

though it is a judgment debt and in Para 27, it is held that it is the duty of the Insolvency Court and therefore clearly within its jurisdiction to require proof to its satisfaction of the debts sought to be proved at the stage of hearing of the insolvency petition or subsequent to the adjudication (Underlining is mine).

7. Therefore, in order to prove debts, either before or after adjudication, it is not necessary that either the debt must be decreed or the debtor must unequivocally admit it. The debt can be proved under Sections 33 and 49 of the Act otherwise than by way of decree or admission of debtor.

8. It appears that the decision reported in AIR 1964 SC 1223 was not brought to the notice of the Hon'ble Court at the time of hearing case in 2010 (3) ALD 721.

9. Hence, I humbly opine that the decision reported in 2010 (3) ALD 721 to the effect that Insolvency Court cannot decide the liability of debt in favour creditor and that a person cannot file creditor I.P. if he does not obtain decree or if the debtor denies the relationship of creditor and debtor before filing I.P. is not correct in view of the decision of apex Court reported in AIR 1964 SC 1223.

CONSUMER PROTECTION AND RIGHT TO INFORMATION**

By

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“Consumer is the king of market, if he is getting exploited than the market will be ruined.”

In every moment of life, every individual is a consumer irrespective of his race, creed, religion, sex, age. Consumer Protection and right to information are now an integral part of the life of an individual and we all have made use of them at some or the other point in our daily routine. In the present era of Globalization, the role of consumer is very wider and relevant legislations should safeguard the interest of consumers.

Now it is universally accepted that the consumer has a right to be provided with all relevant information in order to avoid exploitation and made a considered choice in availing of products and services. The Consumer Protection Act, 1986 provides the meaning of “consumer”¹.

The Act envisages the promotion and protection of the rights of consumers² namely 1. Right to Safety, 2. Right to be Informed, 3. Right to Choose, 4. Right to be Heard, 5. Right to Seek Redressal, 6. Right to Consumer Education.

Thus, the concern of consumer protection is to ensure fair trade practices, quality of goods and efficient services with information to the consumer with regard to quality, quantity, potency, composition and price for

** This is Modified Paper by V.G. Ranganath working as Faculty Member, IFHE University, Hyderabad and Research Scholar (part-time), Dr. B.R. Ambedkar College of Law, Andhra University, Visakhapatnam and presented in National Seminar on “Consumer Protection and Welfare” organized by Dr. B.R. Ambedkar College of Law, Andhra University, Visakhapatnam and Indian Institute of Public Administration, New Delhi and presented a paper entitled “Consumer Rights and Right to Information”.

1. See Section 2(d) of the Consumer Protection Act, 1986.

2. See Sections 6, 7 and 8 of the Act

their choice of purchase. In present day scenario, consumers were not evincing any interest to know about their right to information about the quality, quantity, potency, purity, standard and price of goods and services and their protection against unfair trade practices.

The aim of this paper is to highlight the significance of consumer protection and right to information with respect to food items. Good food is the cornerstone for survival, health and development for current and succeeding generations. Manufacturers are not often concerned about the quality of goods and services and their impact on the health of people and environment. Instead of the consumer guiding the producer about what should be produced, it is the producer who decides what the consumer should want. Now days, Consumer is very much deprived of right to information. The Research Scholar concentrates on the consumer's outlook to have information on certain food items and ingredients. The Government is taking the initiative by imposing moratorium over certain food items and products but not reaching to the Consumer's awareness about the moratorium. The food adulteration, unsafe food, genetically modified food and exaggeration of products lead to consumer as scapegoat due to non exercise of his right to information. In this paper, the Research Scholar provides the consumer's right to information on Milk Adulteration, food adulteration, melamine contents in milk, salmonella contamination in peanut butter, ban of dairy products from china, carefulness towards dietary supplements already recalled by Food and Drug Administration, USA and advisories of Food Safety and Standards Authority of India (Ministry of Health and Family Welfare), Prohibition of use of carbide gas for artificial ripening. Due to lack of information, consumer is deprived of his right.

