

PERSPECTIVES OF RECENT REGULATIONS: FRONT OF PACK LABELLING, TARGET GROUP RDA, MISBRANDING AND MISLABELLING



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The webinar, 'Perspective on recent regulations' addressed front of pack nutritional labelling (FOPNL) models, target group RDA and misbranding. It did not specifically deal with the regulation itself; instead, it sought to examine its context and prospects upon which it is made. Where does it come from - namely what is the situation that triggers the need for a regulation. How is it related to a country's situation? What and when will it achieve its intended purpose? Of the three topics, two of them are concerned with public health and the third is related to consumer protection against fraudulent practice.

Food regulations address both the person and the situation in which he is present, both being connected and equally important. In the case of food, every person - the population - is a stakeholder, therefore it is necessary to inform them of the impact the regulation will have on

improving their health. Perspective building is informing all stakeholders about the risk, quantifying it and the mitigation impact expected from the regulation. The three speakers are well known for their wide knowledge and expertise in the respective areas. In the time allotted, they were asked to provide the participants primarily with a perspective explaining the situation from which a regulation becomes necessary. The Panel discussion followed the talks for an industry perspective and participant involvement.

Front of pack nutrition labelling models

Ms Mili Bhattacharya, Scientific and Regulatory Affairs, Coca Cola India Pvt Ltd., gave a

detailed explanation on the FOPNL models considered prior to the impending draft. FoPNL is a graphical representation of specific nutrients, calories, fat, saturated fat, sugar and salt, excess of which are associated with an adverse impact on health; collectively understood as non-communicable diseases (NCD). There are several models in play and countries have adopted these according to the dietary consumption of their population, contributing sources and risk presented (Fig. 1a).

Ms Mili Bhattacharya



FOPNL Models	COUNTRY	SYMBOLS/ICONS
Monochrome GDA	Many EU Countries, Thailand etc.	
Traffic Light	UK	
Healthier Choice	Singapore, Malaysia, Norway	

FOPL Models	COUNTRY	SYMBOLS/ICONS
Health Star	Australia	
Nutri-Score	France , Belgium	
Warning	Chile, Ecuador, Costa Rica, Mexico, Brazil, Canada (under discussion)	

Other models (Fig. 1b) use endorsement symbols and icons on the healthfulness of a product. In the Health Star Rating (HSR) model, the math using algorithms is done and the healthfulness of a product is rated by number of stars allotted. More the stars healthier the product.

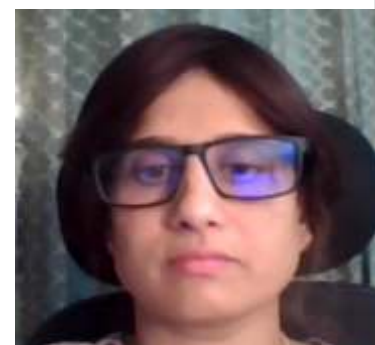


meeting recommended nutrient intake levels.

Target group RDA

Questions are often asked about the various terms used for nutrient intakes and information on these becomes important when planning diets or formulating products intended for different target groups.

Dr Agatha Betsy, Senior Specialist, Nutrition Strategy and Communications, Mondelez International, explained the various terms related to nutrient intakes



Dr Agatha Betsy

namely Estimated Average Requirement (EAR), Recommended dietary or daily allowance (RDA), Tolerable Upper Levels (TULs) and in case of macronutrients the Acceptable Macronutrient Distribution Range (AMDR). These terms are important in framing nutrition policy and diet planning. Recently the Indian Council of Medical Research (ICMR - NIN)

revised RDAs (2020) introducing the Estimated Average Requirements (EAR) and the Tolerable Upper Limits (TUL), published in 2018. Taken together these terms bring in clarity on the revision of the Indian RDAs as well as improving nutrient intake from all sources taking into account the TULs for each nutrient. While a balanced and varied diet is the recommended nutritional advise for a healthy intake of nutrients, however this is not happening for various reasons.

The monochrome model provides consumers with information on the amount of energy, fat, saturated fat, sugar and salt (or any other nutrient of interest) in the product as a percent of their recommended daily intake values. Daily intake values are variously described as Daily Values (US) or Reference Intake (EU) and based on daily energy 2000kcal. FSSAI has provided these values in FSS (Labelling & Display) 2020. The traffic light model is similar except that information on certain nutrient exceeding a predetermined threshold is given cautionary colour depictions.

NutriScore is a five step colour rating scheme moving from green (healthier) to red (less healthy). In some cases, regional clusters of one or more countries (South America), use a common model because of their population dietary patterns of consumption and the prevailing nutrient level of risk may be similar. Australia and New Zealand introduced the HSR system. FoPNL is an initiative primarily to change purchase behaviour of pre-packaged foods. In countries where staple-based home cooked foods occupy the centre of the plate, consumption not purchase is a significant factor to be recognised. Moving on, the next talk deals with eating right and



Ms Prerana Patil

Dr Shatadru Sengupta

Fig. 2: Indians are not consuming enough fruit, veg and milk but too much salt and sugar



Generally, Indians are not able to sustain a balanced and diverse diet. (Fig 2).



