 2021. Status of Food Safety and Food Security in India in the Perspective of FSSAI. Indian J Anim Health, 60(2), pp.167-173.

²⁸ Food Safety and Standards (Packaging and Labelling) Regulations, 2011, Gazette of India, (June 1, 2011).

²⁹ Food Safety and Standards (Labelling and Display) Regulations, 2020, Gazette of India, (November 17, 2020).

³⁰ Singh, M., Iyer, U. and Chandorkar, S., 2013. Nutrition Labelling Compliance of Branded Processed Packaged Foods with Indian Food Laws (FSSAI, 2011 regulations). International Journal of Food and Nutritional Sciences, 2(4), p.14-19.

These regulatory provisions frequently form the technical basis for prohibition notices and recall orders. During proceedings related to packaged beverages, ready-to-eat foods and health supplements, courts have recognised that non-compliance with these rules itself constitutes misbranding, even when the product is not harmful. High Court orders in cases involving energy drinks and fortified cereals show that regulators may compel relabelling if mandatory information is missing or if imagery misleads consumers about health benefits.^[31]

3.3. CONSUMER PROTECTION ACT, 2019

The Consumer Protection Act 2019 adds an independent advertising-control mechanism. Section 2(28)^[32] defines a misleading advertisement broadly to include false descriptions, exaggerated claims, concealment of important information, or distortion of facts likely to mislead consumers. Section 21^[33] empowers the Central Consumer Protection Authority to investigate misleading advertisements and issue cease-and-desist directions, corrective advertising orders, monetary penalties and endorsement bans.

This framework complements the FSS Act by focusing on advertising conduct rather than food safety. The CCPA has used these powers in matters relating to Ayurvedic immunity products, infant nutrition claims and dietary supplements. In the Patanjali proceedings, the Supreme Court also underscored that celebrities and influencers cannot endorse health-related claims without reasonable verification.^[34] This reflects a shift towards accountability across the entire promotional chain, not just the manufacturer.

3.4. SELF-REGULATION AND SECTORAL INSTRUMENTS

Self-regulation operates in parallel. The Advertising Standards Council of India (ASCI) performs rapid screening of misleading, exaggerated or irresponsible advertisements. Its Code for Self-Regulation prohibits ads that abuse consumer trust, exploit lack of knowledge or make unsubstantiated health or nutritional claims. Although ASCI decisions are not legally binding, advertisers typically comply because non-compliance risks regulatory scrutiny under the

³¹ Putta, S., 2020. FSSAI Guidance and Notification on Nutraceuticals: An Insight.

³² The Consumer Protection Act, 2019, §2 cl. 28.

³³ The Consumer Protection Act, 2019, §21.

³⁴ Agarwal, M.S., Sain, A., Mishra, S.K., Kumar, M.K., Rai, D.V.S. and Chandra, S., Examining India's Product Liability Framework in the Context of the Food Sector: A Comparative Study With Reference to the United States of America.

FSSAI and the CCPA.^[35]

Sectoral codes, such as broadcasting guidelines and rules governing health and pharma-related advertisements, also influence compliance behaviour. For example, rulings in comparative advertising disputes such as **Horlicks Ltd. v. Zydus Wellness Products (2019)**,^[36] and **P&G v. HUL**,^[37] show that courts consider ASCI standards persuasive while determining whether a representation misleads the average consumer. In practice, this creates a harmonized and responsive ecosystem where self-regulatory norms supplement statutory enforcement.

4. ENFORCEMENT ARCHITECTURE AND INSTITUTIONAL INTERPLAY: PRACTICAL DYNAMICS

Enforcement is distributed, the FSSAI handles product safety, sampling, prohibition orders and administrative penalties under the FSS Act, CCPA handles misleading advertisement investigations and penalties; ASCI does rapid self-regulation; courts adjudicate disputes and review administrative action. The practical effectiveness depends on coordination, rapid scientific analysis (NABL-accredited labs), due process (show cause hearings), and public transparency.^[38]

4.1. SAMPLING, LABS AND OTHER CONSTRAINTS

Regulatory action (recalls, bans) depends on lab results from NABL-accredited labs; procedural fairness (show cause notices, testing in accredited labs) was central to controversies such as the Maggi orders (Bombay High Court scrutinised whether proper procedure and accredited testing were followed). The law, therefore, requires an evidentiary foundation, and courts have sometimes set aside bans where process defects are found.^[39]

4.2. OVERLAP AND DUPLICATION

Two regulators may act on the same conduct: FSSAI may issue a prohibition order for a misbranded product while the CCPA may simultaneously investigate the advertisement and

³⁵ The Consumer Protection Act, 2019, §10.

