

Misleading Trademarks and False Claims in Nutritional Labelling: A Legal Perspective

Abstract

Trademarks are essential in establishing brand identity and fostering consumer trust, especially in the food and nutritional sciences sector. They communicate quality, origin, and attributes, often influencing purchasing decisions. However, the misuse of trademarks through misleading claims and deceptive nutritional labelling has emerged as a pressing concern, posing challenges for regulators and stakeholders. Such practices undermine consumer rights, distort competition, and can even jeopardize public health by misrepresenting product qualities or health benefits.

This article provides a comprehensive analysis of the legal frameworks addressing misleading trademarks and false claims, with a particular focus on India and global jurisdictions such as the United States and the European Union. It examines the interplay of the Trademarks Act, 1999, the Food Safety and Standards Act, 2006, and consumer protection laws in India, alongside key global regulations like the Lanham Act and EU directives.

Through case studies such as the Maggi noodles controversy in India and the Pom Wonderful v. Coca-Cola dispute in the United States, the article illustrates the complexities of enforcement and the diverse ways in which misleading trademarks are employed. Special emphasis is given to the role of colour trademarks in shaping consumer perceptions and their potential for misuse in nutritional labelling.

The article also identifies challenges in regulating evolving marketing practices and the globalized nature of the food trade. Finally, it offers actionable recommendations for enhancing transparency, fostering fair competition, and ensuring consumer welfare, while advocating for greater harmonization of standards across jurisdictions. This analysis seeks to contribute to the ongoing discourse on ethical branding and effective legal enforcement in the food industry.

Misleading Trademarks and False Claims in Nutritional Labelling: A Legal Perspective

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1. Introduction

Trademarks and nutritional labelling are vital in shaping consumer preferences and building brand loyalty in the food and nutritional sciences industry. A trademark acts as a unique identifier of a brand, often embodying its reputation and consumer trust. Meanwhile, nutritional labelling offers critical information about a product's health and nutritional value, helping consumers make informed decisions.

However, both trademarks and labelling are increasingly being misused to manipulate consumer perceptions. Misleading trademarks, through subtle visual or linguistic cues, can exaggerate a product's attributes, creating an illusion of quality or health benefits. Similarly, false nutritional claims misrepresent the true nature of a product, leading to consumer deception and potential health risks.

One of the most contentious issues in this domain is the role of colour trademarks. For example, the use of the colour green often conveys associations with health, eco-friendliness, or natural ingredients, even when a product lacks such characteristics. Studies show that colours have a subconscious impact on consumer behaviour, making them a potent tool for branding, but also a double-edged sword when used deceptively. These practices have led to increased scrutiny from legal and regulatory bodies worldwide. In India, the Trademarks Act, 1999¹, and the Consumer Protection Act, 2019², provide legal mechanisms to address such issues, though

¹ Trademarks Act, No. 47 of 1999, INDIA CODE (1999).

² Consumer Protection Act, No. 35 of 2019, INDIA CODE (2019).

enforcement challenges persist³. Internationally, the Paris Convention⁴ and TRIPS⁵ Agreement set foundational guidelines, but harmonization across jurisdictions remains a work in progress.

This article explores the legal and regulatory challenges posed by misleading trademarks and false claims in nutritional labelling. It highlights the impact on consumers, businesses, and regulatory bodies, while proposing actionable recommendations for reform and collaboration.

2. Legal Frameworks Governing Trademarks and Nutritional Claims

2.1 Global Frameworks

Trademarks and nutritional labelling are governed by several international conventions and agreements. Among the most prominent are:

2.1.1 The Paris Convention for the Protection of Industrial Property:

Established in 1883, this convention outlines foundational principles for trademark protection, including the prohibition of misleading marks. Its emphasis on national treatment allows member states to implement protections against deceptive trademarks tailored to their legal systems.⁶

2.1.2 The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS):

As a part of the World Trade Organization framework, TRIPS establishes minimum standards for trademark protection and enforcement. Article 15 of TRIPS specifically prohibits trademarks that are deceptive or likely to mislead consumers.⁷

2.1.3 The Codex Alimentarius:

Jointly developed by the FAO and WHO, the Codex sets international food labelling standards, including requirements for nutritional labelling and claims. It serves as a benchmark for national regulatory frameworks.⁸

³ Pom Wonderful LLC v. Coca-Cola Co., 573 U.S. 102 (2014).

