

# ADVERTISING AND CLAIMS

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*Regulatory Guide on Advertising and Claims for Smart Protein Products in India*





## Advertising and Claims

When advertising your smart protein food product, your claims must be truthful, unambiguous, and meaningful and should not mislead the consumers. The advertisement should encourage the appropriate consumption of your product. If your product has specific nutritional or health attributes, it must provide scientific substantiation by validated methods to prove the basis for the claim. The Food Safety and Standards Authority of India (FSSAI) has listed the specific parameters to comply with in the [Food Safety and Standards \(Advertising and Claims\) Regulation, 2018](#). There are distinct compliance requirements for various claims, including nutrition claims, health claims, reduction of disease risk claims, etc.

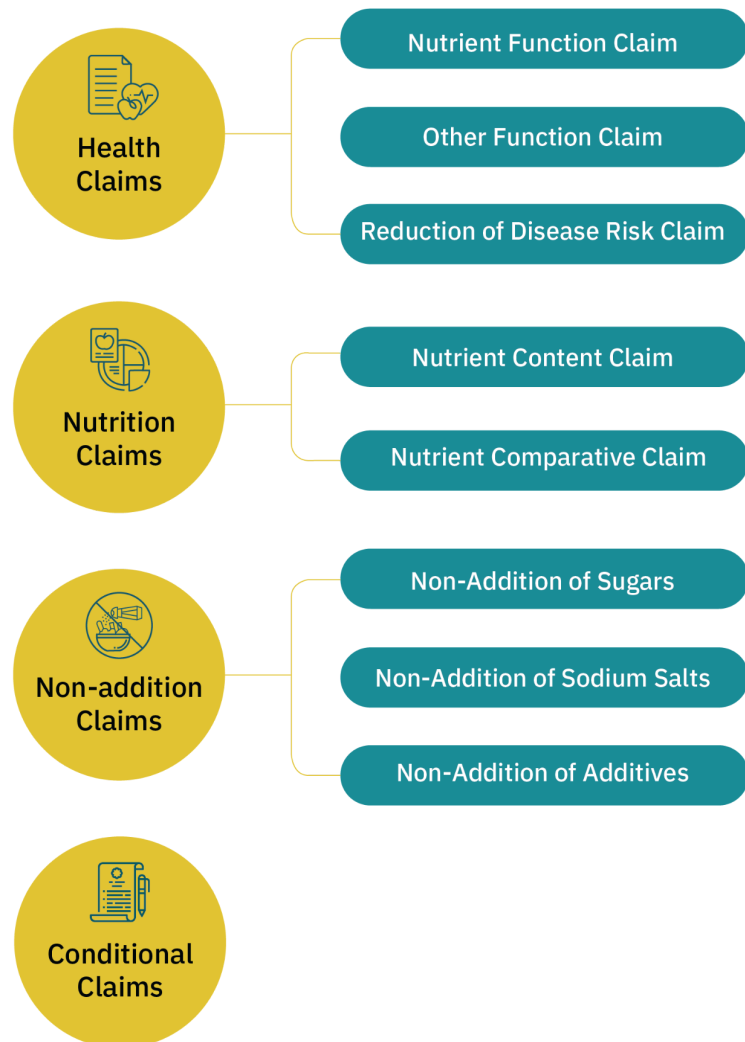
If your trademark brand name uses adjectives such as “natural,” “fresh,” “pure,” “original,” “traditional,” “authentic,” “genuine,” “real,” etc., appearing in the labeling, presentation or advertising, then state the following disclaimer – “*\*This is only a brand name or trademark, or fancy name and does not represent its true nature*” (relevant one may be chosen, as applicable). The disclaimer must not be under 1.5mm in size if the principal display panel (PDP) is under 100 cm<sup>2</sup>. It must not be less than 2 mm in size if the PDP is between 100-200 cm<sup>2</sup> and not less than 3 mm in case of a PDP above 200 cm<sup>2</sup>.

**Figure 1** lists general advertising principles and claims per the Food Safety and Standards (Advertising and Claims) Regulations, 2018.