³⁶ *Horlicks Ltd. v. Zydus Wellness Products*, CS (COMM) 464/2019

³⁷ *Hindustan Unilever Ltd. v. Gujarat Cooperative Milk Marketing Federation Ltd.* 2017 (69) PTC 528 (Del)

³⁸ Dhara, D., Biswas, S., Das, S.K. and Biswas, O., 2021. Status of Food Safety and Food Security in India from the perspective of FSSAI. *Indian J Anim Health*, 60(2), p.167-173.

³⁹ Yang, H., 2019. Food Safety in India: Status and Challenges. *Gates Open Res*, p.1043.

seek penalties against the advertiser or endorser.^[40] Duplication can be productive (multiple remedies) but raises coordination challenges, for example, concurrent notice and different evidentiary expectations. Recent developments show active use of both routes in major controversies.

5. CASE STUDIES: DOCTRINAL AND FACTUAL MATRIX

The following case studies are chosen because they exemplify the recurring doctrinal issues in food advertising and labelling law. Each illustrates how regulators and courts handle misbranded labels, unverified health claims, procedural fairness in enforcement, endorser liability and medically significant terminology. The analysis integrates factual narratives with statutory provisions and judicial principles to show how doctrinal themes operate in real-world enforcement.

5.1. NESTLE INDIA – THE MAGGI NOODLES EPISODE, 2015

In June 2015, FSSAI issued prohibition and recall orders for Maggi noodles after samples reportedly showed lead levels above permissible limits and the label contained the claim “No Added MSG” despite the presence of glutamate in testing. FSSAI’s directions halted manufacture, sale and distribution, and required extensive nationwide recall. Nestlé challenged these orders before the Bombay High Court, raising issues relating to procedural fairness, such as the absence of a show-cause notice and whether laboratory analysis was conducted in NABL-accredited facilities. Parallely, consumer complaints were filed before the NCDRC, and later judicial orders examined sample selection, testing methodology and regulatory compliance.^[41]

The Maggi episode highlighted three important principles. First, ostensibly simple claims like “No Added MSG” can be treated as misleading where the substance is naturally present or undeclared, thereby constituting misbranding under section 3(zf) of the FSS Act. Second, FSSAI’s powers to prohibit and recall products operate swiftly and can have significant market consequences. Third, courts will rigorously review scientific procedures and procedural

⁴⁰ Rizzi, M., 2017. The Evolution of Consumer Product Safety Policy and Regulation in India. *Journal of Consumer Policy*, 40(3), p.389-412.

⁴¹ Dhanesh, G.S. and Sriramesh, K., 2018. Culture and Crisis Communication: Nestle India’s Maggi Noodles Case. *Journal of International Management*, 24(3), p.204-214.

fairness before upholding such actions.^[42]

Science-based administrative action must be anchored in procedural robustness. Even when public health concerns justify urgent intervention, natural-justice violations or defective testing may lead courts to modify or quash regulatory orders.

5.2. PATANJALI CORONIL AND RELATED CLAIMS, 2020-2024

During the COVID-19 period, Patanjali promoted products such as “Coronil” with claims of treating or curing COVID-19. Complaints alleged misleading therapeutic claims made without adequate scientific substantiation. The matter escalated when Patanjali’s promoters continued making public statements despite earlier assurances. The Supreme Court initiated suo motu contempt proceedings, emphasising that manufacturers, promoters and celebrity endorsers are accountable for disseminating unverified medicinal claims. The Court directed apologies, prohibited further misleading advertisements and reiterated compliance obligations.^[43]

The Patanjali proceedings reinforced that therapeutic claims relating to health supplements or Ayurvedic products are tightly regulated. Endorsers, promoters and CEOs may incur liability when they publicly amplify unverified claims. The Court also demonstrated its willingness to use contempt jurisdiction when undertakings are breached and public misrepresentations persist.^[44]

Products that straddle the boundary between food and medicine attract heightened scrutiny. Public figures and manufacturers bear elevated duties of due diligence, and failure to substantiate therapeutic claims triggers both administrative penalties and judicial sanctions.

