

NUTRITION ADVOCACY IN PUBLIC INTEREST-India (NAPi)

August 18, 2022

CONVENER

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To,
Smt. Droupadi Murmu
Hon'ble President
The Republic of India
President's Secretariat
Rashtrapati Bhavan
New Delhi - 110 004

Sub: Intervention to ensure constitutional and human rights to adequate health for Indian population

Hon'ble Smt. Droupadi Murmu Ji,

First of all we congratulate you for taking over as the President of Republic of India. We hope you can initiate appropriate action to safeguard the health of the people.

The Article 21 of the Constitution of India sets in a paramount duty on the States and its authorities to achieve an appropriate level of protection to human life and health, which is a fundamental right guaranteed to the citizens under Article 21 read with Article 47 of the Constitution of India, which is the duty of the State to raise the level of nutrition and the standard of living and to improve public health.

The Food Safety and Standards Act, 2006 received the assent of the President on 23rd August, 2006. This is an Act to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India 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.

The FSS Act defines "unsafe food" under Section 3(1) (zz) "unsafe food" means an article of food whose nature, substance or quality is so affected as to render it injurious to health:(i) by the article itself, or its package thereof, which is composed, whether wholly or in part, of poisonous or deleterious [substances; or....."

Hon'ble Supreme Court has upheld that any food article, which is hazardous or injurious to public health is a potential danger to the fundamental right to life.

The Consumer Protection Act of 2019 upholds the consumers' right to safe food.

India is committed to the Convention on the Rights of the Child, which in Article 24 provides for the right of children to the enjoyment of the highest attainable standard of health. Food is a key determinant of human health

Despite these protection instruments, Indian population health is progressively deteriorating. To substantiate this assertion, we present the following facts for your kind information and attention.

1. The percentage of obese women increased to 24 per cent from 20.6 per cent in 2015-16, while the percentage for men rose to 22.9 per cent from 18.4 per cent four years earlier. (National Family Health Survey -NFHS-5 2019-20)([Annex-1](#))
2. India is witnessing rising obesity, diabetes, cancers, hypertension and cardiac diseases (Non-communicable Diseases)..([Annex-2](#))

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3. The Non-communicable Diseases (NCDs) are responsible for more than 60% of total deaths in India. ([Annex-3](#))
4. Scientific evidence shows that over consumption of ultra-processed foods (UPFs) that are usually high in salt, sugar and fat; and chemical additives like stabilisers, emulsifiers, sweeteners, colouring agents and flavouring agents, are detrimental to public health ([Annex-4, 4.1](#)).
5. Unhealthy food product consumption in India is rapidly rising (India Data from sales reports) ([Annex-5](#))
6. Food product marketing remains pervasive across many platforms (e.g. TV, digital media, outdoor, in-store). Evidence confirms that food marketing continues to be dominated by the promotion of foods that contribute to unhealthy diets. ([Annex-6](#))
7. Aggressive marketing alters eating behaviour to consume UPFs and replaces real and unprocessed foods. ([Annex7](#))
8. Several countries are working on Front Pack Labels to warn consumers about unhealthy food products([Chile: Annex-8, Israel: 8.1](#))

Our Concerns on Food Safety Policy

India's policy response to deal with growing disease burden includes regulations such as School Children Regulation, 2020, Food Safety and Standards (labelling and display) Regulations, 2020, Advertising and Claims) Regulations, 2018. The Food Safety Act 2006 provides that there will be no misleading advertisement. The Consumer Protection Act, 2019 created a definition of misleading advertisement and prescribes fines for misleading advertising of unhealthy food products. The Government of India has recognised that sugary drinks are harmful to health and put them in the highest slab GST.

There is a missing policy on restriction of marketing by law of the unhealthy food products and long pending developing policy to put up a Front of Pack Labelling (FOPL) on unhealthy food packets. In this context, the Food Safety Authority is developing a policy.

We are extremely concerned about a 'decision' taken by FSSAI in a meeting of Stakeholders that has proposed "Health Star Rating (HSR)" on unhealthy food products. (Minutes of the FSSAI Meeting on 15 Feb. 2022)

"...HSR may be incorporated in the draft regulations and the stakeholders may provide their comments on the same as per due procedure."

This decision is not in public health interest even though it is for a draft regulation. The public health and nutrition experts, medical professionals and their associations, consumer groups, public health and environment groups have contested this. ([Annex-9](#))

This decision to include HSR in the draft regulation is based on findings of the study commissioned by FSSAI from IIM Ahmedabad. Expert reviews and analysis of the IIM Ahmedabad study findings reveals it is biased, methodologically questionable and may not be trustworthy. ([Annex-10](#))

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This policy is likely to benefit the industry rather than the consumers. This is because HSR can declare unhealthy foods to be healthy, confuse and mislead people and is unlikely to lead to reduced consumption as per global evidence.

It is clear from the above legal principles that it is not only a statutory requirement for the food authorities to have a regime of making available safe food products to the consumer but it is a constitutional requirement emanating from the provisions of Article 21 read with Article 39 and 47 of the Constitution of India.

We, the signatories to the Petition belong to the public health and nutrition community of India. ([List Attached](#))

We believe our representations to the Ministry of Health and Family Welfare, FSSAI, Advisor to PMO and Ministry of Consumers Affairs Health have not resulted in any response. Therefore, we are reaching your office with a request to intervene in public health interest.

We urge you to draw your attention to following policy interventions because our populations, especially women and children fall prey to exploitative marketing and are poorly informed about the unhealthy food contents.

1. Policy to ban marketing-promotion and advertising of unhealthy food products through any medium including social media
2. Policy to provide 'Warning labels' in 'symbols' or as 'high in' or 'excess of' nutrients of concern on FOPL, as done in Chile or Israel.

We request for an appointment for a delegation from NAPi to meet you to present these concerns in person and respond to any questions/clarifications you may have.

We hope for a positive response.

We thank you for your kind attention,

Sincerely yours,



Dr. Arun Gupta on behalf of the NAPi Team

Copy to

- **Sh. Narendra Modi, Hon'ble Prime Minister, Government of India**
- **Sh. Rajiv Gauba, Cabinet Secretary, Government of India**
- **Dr. Mansukh Mandaviya, Minister of Health and Family Welfare, GOI**

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