Combating food adulteration is the immediate requirement of every consumer in order to protect himself, his family and

society. Milk can contain detergent, refined oil, caustic soda or urea. Mustard oil can be adulterated with argemone oil and arhar dal with yellow colour. Argemone oil is extracted from argemone seeds. It is mixed with sunflower oil and sesame oil to increase their quantity. Consumption of this oil leads to health disorders among children. To avoid this, we must check the contents of the cooking oil. Many oil brands mention 'no argemone oil' on their packs.

In a recent study, found that over 80 per cent of imported food products in our country are violating all our laws. For example, packaged soups don't declare ingredients, which is mandatory. A recent case is that of the Chinese Chocolate that should have had a red dot because it is non-vegetarian, having used beef gelatine. But this had been superimposed with a label with a green dot. A common man thinks all chocolate is vegetarian, which is not true. *During his speech President John F. Kennedy had remarked:*

"If a consumer is offered inferior products, if prices are exorbitant, if drugs are unsafe or worthless, if the consumer is unable to choose on an informed basis, then his dollar is wasted, his health and safety may be threatened, and national interest suffers."

Adulteration of Milk:

The oldest and simplest method of adulterating milk is by dilution with water. This destroys the natural yellowish-white color and produces a bluish tint, which is sometimes corrected by the addition of a small amount of coloring matter. Another form of adulteration is the removal of the cream and the sale as whole milk of skimmed or partially skimmed milk. Common adulterants in milk include Common Salt, Starch, Maltose, Hydrogen Peroxide, Urea, Sugar, Glucose, Formaldehyde, Mineral Oil (like paraffin wax), *etc.*

Salmonella Contamination in Peanut Butter

An outbreak of Salmonella Food poisoning associated with peanut butter and peanut paste started in the last quarter of 2008 in United States of America. This Salmonella outbreak in peanut products sickened 714 people, killed 9 and led to a food product recall³. Based on the information received from US Embassy and circulated to all Food Safety Commissioners by Food Safety and Standards Authority of India⁴ (herein after referred as FSSAI), Maharashtra Food and Drug Administration (FDA) recalled Rockin Roll (Nutty peanut flavours) bars produced by Labrada Nutrition Inc. from the Indian Consignee M/s. Nuegen Nutrition Systems Ltd which was likely to have contamination of Salmonella and destroyed them.

The contamination of salmonella in some of the peanut butter products and the possibility of any large scale adverse health effect on the population was considered by FSSAI keeping in view the likely entry of such contaminated products into the country. After consultations with the experts, the advisory is being issued to provide consumers relevant information on the significance and sources of salmonella contamination in peanut butter product, so as to facilitate appropriate preventive actions on their part to address this food safety situation.

Brain Food⁵

The Central Food Technological Research Institute (CFTRI) had addressed a

communication to Secretary (Health), Government of India and Director General of Health Services on 12th June 2008 informing that companies such as Kisan and Hindustan Unilever are marketing a proprietary food “Amaze Brain Food” claiming that it gives 33% of the key nutrients children need daily. Director, CFTRI had pointed out that this proprietary food has not been cleared under the PFA Rules, 1955 and it is not correct to claim that such food gives 33% of the key brain nutrients children need daily.

Based on these evaluations, the Ministry of Health and Family Welfare wrote to the company M/s. Hindustan Unilever on 2nd September, 2008 suggesting deletion of words ‘brain food’ from the label as it contravened the provisions of Rule 37 of the Prevention of Food Adulteration Rules, 1955 and amounted to misrepresentation of facts and misbranding which is likely to delude the public. In response, the company made a detailed presentation to the Ministry and the PFA⁶ Authorities, justifying their claims and quoting scientific evidence in support of their stand.

After the constitution of Food Safety and Standards Authority this particular case was transferred to the Authority. The Food Safety and Standards Authority constituted an expert committee under the Chairmanship of Dr. *Vasantha Muthuswamy*⁷ and other four members.

The Committee met on 26th October, 2009 and again on 27th of January, 2010 to consider the view points of various members and reviewed the scientific literature as well the clarifications provided by the Company. On the basis of detailed deliberations, review of scientific literature and presentations made by the Company, the Committee has reached the following conclusions.