5.3. ‘ORS’ LABELLED BEVERAGES, 2025

In October 2025, FSSAI issued directives restricting the use of the term “ORS” (Oral Rehydration Solution) exclusively to products meeting the WHO-prescribed medical formulation.^[45] For years, paediatric associations had warned that sugary tetra-pack beverages

⁴² Soni, P.K. and Harnawale, C.K., 2015. Ethical Responsibility of Multinational Companies: What Went Wrong with Maggi Brand of Nestle India. *Indian Journal of Commerce and Management Studies*, 6(3), p.73-76.

⁴³ Mukherjee, J., 2024. Patanjali Ayurveda’s Coronil: Marketing Controversy on COVID-19 Cure. *Vision*, 28(1), pp.120-129.

⁴⁴ Bhatt, S., 2022. Patanjali Coronil: Treatment or Controversial Marketing? SAGE Publications

⁴⁵ Pallav Mishra, Centre Says Only WHO-Approved Products Will Be Labelled ORS, NDTV (Oct. 16, 2025).

were using the “ORS” label despite lacking the clinically required salt and glucose composition. FSSAI directed manufacturers to remove the ORS descriptor from non-compliant beverages, prompted relabelling and, in some cases, halted distribution. Manufacturers challenged the directives in various High Courts, resulting in interim stays and ongoing litigation.^[46]

The ORS regulatory action demonstrates three doctrinal points. First, regulators can restrict medically significant terminology where misuse risks consumer harm, especially to children. Second, courts must balance commercial disruption (existing stock, investment and market losses) with the regulator’s statutory mandate to prevent deception. Third, clinician-led advocacy can catalyse regulatory enforcement when public-health risks are evident.^[47]

Where terminology carries inherent medical meaning, enforcement standards are stricter. Allowing non-compliant products to use such terminology risks direct health harm and justifies strong regulatory intervention.

5.4. RED BULL, U.S.A. CLASS ACTION SETTLEMENT, 2014

In 2014, Red Bull settled a United States class action alleging that marketing slogans such as “gives you wings” conveyed misleading performance and endurance claims. The settlement involved multi-million-dollar compensation for consumers and commitments to adjust advertising content. Although the claim involved hyperbole, the plaintiffs argued that the overall marketing implied scientifically supported performance enhancement that the product did not deliver.^[48]

The Red Bull settlement demonstrates that even stylised taglines may become actionable when they create implied factual representations that influence consumer behaviour. The matter reflects a cross-jurisdictional trend: regulators and courts scrutinise the net impression of advertisements rather than their literal phrasing.^[49]

⁴⁶ World Health Org., *Oral Rehydration Salts: Production of the new ORS* (2025)

⁴⁷ G. Sriram, Hyderabad Paediatricians’ Eight-Year-Long Battle Leads to FSSAI Prohibiting Usage of “ORS” on Food Products, *The Hindu* (Aug. 7, 2023),

⁴⁸ Dias, F.M.G.M.C., 2023. How Can the Placement Be Prioritised over the Product in a Brand Marketing Strategy? A Red Bull Case Study (Master's thesis, Universidade NOVA de Lisboa (Portugal)).

⁴⁹ Gorse, S., Chadwick, S. and Burton, N., 2010. Entrepreneurship through sports marketing: A case analysis of Red Bull in sport. *Journal of Sponsorship*, 3(4).

Marketers cannot hide behind euphemistic or humorous claims when the real-world effect is to mislead reasonable consumers. A mismatch between implied performance claims and actual product characteristics can trigger liability, refunds and corrective measures.

6. KEY LEGAL DOCTRINES AND TENSIONS

The prior sections examined statutory provisions, regulatory frameworks and judicial responses in isolation. This segment brings them together by identifying the recurring doctrinal themes that guide courts and regulators when they deal with falsification of advertisements, misleading representations and consumer deception in the food sector. These doctrines reflect the tension between commercial freedom, public health protection and consumer autonomy.^[50] They emerge across multiple statutes, including the Food Safety and Standards Act 2006, the Consumer Protection Act 2019, and the allied Advertising and Claims Regulations. Through an analysis of leading cases from the Supreme Court, High Courts and consumer fora, this section synthesises the jurisprudence that shapes compliance expectations for food business operators, advertisers and endorsers.