3). Adolescents have a higher physiological demand for nutrients, e.g. calcium, iron and proteins than the general population and are unlikely to bridge this gap, without making major changes in their diets or through fortified foods. Apart from this, products are being formulated to meet specific requirements for various age groups. The current state of inadequacies indicate a need to adopt a scientific based approach to augment nutrient

intakes from all sources. These include balance and varied diets, fortified foods – both voluntary and mandatory routes, as well as supplementation. Targeting deficiencies within various age group particularly adolescents is a market segment available for suitable product offerings. Moving on, the next topic deals with communicating with consumers responsibly.

There is another set of values variously described as Dietary Reference Values (DRV) or Reference Nutrient Intake (RNI), used in a regulatory setting for nutrition labelling. The RDA's cover 97.5th percentile of healthy individuals for each age group, gender, physiological and activity status. So, when it comes to planning diets or formulating products for a specific group, relevant RDAs are available. The RDA for sedentary male is taken for labelling of products for the general population or for fortifying foods.

Notably micronutrients deficiencies often referred to as "hidden hunger" particular in iron, iodine, vitamin A and D, have major health impact on health for all age groups (Fig.

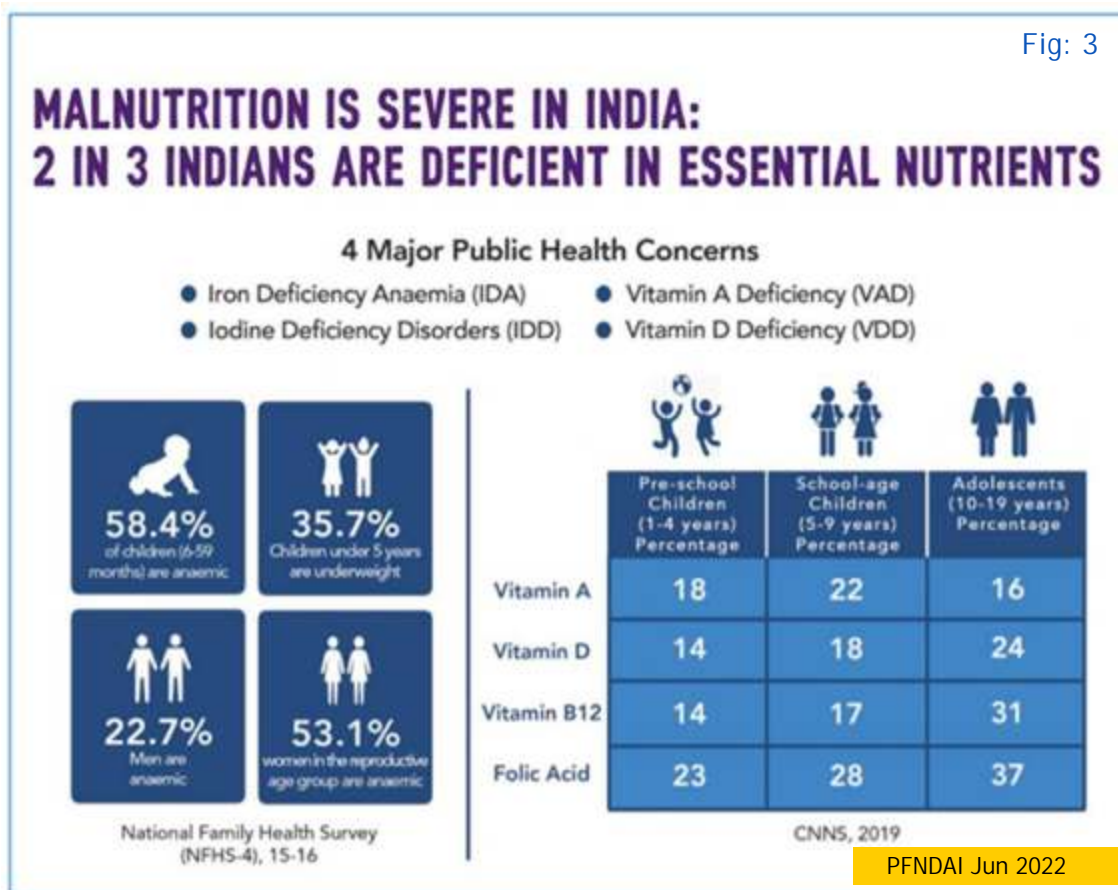


Fig: 3

Misbranding and misleading

Dr Shatadru Sengupta, Senior Director Legal, Hardcastle Restaurants Pvt Ltd, provided an overview of what the law envisages in protecting consumers from communications that may be

considered fraudulent. He brought out several instances of product related issues as well as those made in advertisements, that raise issues on compliance requirements. The two words misbranding and misleading appear in Act and in several regulations and expectedly there is a difference. Though this does not emerge immediately what constitutes either offence must be learned from a careful reading of the texts.