3. Advisory No.5/FSSAI/2009, “Advisory of the Food Safety and Standards Authority of India on the Salmonella contamination in Peanut Butter” <http://www.fssai.gov.in/Portals/0/Pdf/Advisory.pdf> (Last Visited on July 24, 2010).

4. Food Safety and Standards Authority of India, established under Food Safety and Standards Act, 2006.

5. Report of the Expert Group on Amaze-Brain Food available at <http://www.fssai.gov.in/Portals/0/Pdf/Brain-Food.pdf> (Last Visited on March 25, 2012).

6. Prevention of Food Adulteration

7. Senior Dy. Director General (Retd.), Indian Council of Medical Research

The group concluded that the claims made by the Company relating to brain development of children are not supported by adequate scientific evidence. The group concluded that the claims made by the Company are misleading giving a false sense of security. If the product is brought in the market as “Brain Food” the immediate perception of mothers would be that it would help to increase brain power like higher IQ, retention, Concentration, Sharpness *etc.* However, scientific reports show that the product may deliver only a few and not all benefits and that too mainly if the child is particularly deficient in any particular nutrient.

Keeping in view the vagueness of the claim, the likely misuse of the product on the basis of assumed benefits and scientific support claimed, it can have an adverse impact on healthy eating habits. It also creates a wrong impression that consuming a cocktail of micronutrients provided by the product can take care of mental development of children, even if there is a total neglect of consumption of normal healthy diet.

Melamine Contamination of Foods

Melamine is an organic base and is only soluble in water. It contains 66% nitrogen. It has a variety of non-food uses.

Harmful Effects:

Laboratory studies have shown calculi(stone) formation, inflammatory reactions and hyperplastic (excessive formation of cells) in the urinary bladder in rats and mice experimentally fed with melamine through diet. The harmful effects of melamine is considered to increase in combination with its analogues, particularly cyanuric acid. The deaths of four infants and sickness of thousand infants in China on consumption of melamine laced baby food have been attributed to formation of kidney stones and acute renal failure.

Melamine has been detected at high levels in several foods and feeds in many countries.

In most of the cases the adulterated foods or its ingredients have been traced to China. In September, 2008, there were extensive media reports about thousands of infants in China being affected due to melamine contamination of baby foods. At least four babies have died and around 1 lakh have become sick after consuming powdered milk baby food laced with melamine. According to the reports the milk used to make the baby food was adulterated with melamine to enhance its apparent protein content. Products of dozens of Chinese companies have reported to contain high levels of melamine⁸. Several countries have subsequently reported presence of melamine in the food products entering their markets. It remains a possibility that melamine contaminated food is present also in the Indian market.

In view of the above, it is necessary that special attention is paid by the State Food Authorities to protect from the adverse health effects associated with consumption of melamine contaminated/adulterated food.

The Advisory of Food Safety and Standards Authority of India is being issued to provide the State Food Authorities with available relevant information on the significance and sources of melamine contamination of food and to facilitate appropriate preventive actions on their part to address current food safety on urgent basis.

Ban on import of dairy products from China⁹

The Government of India (Directorate General of Foreign Trade) had imposed a ban on import of milk and milk products from China *vide* Notification No.46 dated

8. Advisory No.2/FSSAI/2008, Food Safety and Standards Authority of India, “Advisory to the State Health Authorities on monitoring melamine contamination of foods” available at <http://www.fssai.gov.in/Portals/0/Pdf/AdvisoryMelamineinFoods%5B1%5D.pdf> (Last Visited on March 25, 2012).

9. [http://www.fssai.gov.in/Portals/0/Pdf/Advisory_China_Dairy\(21-09-2011\).pdf](http://www.fssai.gov.in/Portals/0/Pdf/Advisory_China_Dairy(21-09-2011).pdf) (Last Visited on March 25, 2012).