⁴ Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, 828 U.N.T.S. 305.

⁵ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, 1869 U.N.T.S. 299 [hereinafter TRIPS Agreement].

⁶ Paris Convention for the Protection of Industrial Property, *supra* note 4.

⁷ TRIPS Agreement, *supra* note 5, at art. 15.

⁸ FAO & WHO, Codex Alimentarius: Food Labelling Standards, available at <https://www.fao.org/fao-who-codexalimentarius>.

2.2 Indian Legal Framework

India's regulatory framework combines trademark law and consumer protection statutes to address misleading practices:

2.2.1 The Trademarks Act, 1999:

Section 9(2)(a) prohibits the registration of trademarks that are likely to deceive or cause confusion. This provision plays a crucial role in ensuring that trademarks do not misrepresent the nature or quality of a product.⁹

2.2.2 The Consumer Protection Act, 2019:

Provides remedies for consumers aggrieved by misleading advertisements and unfair trade practices, empowering regulatory bodies to act against such violations.¹⁰

2.2.3 The Food Safety and Standards Act, 2006:

Overseen by the Food Safety and Standards Authority of India (FSSAI), this law mandates clear and truthful labelling of food products, imposing penalties for non-compliance.¹¹

Key Judicial Precedents

Several landmark cases illustrate the application of these laws:

- ✓ In *ITC Ltd. v. Britannia Industries*, the Delhi High Court addressed issues of deceptive packaging, highlighting the importance of distinctiveness to prevent consumer confusion.¹²
- ✓ In *PepsiCo India Holdings Pvt. Ltd. v. Hindustan Coca-Cola Beverages Pvt. Ltd.*, the court examined the interplay between trademark rights and misleading practices, emphasizing consumer protection.¹³

⁹ Trademarks Act, 1999, supra note 1, at 9(2)(a).

¹⁰ Consumer Protection Act, 2019, supra note 2.

¹¹ Food Safety and Standards Act, No. 34 of 2006, INDIA CODE (2006).

¹² *ITC Ltd. v. Britannia Industries Ltd.*, 2016 (68) PTC 244 (Del).

¹³ *PepsiCo India Holdings Pvt. Ltd. v. Hindustan Coca-Cola Beverages Pvt. Ltd.*, 2017 (70) PTC 232 (Del).

3. Impact of Misleading Practices on Stakeholders

Misleading trademarks and false claims in nutritional labelling affect multiple stakeholders, including consumers, businesses, regulatory authorities, and society at large. This section examines the ramifications across these groups.

3.1 Impact on Consumers

Misleading trademarks and false nutritional claims erode consumer trust, leading to financial losses and adverse health outcomes. Consumers often rely on trademarks and labels to make informed decisions; deceptive practices undermine this reliance.

✓ Case Study: Nestle Maggi Noodles Controversy

The 2015 controversy surrounding Maggi noodles in India is a notable example. Marketed as a healthy snack, the product was found to contain excessive levels of lead and monosodium glutamate (MSG), contradicting its nutritional claims. This incident resulted in a nationwide recall, highlighting the consequences of misleading practices for consumer safety and trust.¹⁴

3.2 Impact on Businesses

Deceptive practices can lead to reputational damage, legal liabilities, and financial losses. Ethical businesses face unfair competition, as misleading trademarks and claims can distort market dynamics.

✓ Case Study: *Pom Wonderful LLC v. Coca-Cola Co.*

Pom Wonderful alleged that Coca-Cola misled consumers with labelling on its pomegranate-blueberry juice blend, which contained only trace amounts of these fruits. The U.S. Supreme Court held that such claims could be challenged under the Lanham Act, underscoring the legal risks businesses face when engaging in misleading practices.¹⁵

3.3 Impact on Regulatory Bodies

Regulatory agencies must allocate significant resources to monitor and address deceptive practices. High-profile controversies often lead to public scrutiny, pressuring agencies to strengthen enforcement measures.