6.1. STRICTNESS OF LABELLING V. COMMERCIAL SPEECH PROTECTION

FSSAI's labelling and advertising regulations require accuracy, transparency and completeness in food disclosures. Labels must not mislead, suppress material information or create unwarranted health and nutritional impressions. Courts treat these requirements as mandatory and not merely directory. In the Nestlé India Maggi controversy,^[51] the Bombay High Court held that although the state has the authority to act swiftly in matters affecting public health, such action must still comply with principles of natural justice. The court emphasised that commercial speech enjoys constitutional protection but loses that protection once it crosses into misleading territory that affects consumers' right to safe food.

The Delhi High Court's orders in the Patanjali misleading advertisements proceedings further reinforce that exaggerated therapeutic claims, particularly those carrying public health consequences, will attract judicial censure. In the **Horlicks Ltd. v. Zydus Wellness (2019)**,^[52] the Delhi High Court clarified that comparative advertisements cannot misrepresent scientific

⁵⁰ Brewster, N.A.T. and Goldsmith, P.D., 2007. Legal systems, institutional environment, and food safety. *Agricultural Economics*, 36(1), p.23-38.

⁵¹ Nestlé India v. Food Safety & Standards Authority of India, W.P. (L) No. 1688 of 2015

⁵² Horlicks Ltd. v. Zydus Wellness Products, CS (COMM) 464/2019

data or distort nutritional comparisons that mislead parents or children. The Supreme Court in **Tata Press Ltd v. MTNL (1995)**,^[53] recognised commercial speech as a facet of the freedom of speech, but also observed that this protection can be restricted to prevent deception and protect consumer welfare. Together, these cases demonstrate a consistent doctrinal position. Commercial speech is protected only as long as it does not compromise public health or materially mislead consumers. Where misleading content is likely to cause confusion, regulators and courts adopt a strict approach towards both labelling and advertising content.

6.2. ENDORSER LIABILITY AND DUE DILIGENCE

The Consumer Protection Act 2019 introduced a clear liability regime for endorsers. The Central Consumer Protection Authority has the power to penalise individuals who promote misleading advertisements unless they can prove that they exercised reasonable due diligence to verify the claims. The Patanjali proceedings^[54] prompted the Supreme Court to reiterate that endorsers cannot escape responsibility by blaming the marketing team or the manufacturer. The duty of due diligence includes verifying scientific claims, understanding the nature of the product and ensuring that its endorsement does not mislead vulnerable consumers.

The CCPA has issued several orders emphasising this principle. In cases involving Ayurvedic products advertised with unproven therapeutic claims, celebrity endorsers were cautioned and directed to adopt structured verification practices. The principle is also reflected in older jurisprudence, such as **Hamdard Dawakhana v. Union of India**,^[55] where the Supreme Court highlighted the government's authority to restrict advertisements that promote false medicinal claims. The doctrine has evolved into a clear expectation that endorsers, particularly high-influence personalities, must act with reasonable care. They are not passive participants and must take affirmative steps to ensure that the advertisement content is truthful and substantiated.

6.3. REMEDIES: PREVENTIVE, CORRECTIVE AND PUNITIVE

The legal system provides multiple layers of remedies that range from preventive interventions to punitive sanctions. FSSAI can prohibit unsafe products, order recall, seize consignments and

⁵³ Tata Press Ltd v. MTNL, (1995) 5 SCC 139

⁵⁴ Bhatt, S., 2022. Patanjali Coronil: Treatment or Controversial Marketing? SAGE Publications

⁵⁵ Hamdard Dawakhana v. Union of India, AIR 1960 SC 554

direct relabelling where necessary. Under the Food Safety and Standards Act 2006, penalties under sections related to misbranding, misleading advertisements and substandard products can include fines, suspension of licences and destruction of harmful goods. The Consumer Protection Act strengthens this framework by empowering the CCPA to impose monetary penalties, direct the publication of corrective advertisements, restrict endorsers from future promotions and mandate product modification.^[56]