24.9.2008 for three months. The ban for three months was imposed as an interim step to enable other Departments to put in place suitable measures, to restrict import of contaminated milk products in the country. The ban was extended *vide* Notification No.67 dated 1.12.2008 for another six months upto 23.6.2009. The import of chocolates and chocolate products and candies/confectionary/food preparations with milk and milk solids as an ingredient were also included in the ban. Consultations were held on 10th June 2009 with the concerned Departments/Ministries of the Government of India and experts in the dairy industry to review the ban on import of dairy products from China. Based on these consultations the following Advisory No.4/FSSAI/2009 is issued:

1. Ban on import of milk and milk products including chocolates and chocolate products and candies/confectionary/food preparations with milk and milk solids as an ingredient from China may be extended for a period of six months from 24th June 2009 unless there are clear reports available about a significant improvement in the situation.
2. The review of ban may be done after feedback received from the State Food (Health) Authorities.

Prohibition of use of carbide gas for ripening of fruits

The Food Safety and Standard Authority of India, Ministry of Health and Family Welfare has sent an information to all food safety departments and have been requested to undertake thorough review of the implementation of the Prevention of Food Adulteration Act 1954 and advised the enforcement staff to keep a strict vigil for checking malpractices.

In spite of the specific provisions under the rules, it has been brought to the notice of the authorities that the sale of fruits

especially mangoes and banana, which are artificially ripened by use of carbide gas is continuing with a fast pace. Reportedly, calcium carbide, popularly known as 'masala' is being extensively used in mango, banana and papaya. It is to be mentioned that calcium carbide treatment of food is extremely hazardous because it contains traces of arsenic and phosphorous and these chemicals are extensively used in making crude bombs and for welding purposes. Since it is a carcinogenic chemical compound, it can cause mouth ulcer, gastric irritation, food poisoning or even cancer. Equally, other harmful practices include dipping of fruits in a solution of ethephon or exposure of fruits to ethylene gas.

Though adulterated food is supplied in the market, no action can be taken against the traders in the absence of full-proof evidence. According to the officials, under the prohibition of use of carbide gas, the circumstantial evidence of presence of calcium carbide in the godowns/wooden crates or within a premises where fruits are also stored may be an evidence before the Courts in contravention of Rule 44-AA of the PFA Act.

Vendors often resort to use of chemicals such as calcium carbide to ripen fruits, specially mangoes, bananas, papayas, apples and plums before time. The ministry has asked the State authorities to keep a strict vigil on use of carbide gas for ripening fruits. Use of such chemicals is prohibited under Rule 44-AA of the Prevention of Food Adulteration Rules, 1955.

Enforcement authorities in the States have been informed that circumstantial evidence of presence of calcium carbide in godowns/wooden crates/premises kept together with fruits may be evidence of artificial ripening for the Courts. The FSSAI has also circulated a copy of procedure for detection of acetylene in godowns or treatment chambers.

Scientists say when calcium carbide comes in contact with moisture in the atmosphere,

it produces acetylene gas which like ethylene, accelerates the ripening process.

Unfortunately, it is known to contain arsenic and phosphorus — both highly harmful for humans. Acetylene affects the neurological system by inducing prolonged hypoxia and can cause headache, dizziness, mood disturbances, sleepiness, mental confusion, memory loss, cerebral oedema and seizures.

The Union Ministry of Health and Family Welfare has asked the State authorities to keep a strict vigil on the use of carbide gas for ripening of fruits.

Rule 44-AA of the Prevention of Food Adulteration Rules, 1955 prohibits the use of carbide gas for ripening of fruits. An extracts of Rule 44-AA is reproduced below-

“Rule 44-AA. Prohibition of use of carbide gas in ripening of fruits:- No person shall sell or offer or expose for sale or have in his premises for the purpose of sale under any description, fruits which have been artificially ripened by use of acetylene gas, commonly know as carbide gas.”

Products containing Steroid/Steroid like substances marketed as Dietary Supplement

It has been brought to the knowledge of Food Safety & Standards Authority of India by Food & Drug Administration of United States of America that there is a possibility of entry of some products containing Steroid/Steroid-like substances into India as ‘Dietary Supplement’. These products were subject to class-I recall in United States of America as some of these were marketed without an approved New Drug Application or a Generic Drug Application but most were marketed as ‘Dietary Supplement’. However, the products were found to contain steroid or steroid-like substances making them unapproved new drug. Most of these products were distributed through internet rather than through a distributor network. A complete list of these products

may be seen at the website of the FSSAI. It can also be seen at the website Food & Drug Administration, USA.