The Food Safety and Standards Authority of India (FSSAI) has defined claims on food products, including Health, Nutrition, Non-Addition, and Conditional claims. **Figure 2 lists** the type of claims categorized by the FSSAI per the regulation [Food Safety and Standards (Advertising and Claims) Regulations, 2018].

# Claims Categorization



## When can the Food Business Operators (FBOs) make Nutrient or Health Claims?

For **Nutrition Content claims**, where food containing the nutrient is likely to have the '*content as claimed*,' for example, low, free, high, rich, source, etc., must comply with the conditions of Schedule I of the Advertising and Claims Regulation 2018.<sup>1</sup> Furthermore, the regulation provides flexibility in wording a nutrition claim per Schedule II.

Where a **Nutrient-Comparative Claim** is made, the foods shall be different versions of the same or similar foods being compared and be easily identifiable.

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<sup>1</sup>[Food Safety and Standards \(Advertising and Claims\) Regulation, 2018 Compendium](#)

- Equivalence claims such as "*contains the same amount of [nutrient] as a [food]*" and "*as much [nutrient] as a [food]*" may be used. Provided that the amount of the nutrient in reference food is enough to qualify that food as a "source" of that nutrient (refer to Schedule I). For example, it "*contains the same amount of vitamin B as a 50 g serving of chicken*".
- The nutritional information and label of the food shall indicate the equivalence or same level of the nutrient to naturally occurring reference food, in 100g or 100 ml.

The **Health Claims** as per FSSAI must consist of two parts, namely: -

- Information on the physiological role of the nutrient or substance or an accepted diet-health relationship; and
- Information on *the composition of the product relevant to* the physiological role of the nutrient or substance or the accepted diet-health relationship unless the relationship is based on a whole food or foods whereby the research does not link to specific constituents of the food.

There are specific clauses to define **Nutrient Function Claims** and **Conditional Claims**. Claims related to dietary guidelines or a healthy diet must comply with the [Indian Council of Dietary Research Dietary Guidelines for Indians](#). FBOs must refer to the following respective schedules:

- Schedule I: Nutrient Content Claim
- Schedule II: Synonyms Which May Be Used For Claims Defined In These Regulations
- Schedule IIA: List of Claims for Edible Vegetable Oils
- Schedule III: Reduction Of Disease Risk Claims
- Schedule IV: Health Claims for Fortified Food Articles
- Schedule V: Use Of Certain Words Or Phrases [for example, natural, fresh, authentic, etc.]

FSSAI has also specified the prohibited claims, and the FBOs or marketer shall seek prior approval from the Food Authority for the reduction of disease risk claims other than those that are defined and for which criteria are laid out under these regulations or any other regulations made under the Food Safety and Standards Act, 2006 (34 of 2006). For the approval of claims, the FBOs shall apply with the information specified in the regulation and applicable fees prescribed by the FSSAI.

## The Advertising Standards Council of India (ASCI)

ASCI has formulated a voluntary code of regulation of advertising content in India - the Code for Self-Regulation of Advertising Content in India ("[ASCI Code](#)"). The Code captures best practices and principles for advertising that may be adopted by the industry and additionally includes a complaint redressal mechanism. The powers of the ASCI on enforcement of the Code are limited. However, ASCI does address complaints regarding the violation of the ASCI code via the Consumer Complaints Council (CCC). ASCI does not issue orders but only gives recommendations if a complaint is sustained or upheld. In case of non-compliance with the recommendations, the concerned Regulatory Authority or Government Department is informed for their appropriate action in accordance with the law. Additionally, the FSSAI has signed an MoU with ASCI to address cases of misleading advertisements in the Food and Beverage sector (F&B), which lends additional vigilance power to the FSSAI.<sup>2</sup>

For advertisements relating to food and beverage products, ASCI has listed the following key guidelines:

- Advertisements should not mislead consumers to believe that consumption of the product advertised will result directly in personal changes in intelligence, physical ability, or exceptional recognition unless scientifically substantiated.
- Health or nutritional claims shall be supported by appropriate scientific evidence and meet the requirement of basic Food Standards laid down under the Food Safety Standards Act and Rules.
- Advertisements should not disparage good dietary practices or the selection of options, such as fresh fruits and vegetables, generally accepted as dietary recommendations for a normal diet.
- Advertisements should not encourage over or excessive consumption or show inappropriately large portions of any food or beverage. It should reflect moderation in consumption and show portion size appropriate to the occasion or situation.
- Advertisements should also not undermine the importance of healthy lifestyles or mislead the nutritional value of the food or beverage.
- Advertisements should not undermine the role of parental care and guidance needed to ensure proper food choices by children.
- Advertisements for food or beverages, unless nutritionally designed as such, advertisements for food or beverages should not be promoted or portrayed as a meal replacement.
- Claims in advertisements should not be inconsistent with information on the label or packaging of the food or beverage.

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<sup>2</sup> [Press Release: Food Safety and Standards Authority of India \(FSSAI\) signs MoU with ASCI to address misleading advertisements in the F&B sector | New Delhi, June 28th 2016](#)

- Advertisements for food and beverages should not claim or imply endorsement by any Government Agency, professional body, independent agency, or individual in a particular profession in India unless - there is prior consent, the claim is current, the endorsement is verifiable, and the agency body is named.

Further, ASCI has also specified guidelines for disclaimers made in supporting, limiting, or explaining claims made in advertisements, including those made by celebrities in advertising. The Specific guidelines are available [here](#)<sup>3</sup>.

## **Vegan Labelling and Claims**

The Food Safety and Standards Authority of India, on 10 June 2022, issued the [Food Safety and Standards \(Vegan Foods\) Regulation, 2022](#), which regulates foods claiming to be vegan in their labeling and marketing/advertisement. It is mandatory to comply with this regulation and seek approval to claim a food product ‘Vegan’ post 23 January 2023.<sup>4</sup>

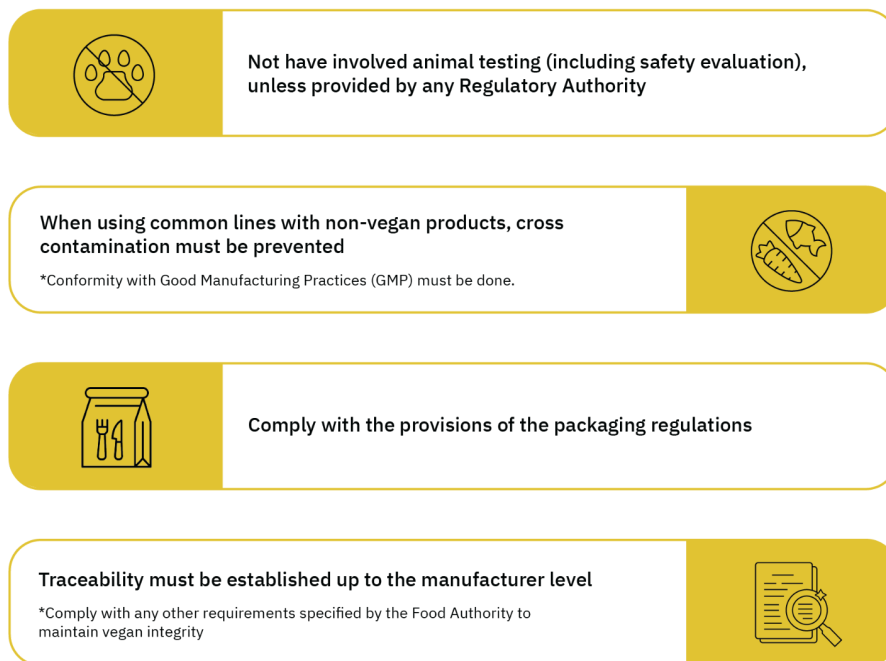
These regulations prescribe conditions for those products claiming to be ‘vegan.’ Vegan foods, as per the regulation, constitute *“the food or food ingredient, including additives, flavorings, enzymes, and carriers, or processing aids that are not products of animal origin and in which, at no stage of production and processing, ingredients, including additives, flavorings, enzymes, and carriers, or processing aids that are of animal origin has been used.”*