Judicial remedies operate alongside regulatory actions. Consumer fora can award compensation, issue injunctions and direct discontinuation of deceptive advertising practices. High Courts have used writ jurisdiction to scrutinise regulatory decisions, as seen in the Maggi ban litigation. The Delhi High Court in **Procter and Gamble Home Products v. Hindustan Unilever**,^[57] ordered the withdrawal of an advertisement that exaggerated scientific data and misled consumers regarding product efficacy. The Advertising Standards Council of India functions as an additional self-regulatory body whose censure often triggers compliance reviews and corrective action.

The choice of remedy depends on the urgency and gravity of the violation. Public health risks typically justify immediate prohibitions and recalls, while repeated or deliberate deception attracts heavier punitive consequences. Courts have repeatedly affirmed that consumer protection and safe food standards are paramount considerations. Therefore, the remedial structure aims not only to deter violations but also to restore consumer trust and correct the informational imbalance created by misleading advertisements.^[58]

7. GAPS, ENFORCEMENT CHALLENGES AND PROPOSALS

Although the regulatory framework under the Food Safety and Standards Act, the Consumer Protection Act and related statutes is conceptually strong, significant enforcement gaps continue to weaken the system. Procedural lapses remain one of the most common reasons for the failure of regulatory action, as seen in **Nestle India Ltd. v. FSSAI (2015)**,^[59] where the Bombay High Court partly overturned the ban because sample-collection procedures,

⁵⁶ Soopa, M.S. and Panwar, K.S., 2020. Food adulteration in contemporary India: Emerging trends and remedies. *SOCRATES: An International, Multi-lingual, Multi-disciplinary, Refereed (peer-reviewed), Indexed Scholarly journal*, 8(1), pp.64-71.

⁵⁷ *Hindustan Unilever Ltd. v. Gujarat Cooperative Milk Marketing Federation Ltd.* 2017 (69) PTC 528 (Del)

⁵⁸ Bansal, R. and Dhiman, A., 2019. Line of progression: Indian Regulatory framework for nutraceuticals and dietary supplements. *Applied Clinical Research, Clinical Trials and Regulatory Affairs*, 6(1), pp.46-61.

⁵⁹ *Nestlé India v. Food Safety & Standards Authority of India*, W.P. (L) No. 1688 of 2015

laboratory accreditation and adherence to natural justice were inconsistent. The case revealed that regulatory intervention, even when aimed at urgent public-health protection, must withstand strict evidentiary and procedural scrutiny. Fragmentation between agencies such as FSSAI, the CCPA and the ASCI also contributes to inconsistent enforcement, with each authority often addressing different dimensions of the same misleading advertisement without coordination.

Challenges in scientific testing, including limited NABL-accredited laboratories and inconsistent analytical methods, further weaken enforcement in cases involving nutritional or therapeutic claims. This has been evident in disputes concerning fortified foods, infant nutrition and health-supplement advertising, where companies have successfully contested regulator findings due to technical weaknesses.^[60] These structural limitations reveal that the effectiveness of the law is influenced not only by the strength of statutory provisions but also by the capacity of institutions implementing them.

7.1. IDENTIFIED GAPS AND CHALLENGES

Addressing these enforcement challenges requires a comprehensive approach that integrates procedural reform, scientific robustness and inter-regulatory coordination. One key recommendation is the creation of a mandatory emergency-testing protocol under the FSS Act, allowing only NABL-accredited and proficiency-tested laboratories to examine samples in high-stakes cases, thereby preventing evidentiary collapse as seen in the Maggi litigation.^[61] A formalised cooperation mechanism between FSSAI and CCPA would prevent duplicative or conflicting findings, especially in cases involving misbranding and misleading advertising. Courts have emphasised the importance of such cooperation, notably in **Horlicks Ltd. v. Zydus Wellness (2019)**,^[62] where the Delhi High Court noted that selective comparative claims require harmonised regulatory review to prevent consumer confusion. Enhancing investigator training, strengthening chain-of-custody protocols and adopting internationally accepted Codex-aligned testing standards would also promote evidentiary stability. Strengthening endorser liability by issuing clear due diligence guidelines is another essential reform, since current enforcement has struggled to establish what constitutes adequate verification in

⁶⁰ Yang, H., 2019. Food safety in India: Status and Challenges. *Gates Open Res*, 3(1043), p.1043.