Steroid containing products present a risk of acute liver injury to product users. In addition, steroids may cause other serious long-term adverse health consequences in people including children. These may include male infertility, masculinisation of women, breast enlargement in males, short stature in children, adverse effects on blood lipid profile and increased risk of heart attack & stroke and death. The Food Safety and Standards Authority of India issued a press note cum advisory for the general public to understand the risk involved in usage of such products and refrain from using such products.

Products Recalled

There are certain products recalled keeping in view of consumers and general public namely D DROL Capsules, HYPERDROL X2 capsules, REVAMP capsules, Pheravol V capsules *etc.*,

Dawn of GM foods in India:-

There are certain food items imported from other countries consists of unlabelled ingredients of GM Soya, GM Canola, GM Com *etc.* The term GM foods or GMOs (genetically-modified organisms) is most commonly used to refer to crop plants created for human or animal consumption using the latest molecular biology techniques. Not only can genes be transferred from one plant to another, but genes from non-plant organisms also can be used¹⁰. The GM food can cause cancer and it will have long term impact also. Pregnant mothers eating GM foods may endanger offspring¹¹.

10. *Deborah B. Whitman*, Genetically Modified Foods : Harmful or Helpful, May 25th, 2010, available at, <http://www.csa.com/discoveryguides/gmfood/overview.php> (Last Visited on March 25, 2012)

11. *Jeffrey M. Smith*, (First Indian Edition 2009) “Genetic Roulette” : Other India Press in association with South Against Genetic Engineering (SAGE) and Deccan Development Society (DDS), Hyderabad.

Recently, after thorough public hearings, Environment Minister *Jairam Ramesh* announced the decision on February 9, 2010, to put a moratorium on the release of Bt-Brinjal till such time independent scientific studies establish, to the satisfaction of both the public and professionals, the safety of the product from long-term view on impact on human health¹².

The National Biotechnology Regulatory Authority Bill (NBRA), 2008-Biotechnology Regulatory Authority of India Bill (BRAI), 2009.

The National Biotechnology Regulatory Authority Bill (NBRA), 2008 has now been revised and renamed as Biotechnology Regulatory Authority of India Bill (BRAI), 2009. We can describe it as an egregious, ominous and anti-consumer legislation. This Bill stands antithetical to the position of independent scientists, major farmers' organizations (in India as well as around the world), consumers' association and the civil society.

How does BRAI want to treat the environmental citizens of this country who would like to voice their concerns against genetic engineering? Read the following clause in the Bill¹³:

63. Whoever, without any evidence or scientific record misleads the public about the safety of the organisms and products specified in Part I or Part II or Part III of the Schedule I, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and with fine, which may extend to two lakh rupees or with both.

12. New Delhi, "Bt-Brinjal Commercial Cultivation Put on Hold" available at <http://news.outlookindia.com/item.aspx?674336> (Last Visited on March 25, 2012).

13. BT7TC/NBRA/03/2008, Government of India, Ministry of Science and Technology, Department of Biotechnology, THE BIOTECHNOLOGY REGULATORY AUTHORITY OF INDIA BILL, 2009 available at <http://www.indiaenvironmentportal.org.in/files/Biotech-authority-bill.pdf> (Last Visited on March 25, 2012.)

Reading this, one doesn't believe that one is living in a democratic country.

Conclusion

The more guidelines are required within a nation-state, national laws may prevent some of this harm, but once national boundaries are crossed, their effectiveness is limited, and consumers can hope for very limited protection. The position of the consumers much stronger in this era of globalization and privatization where the sudden unchecked advent of Multi National Companies has to be balanced with the protection of the rights of the consumers by the Legislature and the judiciary.

As a consumer we have much concern about the money, choice, health and safety of the life. In last few years' market is found to be influenced by the false, misleading advertisements or representations, bargaining, offering gifts, prizes, contests and hoardings attracting public for product or service

Restrictions on Advertisement

The Food Safety & Standards Act, 2006 seeks to regulate the law relating to advertising and unfair trade practices in the food sector. Section 3(1)(b) The Act defines 'advertising'¹⁴ as 'any audio or visual publicity, representation or pronouncement made by means of any light, sound, smoke, gas, print, electronic media, internet or website and includes through any notice, circular, label, wrapper, invoice or other documents.