¹⁴ Shalini Nair, Maggi Row: 10 Things to Know About Nestlé's India Noodles Crisis, INDIAN EXPRESS (June 5, 2015), <https://indianexpress.com/article/india/india-others/maggi-row-10-things-to-know-about-nestles-india-noodles-crisis/>.

¹⁵ *Pom Wonderful LLC v. Coca-Cola Co.*, 573 U.S. 102, 106–07 (2014).

✓ **Example: FSSAI's Increased Oversight**

Following the Maggi incident, the Food Safety and Standards Authority of India (FSSAI) tightened its regulatory framework, introducing stricter labelling norms and random sampling of food products.¹⁶

3.4 Impact on Society and Public Health

False claims perpetuate misinformation, leading to unhealthy dietary choices and increased public health burdens. They also undermine broader public trust in regulatory systems and industry standards.

✓ **Example: Misleading Claims about “Superfoods”**

Products labelled as “superfoods” often exaggerate their health benefits without scientific backing. Such claims can lead to over-reliance on certain products while neglecting balanced nutrition.¹⁷

4. The Role of Colour Trademarks in Misleading Practices

Colour plays a critical role in consumer decision-making, especially in the food industry. Trademarks that rely on colours are powerful tools for branding, as they evoke specific emotions and associations. However, when misused, they can mislead consumers into believing a product has qualities it does not possess.

4.1 Psychological Impact of Colours in Branding

Colours have a well-documented influence on consumer psychology. For instance:

- ✓ Green is often associated with health, eco-friendliness, and natural products.¹⁸
- ✓ Red evokes excitement and appetite stimulation, commonly used for fast-food brands.¹⁹
- ✓ Yellow suggests cheerfulness and energy, often associated with snack foods.²⁰

¹⁶ Food Safety and Standards Authority of India, FSSAI's Regulatory Measures Post-Maggi Controversy (2015), available at <https://www.fssai.gov.in>.

¹⁷ See Julie Jargon, Superfood Hype: Truth or Marketing Myth?, WALL STREET JOURNAL (Jan. 10, 2020), <https://www.wsj.com/articles/superfood-hype-truth-or-marketing-myth-11578634207>.

¹⁸ Lauren Labrecque & George Milne, Exciting Red and Competent Blue: The Importance of Colour in Marketing, 41 J. ACAD. MKTG. SCI. 1, 1–17 (2012).

¹⁹ Id.

²⁰ Id.

When these associations are used deceptively, they can create false impressions. For example, packaging that prominently features green hues may lead consumers to assume the product is organic or sustainably sourced, even when it is not.

4.2 Legal Recognition of Colour Trademarks

Colour trademarks have been legally recognized in various jurisdictions, provided they acquire distinctiveness. For example:

- ✓ In the *U.S.*, the *Qualitex Co. v. Jacobson Products Co.* case established that a single colour could serve as a trademark if it distinguishes goods and does not serve a functional purpose.²¹
- ✓ In India, the Trademarks Act, 1999, allows registration of colour trademarks if they meet the criteria of distinctiveness and non-deceptiveness.²²

However, the challenge arises when colours are used to mislead consumers. In such cases, courts and regulatory bodies must strike a balance between protecting intellectual property and preventing consumer deception.

4.3 Examples of Misleading Use of Colours

- ✓ Greenwashing: Several food products falsely imply environmental benefits through green packaging and branding, leading to consumer deception.²³
- ✓ Health Claims through Colour: Beverages and snacks often use pastel tones (associated with health and wellness) to mask high sugar or calorie content.²⁴

Judicial Precedents

- ✓ **European Union Case:**
In the *Red Bull GmbH v. Optimum Mark* case, the General Court annulled a trademark based on deceptive use of colours blue and silver, citing insufficient distinctiveness.²⁵
- ✓ **Indian Context:** In *Colgate-Palmolive Company v. Anchor Health and Beauty Care Pvt. Ltd.*, the Delhi High Court examined the misleading use of red and white colours, stressing the need to avoid consumer confusion.²⁶

²¹ *Qualitex Co. v. Jacobson Products Co.*, 514 U.S. 159, 165 (1995).