⁶¹ Sarkar, B.K., 2024. Landscape of Food Safety in India: Navigating the Legal Challenges and Perspectives. *LawFoyer Int'l J. Doctrinal Legal Rsch.*, 2, p.964.

⁶² *Horlicks Ltd. v. Zydus Wellness Products*, CS (COMM) 464/2019

celebrity-driven advertisements, a problem highlighted repeatedly in CCPA investigations involving food and nutraceutical influencers.^[63]

7.2. POLICY RECOMMENDATIONS AND SUGGESTIONS

Long-term regulatory improvement must also prioritise consumer literacy, corrective advertising and proactive misinformation prevention. Recent controversies such as the ORS misbranding issue, where flavoured sugary beverages were marketed as medical oral rehydration solutions, underline the vulnerability of consumers to scientific terminology. Public education campaigns explaining nutritional labels, ingredient lists and medical claims can significantly reduce the risk of deception and enhance consumer autonomy.^[64] Corrective advertising should become a default remedy in serious cases of misleading claims, a principle reinforced by the Supreme Court in the Patanjali misleading advertisements proceedings (2024), where the Court insisted that misleading therapeutic claims required not only penalties but prominent corrective disclosures to undo the harm caused. Establishing a national advertisement-verification registry for foods making health or nutritional claims, similar to the pre-clearance systems used in certain foreign jurisdictions, could further improve transparency and reduce the circulation of deceptive content.^[65] Collectively, these policy reforms would help create a regulatory environment that is preventive, scientifically grounded and consumer-centric, making the enforcement of misleading advertisement provisions more effective and resilient.

8. CONCLUSION

The analysis of falsification of advertisements, misrepresentation and consumer deception under the Food Safety and Standards Act, 2006, shows that the legislative framework in India has evolved into a system that recognises the centrality of truthful communication in the food market. The FSS Act, particularly Section 24 and Sections 52 to 54, establishes a preventive regime that links advertising behaviour with food safety outcomes, a connection that earlier food laws did not formally acknowledge. When these provisions are read with the Consumer

⁶³ Shaffi, S.M., 2021. Strengthening Food Safety Regulations and Compliance: A Strategic Approach to CCPA and Beyond. *International Journal of Research*, 10(5), pp.1364-1371.

⁶⁴ Kathuria, A.K. and Anand, D., 2022. Safe, Healthy, and Sustainable Diets: Role of Food Regulatory Bodies and Innovations from India.

⁶⁵ Bera, O.P., Singh, R. and Bhattacharya, S., 2023. Food Literacy & Food Labelling Laws: A Legal Analysis of India's Food Policy. *Journal of Family Medicine and Primary Care*, 12(4), p.606-610.

Protection Act, 2019, on unfair trade practices, the Legal Metrology Act, 2009, on accurate declarations, and general criminal law principles under the Indian Penal Code on cheating and fraud, the statutory landscape demonstrates a multi-layered structure aimed at safeguarding consumer autonomy. Judicial and regulatory responses in cases such as the Patanjali misleading advertisement proceedings, the ORS rebranding controversy relating to misleading therapeutic suggestions, and global instances like the Red Bull “gives you wings” litigation collectively reaffirm that courts now view deceptive advertising not as a mere marketing lapse but as a violation of public trust that affects both health and competitive fairness.

Overall, the contemporary legal position reflects a shift towards stricter accountability, higher evidentiary standards for claims and an expanded understanding of consumer vulnerability, especially in the context of health-related food promotions. This evolution mirrors global trends that demand scientific substantiation for nutritional, therapeutic and comparative claims in order to reduce the asymmetry of information between manufacturers and consumers. The emerging jurisprudence suggests that regulators are willing to impose stronger penalties and courts are prepared to intervene more actively when commercial speech crosses into exploitation or misinformation. The trajectory, therefore, indicates a future in which compliance obligations will become more rigorous, enforcement will continue to move toward zero tolerance for deceptive claims, and consumer-centric regulation will remain central to India’s food safety and advertising regime.