Section 24 of the Act provides restrictions on advertisement and prohibition as to unfair trade practices. It lays down the following general provisions:-

- (1) No advertisement shall be made of any food which is misleading or deceiving or contravenes the provisions of the Act, the rules and regulations made there under;

14. Section 3(1)(b) of Food Safety and Standards Act, 2006

- (2) No person can engage himself in any unfair trade practice for purpose of promoting the sale, supply, use and consumption of articles of food or adopt any unfair or deceptive practice including the practice of making any statement, whether orally or in writing or by visible representation which-
- (a) falsely represents that the foods are of a particular standard, quality, quantity or grade-composition;
 - (b) makes a false or misleading representation concerning the need for, or the usefulness;
 - (c) gives to the public any guarantee of the efficacy that is not based on an adequate or scientific justification thereof;

Provided that where a defence is raised to the effect that such guarantee is based on adequate or scientific justification, the burden of proof of such defence shall lie on the person raising such defence.

The Act prescribes the punishment for selling of misbranded food¹⁵ and also for misleading advertisements. Section 52¹⁶ lays down that any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakh rupees. Section 53¹⁷ prescribes that any person who publishes, or is a party to the publication of an advertisement, which falsely describes any food or is likely to mislead as to the nature or substance or quality of any food or gives false guarantee shall be liable to a penalty which may extend to ten lakh rupees.

15. The definition of misbranded food includes an article of food purported or represented or being offered or promoted for sale with false, misleading or deceptive claims through advertisement. See, Section 3(1)(zf) of the Act.

16. Food Safety and Standards Act, 2006

17. Food Safety and Standards Act, 2006

Various jurisdictions around the world have specific guidelines/codes laying down minimum standards for food advertisements. Although most of these codes are self regulatory in nature, they can act as an effective deterrent to prevent misleading advertisement from being disseminated to the general public.

Present scenario of Standards of Advertising in India:

- i. Commercial Advertisement comes within the domain of freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India. The Supreme Court of India has held that commercial advertisement is a fundamental right available to every citizen under Article 19(1)(a) of the Constitution of India subject to the requirements of Article 19(2) of the Constitution.
- ii. Currently there is no legal framework regulating advertising standards in India. However, the Advertising Standards Council of India (ASCI) has drafted and implemented a Code for Self-Regulation in Advertising (ASCI Code) in India¹⁸. The purpose of the ASCI Code is to control the content of advertisements and not to hamper the sale of products which may be found offensive. The ASCI Code has been drawn up after wide industry consultation, and has been accepted by individuals, corporate bodies and associations engaged in or otherwise

18. The ASCI is a voluntary self-regulatory council, registered as a not-for-profit Company under Section 25 of the Companies Act, 1956. The Role and Functioning of the ASCI & its Consumer Complaints Council (CCC) in dealing with Complaints received from Consumers and Industry, against Ads which are considered as False, Misleading, Indecent, Illegal, leading to Unsafe practices, or Unfair to competition, and consequently in contravention of the ASCI Code for Self-Regulation in Advertising. The ASCI is not a Government body, nor does it formulate rules for the public or for the relevant industries.

concerned with the practice of advertising, as basic guidelines with a view to achieve the acceptance of fair advertising practices in the best interest of the ultimate consumer.

- iii. The ASCI Code applies to advertisers, advertising agencies and media. The ASCI Code

International Best Practices:

- (a) Most countries around the world have sought to monitor and/or regulate the content of food and beverage advertisements to ensure that commercial communication is conducted responsibly, physical well being of its citizens is maintained and not affected by wrong or misleading claims and also to enable consumers to make informed decisions.
- (b) The systems followed in few major countries of the World and the international best practices laid down by ICC Framework for Responsible Food and Beverage Communication should provide the critical context for evolving the framework for food and beverage advertising in India.