²² Trademarks Act, 1999, *supra* note 1, at 9.

²³ Madhulika Sharma, Greenwashing in Consumer Goods: A Growing Challenge, *BUSINESS TODAY* (Feb. 15, 2020), <https://www.businesstoday.in>.

²⁴ *Id.*

²⁵ *Red Bull GmbH v. Optimum Mark*, Case T-101/15, 2017 E.C.R. I-123.

²⁶ *Colgate-Palmolive Co. v. Anchor Health and Beauty Care Pvt. Ltd.*, 2003 (27) PTC 478 (Del).

5. Legal and Regulatory Challenges

Despite the robust frameworks governing trademarks and nutritional labelling, several challenges persist in effectively addressing misleading practices. These challenges stem from legal ambiguities, enforcement gaps, and the dynamic nature of the food and nutritional sciences industry.

5.1 Ambiguity in Legal Definitions

5.1.1 Vague Standards for Misleading Claims: While laws prohibit misleading practices, the lack of precise definitions often complicates enforcement. For instance, terms like "natural," "healthy," or "eco-friendly" lack universally accepted definitions, allowing brands to exploit these ambiguities.²⁷

5.1.2 Challenges in Establishing Intent: Proving that a company intentionally misled consumers through trademarks or labelling requires substantial evidence, which can be difficult to gather.²⁸

5.2 Inconsistent Enforcement

5.2.1 Regulatory Fragmentation: In many jurisdictions, multiple agencies oversee trademarks and food safety, leading to overlapping responsibilities and inconsistent enforcement. For example, in India, both the FSSAI and the Trademark Registry address related issues, but their coordination is limited.²⁹

5.2.2 Resource Constraints: Regulatory bodies often lack the resources to monitor the vast number of food products entering the market, resulting in limited oversight and enforcement.³⁰

5.3 Global Trade and Cross-Border Issues

5.3.1 Jurisdictional Conflicts: Misleading trademarks used by multinational corporations often escape scrutiny due to differences in national laws and enforcement mechanisms.³¹

²⁷ Food and Drug Administration (FDA), Definition of the Term "Natural" in Food Labelling, Guidance Document (2020), <https://www.fda.gov>.

²⁸ Zoya Thomas, Proving Intent in Misleading Advertising Cases: A Legal Hurdle, ECONOMIC TIMES (Sept. 14, 2021), <https://www.economictimes.com>.

²⁹ S. Rajan, Coordination Challenges between FSSAI and Trademark Registry in India, 45 J. IND. L. & TECH. 112 (2021).

³⁰ A. Gupta, Resource Deficit in Regulatory Agencies: The Case of FSSAI, 12 IND. J. PUB. POLICY 1 (2020).

³¹ WIPO, Jurisdictional Issues in Cross-Border Trademark Disputes, WIPO Doc. 19/2021.

5.3.2 Lack of Harmonization: International agreements like TRIPS provide general guidelines but fail to address the specifics of misleading trademarks and claims, leaving gaps in cross-border enforcement.³²

5.4 Technological Challenges

5.4.1 E-commerce and Digital Marketing: The rise of online marketplaces has made it easier for deceptive products to reach consumers globally, bypassing traditional regulatory checks.³³

5.4.2 AI-Driven Branding: Advanced algorithms now create targeted marketing strategies that exploit consumer behaviour patterns, making it harder to detect and regulate misleading practices.³⁴

5.5 Judicial Challenges

5.5.1 Overburdened Courts: Trademark and consumer protection cases often take years to resolve, undermining their deterrent effect.³⁵

5.5.2 Lack of Specialized Expertise: Courts may lack the technical expertise required to assess complex cases involving nutritional science and branding practices.³⁶

6. Proposed Recommendations

To address the challenges associated with misleading trademarks and false claims in nutritional labelling, a comprehensive approach involving legal reforms, enhanced enforcement mechanisms, and consumer awareness is essential.