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<sup>3</sup> [The Code for Self-Regulation of Advertising Content in India](#)

<sup>4</sup> [Direction under Section 16 \(5\) of Food Safety and Standards Act, 2006 dated 26th July 2022 regarding compliance of Food Safety and Standards \(Vegan Foods\) Regulations, 2022 published in the Official Gazette of India on dated 10th June 2022](#)

## General Requirements for Vegan Foods as per Food Safety and Standards (Vegan Foods) Regulations, 2022

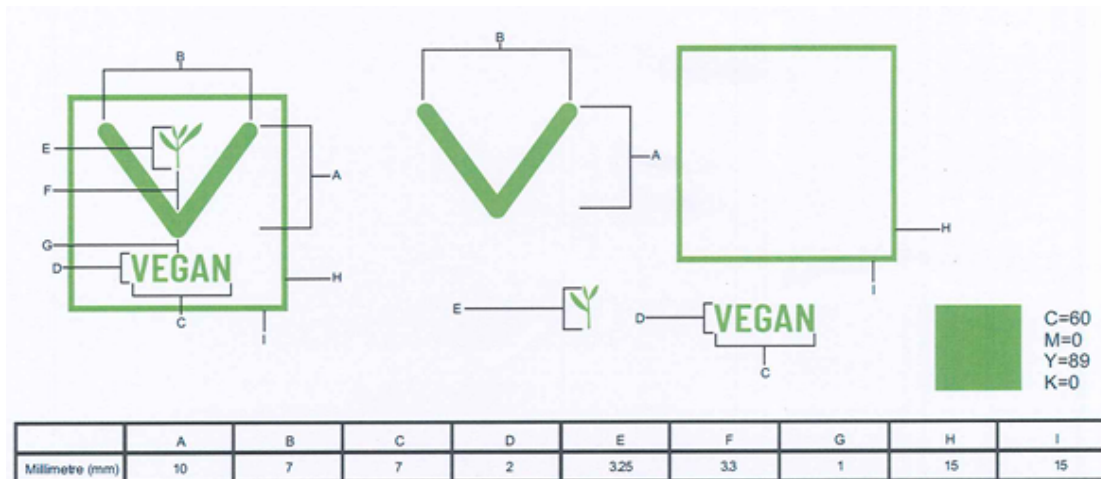


**Figure 3** General requirements for Vegan products as per Food Safety and Standards (Vegan Foods) Regulation, 2022

The brief regulation specifies additional labeling and display requirements for Vegan foods, i.e., (1) the seller of vegan food, either exclusively or as part of retail merchandise, shall store and display such food in a manner distinguishable from non-vegan food. (2) Every package of vegan foods, after the approval, shall carry the logo as specified below:







**Figure 4** Specifications of Vegan Logo<sup>5</sup>

To seek approval for Vegan food<sup>6</sup>, FBOs shall submit an application<sup>7</sup> to the concerned licensing authority with all necessary details in a format specified by the Food Authority. No vegan food products shall be imported except with a certificate issued by the recognized authorities of the exporting countries in the format specified by the Authority.

**IMPORTANT: This guide and other published content are not legal advice and should not be construed as such. It has been prepared for general informational purposes only, and readers are encouraged to seek professional counsel to address questions specific to their situation.**

**If you have any queries or would like to raise any concerns and give feedback have spotted any mistakes, please contact the GFI India team at <[india@gfi.org](mailto:india@gfi.org)>**

<sup>5</sup> On 14 September 2022, FSSAI notified [Directions under 16\(5\) of Food Safety and Standards Act, 2006 regarding graphic specifications of Vegan logo](#). Further, on 21st December 2022, FSSAI issued a [draft notification regarding amendment in the FSS \(Vegan Foods\) Regulations, 2022](#), to include the details regarding the graphic specification for Vegan Logo.

<sup>6</sup> [Frequently Asked Questions \(FAQs\) related to vegan logo endorsement applications](#)

<sup>7</sup> [Revised guidelines dated 24th February 2023 for submission of applications for endorsement of vegan logo and formats thereof](#)