Approach:

- I. A perusal of the practices followed by other countries would show that the cornerstone for each of them is self-regulation guided by some handholding in terms of prescription of basic criterion by the Governments/Legislatures/consultative bodies respectively.
- II. This is especially true for food products, owing to the vast nature, array of products and the distinct requirements for each of such products, requiring use of large number of ingredients, additives and chemicals, effect of which are varied, far reaching

and dependent on number of criteria. Thus framing of specific guidelines under the Rules/Regulations would neither be practicable or efficacious for achievement of the end purpose of the legislation.

- III. It is imperative that the Authority enacts broad-based guidelines on the requirements of Section 24, taking into consideration Sections 52 & 53.
- IV. The FSSAI¹⁹ could adopt the suggested framework as a guideline and allow an independent body like ASCI to formulate the industry Code as applicable to food and beverage communications/ advertisements and treat the same as benchmark for compliance with the provisions of the Act.
- V. Such an approach would also allow the industry and the regulations to adapt themselves to ever-changing standards and operational/business processes.

The Guidelines

The following guidelines are proposed to be adopted to promote high standards in food and beverage communications and advertising:

A. Preamble:

Whereas:-

1. The Food Safety and Standards Authority of India (FSSAI) - a statutory regulatory Authority of Government of India {Ministry of Health & Family Welfare} has been set up under the Food Safety and

19. "Guidelines – Code of Self Regulation in Food Advertisement", Food Safety and Standards Authority of India available at <http://www.indiaenvironmentportal.org.in/files/Draft%20code%20of%20self%20regulation.pdf> (Last Visited on March 25, 2012).

Standards Act, 2006 for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.

2. Communications and advertisements related to food and beverages can have a significant impact on the lives of the public in general and their physical and material well being in particular,

3. It is imperative that food and beverage communications and advertisements fulfill their intended roles and Food Business operators adopt strict principles of Self Regulation and not mislead the general public in any manner detrimental to their well being,

4. The issue of labeling would be governed by explicit provisions under the Act and the rules on labeling being developed and recognizing the need to

- i. promote high standards of business ethics to ensure that commercial communications to consumers are responsible.
- ii. provide honest and truthful information about food and beverage products

B. Definition of Advertising for the purpose of the Guidelines:

Advertising means any commercial communication by a Food Business Operator to the public other than through a label which is published or broadcast or disseminated using any medium in India for payment or other valuable consideration to promote directly or indirectly the sale and intake of food and beverages in any manner.

C. General Principles:

- i. Advertising and communication for food and beverages should not be misleading or deceptive. This means

that claims about particular ingredients in a food and beverage product or the underlying health benefits thereto should have a sound, authentic scientific basis and supported by evidence whenever required.

- ii. Advertising and/or marketing communications for food and/or food & beverage products that include what an average consumer, acting reasonably, might interpret as health or nutrition claims shall be supportable by appropriate scientific evidence and should meet the requirements of the basic Food standards laid down under the Food Safety Standards Act, 2006 and rules, wherever applicable.
- iii. Advertisements should not disparage good dietary practice or the selection of options, such as fresh fruit and vegetables that accepted dietary opinion recommends should form part of the average diet.
- iv. Advertisements should not encourage excessive consumption or inappropriately large portions of any particular food. They should not undermine the importance of healthy lifestyles. Advertisements should rather try to promote moderation in consumption and the need to consume in suggested portion sizes.
- v. Care should be taken to ensure advertisements do not mislead as to the nutritive value of any food. Foods high in sugar, fat, TFA and/or salt should not be portrayed in any way that suggests they are beneficial to health.
- vi. Communications for Food and/or Beverage Products including claims relating to material characteristics such as taste, size, suggested portions of use, content, nutrition and health benefits shall be specific to the promoted product/s and accurate in all such representation.