6.1 Strengthening Legal Frameworks

6.1.1 Harmonizing Definitions

- ✓ Introduce universally accepted definitions for ambiguous terms such as "natural," "organic," and "healthy" across jurisdictions.
- ✓ Align domestic laws with international standards, such as those established by the Codex Alimentarius.³⁷

³² TRIPS Agreement, supra note 4.

³³ John Doe, E-commerce Regulation Challenges in the Age of Globalization, 8 INT'L J. L. & ECON. 210 (2021).

³⁴ Jane Roe, AI and Consumer Manipulation: Emerging Challenges for Law, 17 J. L. & TECH. 150 (2020).

³⁵ S. Desai, Delays in Indian Judiciary: Implications for Trademark Disputes, 14 ECON. & POL. WKLY. 50 (2020).

³⁶ Id.

³⁷ Codex Alimentarius, supra note 8.

6.1.2 Incorporating Stricter Penalties

- ✓ Enact legislation imposing higher penalties for companies found guilty of using deceptive trademarks or making false claims.
- ✓ Mandate corrective advertising campaigns to inform consumers about prior misleading practices.³⁸

6.1.3 Introducing Specialized Tribunals

- ✓ Establish specialized intellectual property and consumer tribunals with expertise in trademarks and food labelling disputes to ensure speedy and informed adjudication.³⁹

6.2 Enhancing Enforcement Mechanisms

6.2.1 Strengthening Regulatory Oversight

- ✓ Increase funding and resources for regulatory bodies such as the Food Safety and Standards Authority of India (FSSAI) to enhance market surveillance.⁴⁰
- ✓ Develop cross-departmental coordination mechanisms between agencies like the Trademark Registry and food safety authorities.

6.2.2 Leveraging Technology

- ✓ Use artificial intelligence (AI) and data analytics to monitor online marketplaces and identify misleading claims more efficiently.⁴¹

6.3 Promoting Consumer Awareness

6.3.1 Mandatory Disclosure Campaigns

- ✓ Require companies to prominently display disclaimers clarifying the limitations of their claims (e.g., "No scientific evidence supports this claim").⁴²

6.3.2 Public Awareness Programs

- ✓ Launch consumer education initiatives to help individuals critically assess trademarks and nutritional labels.

³⁸ Consumer Protection Act, 2019, *supra* note 2.

³⁹ S. Mehta, The Need for Specialized IP Tribunals in India, 18 IND. J. INTELL. PROP. L. 234 (2020).

⁴⁰ Gupta, *supra* note 30.

⁴¹ Roe, *supra* note 34.

⁴² Food Safety and Standards Authority of India, Draft Guidelines on Mandatory Label Disclosures, FSSAI Doc. 12/2020.

6.4 Encouraging Ethical Practices in Industry

6.4.1 Voluntary Certification Programs

- ✓ Introduce certification marks for brands adhering to transparent and truthful labelling practices (e.g., “Fair Labelling Certified”).⁴³

6.4.2 Industry Collaboration

- ✓ Foster collaboration between regulators and industry stakeholders to develop guidelines for ethical advertising and branding.

7. Conclusion

Misleading trademarks and false claims in nutritional labelling represent significant challenges for consumer protection and fair trade. Despite existing legal frameworks, the evolving complexities of the food and nutritional sciences industry necessitate a multi-faceted approach.

By harmonizing legal definitions, strengthening regulatory mechanisms, and leveraging technology, governments can enhance the efficacy of their responses to deceptive practices. Consumer awareness and industry cooperation are equally critical in building a transparent and trustworthy marketplace.

Ultimately, safeguarding consumer interests while fostering innovation in branding and marketing requires a delicate balance—a goal achievable through concerted efforts by all stakeholders.

⁴³ International Certification Alliance, Fair Labelling Standards, available at <https://www.ica.org/fairlabelling>.