Under Sec. 3(1)(zf) of FSSA, the three groupings ABC on what misbranding means and covers are summarised in (Fig. 4). Generally these relate to falseness in claims, ingredient, product, manufacturer or country of origin, and in other cases when label declarations are deficient. Basically the food is not what it is said to be; it may be fictitious, not its true character, or requires disclosures which are not made e.g. colour etc. There is either a conflict or a mismatch with what



Dr Shatadru Sengupta

is inside the package and what is stated. Though the language appears convoluted, food businesses working in highly regulated space must understand how labelling and advertisement requirements are to be complied with.

There are differences and similarities between the two terms misbranding and misleading. Misbranding includes misleading, the former is akin to the 'genus' while misleading is a 'specie'. All misleading communication is misbranding but not vice versa. While misbranding is defined, misleading is not; the former attracts a fine of Rs. 3 lakh, while the latter has a fine of Rs. 10 lakh.



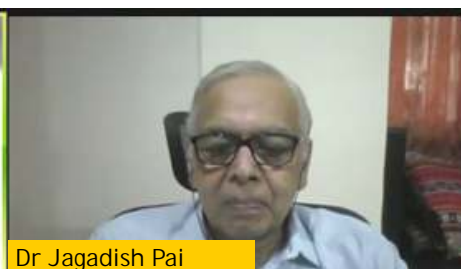
Under section 24 of FSSA – “no advertisement should be made on any food which is misleading or deceiving or contravenes the provisions of this Act, rules and regulations made thereunder. The section relates to advertisements and not about labels. To make a compelling appeal to consumers on the virtues of their product food businesses may communicate more than what the product can do. These provisions of law ensure that food businesses fall within the requirements of the law and FBOs require due diligence in labelling and claims.

Fig. 4 : Misbranding

Type	Specifics	What exactly	In a nutshell
A	Claims, names, Mfr.	1) False, misleading or deceptive claims on <u>package</u> or <u>advertising</u> 2) Other name sales 3) Fake individual or company mentioned as manufacturer	Methods of Sale and Advertising
B	Imitation, false ingredients, false place	1) Imitative, substitute, resemblance with some other product 2) Misleading mention of ingredients 3) Product of a wrong place or country	Name and address of manufacturer are correct, but little else. The food is not what it is <u>said to be</u> .
C	Deficient label, SDU, limits	1) Flavour, colour, chemical preservative not mentioned correctly on label 2) Special Dietary Use food, without information on	Labelling deficiency as to Inside v. Outside (Conflict between what <u>is inside</u>



Ms Dolly Soni



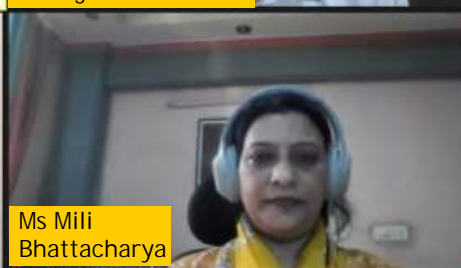
Dr Jagadish Pai



Mr Jitin Garg



Dr Joseph Lewis



Ms Mili Bhattacharya



Dr Shatadru Sengupta



Mr Jitin Garg



Ms Priyanka Virmani



Dr Bhavna Sharma



one adopted a different model?

What is EAR and RDA, are they used for labelling? When are target group RDAs required on products?

A panel of industry experts, Mr. Jitin Garg, General Mills, Ms. Priyanka Virmani, Nestle India Ltd, and Dr Bhavna Sharma, ITC discussed the several points made out in the talks and responded to questions from participants.

should be balanced and varied, why are we trying to make each food product balanced? Is it about balancing the diet or each product? Labels carry a lot of information, “sugar”, “sugars”, “added sugar”, “total sugar”: is this not confusing to consumers? Whether regulations made take into consideration dietary practices of the country and whether they are accordingly assessed for impact on population health. Are any of the countries proposing FOPNL have a similar dietary pattern to India where 80% of food consumed is from home cooked meals. Are the various models, country specific and why has each

Are misbranding violations attracted only due to absent/erroneous declarations made on the label?

The webinar brought together well composed and interestingly delivered talks, followed by an enthusiastic panel discussion. Perspective building helps all stakeholders to ensure that regulations are effective enough to reach their stated outcomes.



Several of them had to do with the numerous nutrition messages given to consumer. For instance, “when the advice is that the total diet