- vii. Advertisements should not mislead consumers especially children to believe that consumption of product advertised will result directly in personal changes in intelligence, physical ability or exceptional recognition unless supported with adequate scientific evidence.
- viii. Advertisements containing nutrient, nutrition or health claims and advertisements directed at children should observe a high standard of social responsibility.
- ix. Communications for Food and/or Beverage Products not intended or suitable as substitutes for meals shall not portray them as such.
- x. Claims in an advertisement should not be inconsistent with information on the label or packaging of the food.
- xi. Advertisements for food and beverages should not claim or imply endorsement by any Government agency, professional body, independent agency or individual in particular profession in India unless there is prior consent, the claim is current and the endorsement verifiable and the agency or body named.
- xii. Celebrities or prominent people who promote food should recognize their responsibility towards society and not promote food in such a way so as to undermine a healthy diet.
- xiii. Advertisements should not undermine the role of parental care and guidance in ensuring proper food choices are made by Children
- xiv. Advertisers and communicators must recognize their social and professional responsibility towards promoting a healthy lifestyle and strive to achieve high standards of public health. All advertisements and communications should be thus truthful, legal, decent and honest reflecting their social and professional responsibility.

Conclusion:

“To establish a favorable and well-defined brand personality with the consumer the advertiser must be consistent. You can’t use a comic approach today and a scientist in a white jacket tomorrow without diffusing and damaging your brand personality.”-Morris Hite

“Competition is not only the basis of protection to the consumer, but is the incentive to progress.”

Suggestions:-

1. We have to educate our neighbours and consumers and ensure of food cautiousness.
2. The consumer helpline number 1800-11-4000, where consumer can complain, seek information or counselling through BSNL and MTNL telephones. It must be made accessible through all telephones.
3. As a consumer, we must know what we are eating and to have a choice in this matter. The reality is that we are eating misbranded, adulterated, unsafe food all the time without our knowledge.
4. Labeling laws need to be drastically tightened to ensure people are aware of food that is genetically modified
5. Hopefully, the policymakers will use the moratorium window to strengthen the regulatory process. And provide consumer choice through mandatory labeling.
6. Politicians should supposed to serve the people of India, instead serving the interests of biotech seed corporations.
7. GM crops should be introduced in our country only after proven tests and experiments.

8. It is necessary to eradicate consumer health care system which provides selective care through a multiplicity of schemes and programs, and discriminates on the basis of residence (rural-urban) in providing for entitlements for healthcare.
9. The Government to quash the BRAI Bill even before it is tabled in the Parliament and earn the respect of its citizens while restoring faith that this Government respects democracy and the well-being of its citizens.

ADR AND ITS SIGNIFICANCE PRESENT DAY SCENARIO

By

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To Quote, Victor Hugo: *An Invasion of Armies can be resisted, but not an idea whose time has come.* The time to settle disputes through ADR has quietly and irresistibly come.

Alternative Dispute Resolution (ADR) is the way to settle on the dispute outside the Court in a harmonious and peaceful manner with the mutual assent of both the parties. Dispute presages to a difference of view ensuing in differences concerning the interests, rights and liabilities of the concerned parties. It is different from conflict in respect of enormity and instance.

The ADR process provides inclusive justice to the persons engaged or involved in conflicts and legal disputes. It is a chosen practice, which has acquired legal recognition over a period of time. It is being increasingly more accepted as an alternative to the prolonged litigation, a universal phenomenon.

It is mainly are of four forms *viz.* Arbitration, Conciliation, Mediation and Negotiation. Arbitration is the procedure by which parties agree to submit their dispute to an independent neutral third party, known as Arbitrator, who considers arguments and evidence from both sides, then hands down a final and binding decision. Conciliation is a method, attempts to resolve disputes, *e.g.*,

labor disputes by compromise or voluntary agreement.

Mediation is really a search, for a way out, by the parties to the dispute, themselves, under the supervision of a third party. It is method, facilitation, an empowerment. The fundamental reason behind it is to afford the parties with an opportunity to negotiate, discuss and search options assisted by a neutral third party, the mediator, to profoundly determine if a settlement is possible.

Negotiation is principally a common means of securing one's hopes from others. It is a sort of communication intended to reach an agreement when two or more parties have certain interests that are shared and few more that are opposed.

Fruition of ADR

The history and evolution of ADR is visible from the 12th Century in China, England and America. Currently, the business group of people has recognized it in one variety or other is the adequate means of dispute resolution. It is felt that ADR is less costly, less adversarial, thus, more beneficial to the perpetuation of business dealings, which is of crucial importance in the business community.