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The Two-Nutrient Loophole: FSSAI's Red Hexagon Would Let a Sugary Product Escape a Warning

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The Two-Nutrient Loophole: FSSAI's Red Hexagon Would Let a Sugary Product Escape a Warning

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✓ Every fact web-verified against primary sources

The Food Safety and Standards Authority of India has proposed red hexagonal warning labels on packaged foods high in sugar, salt and saturated fat. Arun Gupta, convenor of Nutrition Advocacy in Public Interest, told The Hindu that the framework's "two or more" nutrient threshold is a major loophole that could leave several unhealthy products carrying no warning at all. The proposal follows sustained intervention by the Supreme Court.

The red hexagon exists only in a compliance affidavit filed before the Supreme Court. It is not a gazette notification, not a draft regulation, and not in force. FSSAI has told the Court it will notify changes "by way of an amendment in the respective regulations by following prescribed procedure", and has given no date. Writing that "FSSAI has issued draft warning-label rules" is wrong.

THE LOOPHOLE, STATED PRECISELY

Under the proposal, a red hexagon is triggered only where a product is high in **any two or more** of three nutrients of concern: **added saturated fat, added sugar and salt**.

The consequence, in Dr Gupta's example: a product could be **high in sugar but carry no warning at all** if it happens to be low in fat and salt. A consumer scanning the front of the pack sees nothing.

His proposed alternative is simply the obvious one. High in sugar, warning. High in salt, warning. High in saturated fat, warning. One nutrient, one warning.

	PHASE I AS PROPOSED	PHASE II AS PROPOSED
Trigger	High in two or more nutrients, plus highly sweetened beverages	Extends to a single nutrient
Declarations	"High Fat", "High Sugar", "High Salt", "Highly Sweetened Beverage"	Same

So FSSAI does eventually reach single-nutrient warnings. **The criticism is that Phase II has no date**, and this is a regulatory file where undated intentions have a poor record.

A second criticism, and it is a real internal inconsistency

FSSAI cites the **ICMR-NIN Dietary Guidelines for Indians, 2024** as the scientific basis for its thresholds. But the affidavit triggers on **added** saturated fat and **added** sugar, while the ICMR-NIN threshold for sugar is set on **total sugar**.

UPSC RELEVANCE

The ICMR-NIN 2024 thresholds are

NOT ALL “PER 100 GM”

. They are:

CALORIES FROM TOTAL SUGAR ABOVE 10 PER CENT OF TOTAL ENERGY

,

CALORIES FROM ADDED OR VISIBLE FAT ABOVE 15 PER CENT OF TOTAL ENERGY

, and

SALT ABOVE 625 MG PER 100 G OF SOLID FOOD

.

ONLY THE SALT THRESHOLD IS EXPRESSED PER 100 G.

Sugar and fat are shares of total energy.

On size, the proposal says the label shall be displayed **one point larger than the type used in the back-of-pack nutrition information table**. Dr Gupta’s objection is that if the nutrition table is printed in tiny type, one point larger is still tiny; he argues the size should be tied to the **principal display area** of the package, which is the convention in Chile and Mexico. **That is his argument, not a finding.**

THE COURT HAS RUN OUT OF PATIENCE

The proposal did not arrive spontaneously. It is the product of litigation, and the background sequence matters.

The case is 3S and Our Health Society v. Union of India, W.P.(C) No. 437/2024. The Bench of **Justices J. B. Pardiwala and K. Vinod Chandran** has issued a series of orders:

DATE	WHAT THE COURT DID
April 2025	Judgment directing FSSAI to carry out amendments to the labelling regulations
February 10, 2026	Directed interpretive labels reading “High Sodium Level”, “High Sugar Level”, “High Saturated Fat Level”
August 13, 2026	Gave the Union two weeks to reconsider

The language of the August order is unusually blunt for a regulatory matter. The Bench asked whether “FSSAI is bowing down to the manufacturing industry”, asked “Should India remain as an undeveloped country?”, and told the Union: “This is your last chance. Next time we will dictate the judgment.”

EIGHT YEARS OF NOT DOING THIS

The claim that the process “has remained stalled” is exact, and the background, year by year, is worth memorising because it is a case study in regulatory capture arguments.

YEAR	WHAT HAPPENED
April 2018	Draft regulations propose red colour-coding of HFSS nutrients on the front of pack
August 2018	Put on hold after industry objections; an expert panel is constituted
2019	Revised draft; red labelling dropped
2020	Final Labelling and Display Regulations, in force since 2020: mandatory back-of-pack nutrition panel, no front-of-pack warning
September 13, 2022	Draft amendment proposes the Indian Nutrition Rating , a half-star to five-star system
2022 to 2023	About 14,000 public comments ; the first expert committee supports the star rating
2024 to 2025	Committee reconstituted; finds no stakeholder consensus
October 9, 2025	A Committee of Secretaries recommends withdrawal of the 2022 draft
January 2026	FSSAI files an affidavit proposing to withdraw the draft and conduct further research
August 2026	Under Court pressure, the red hexagon affidavit

India has **no HFSS definition in force in law**. The 2022 draft was a **star-rating algorithm**, not an HFSS definition, and FSSAI moved to withdraw it. The only operative Indian definition is the **non-binding ICMR-NIN 2024** one. A **parliamentary committee reported on December 16, 2025** that food labels are “difficult to read and interpret” and backed warning labels as helping “particularly those with low literacy levels”.

India has mandatory nutrition information on packaged food. It has never had a mandatory front-of-pack warning. Every attempt since 2018 failed to be finalised, which is the entire premise of the pending litigation.

THE PARALLEL TRACK: A CRACKDOWN ON CLAIMS

While front-of-pack labelling stalls, FSSAI has moved aggressively on **misleading claims**, which requires no new regulation.

In August 2026, Mondelez India withdrew health and nutrient-comparison claims for Bournvita and removed the related advertisements from e-commerce platforms after an FSSAI notice.

FSSAI has said it issued **more than 150 notices** to food companies, plus **12 notices to e-commerce entities** and **over 30 to food service operators** including large restaurant chains. Companies named in reporting include **Nestlé India, PepsiCo India, Coca-Cola India, Abbott India, Red Bull India, Monster Energy India, Danone India, Mondelez India, Ferrero India, Kenvue, Amway India** and **Juza Foods**.

The “100 per cent” advisory. By a standing advisory **dated May 28, 2025**, in effect since 2025, FSSAI told food businesses to stop using “**100%**” on labels, packaging and promotional material, reasoning that the term is **undefined in the FSS Act and its rules** and conveys “**a false sense of absolute purity or superiority**”. **Amway India** dropped “100% Pure Coconut Oil” and removed the “Energy Drink” descriptor from its caffeinated XS products. Kerala-based **Juza Foods** withdrew immunity, stronger-bones and comparative-calcium claims from baby-food products.

Bournvita’s history matters here. The product came under scrutiny in **April 2023** after a widely shared video on its sugar content. The **National Commission for Protection of Child Rights** directed Mondelez to drop the “health drink” description, and in **April 2024** the Ministry of Commerce advised e-commerce portals to remove such drinks from the “health drinks” category. Mondelez subsequently reduced sugar by about 15 per cent.

*None of this establishes that Bournvita is unsafe. The question is whether **particular health or nutrient-comparison claims are adequately supported**, and whether their presentation misleads. As a senior official put it, food regulation governs not only what a product contains but **how its nutritional qualities are communicated**.*

The legal instruments

INSTRUMENT	STATUS
Food Safety and Standards Act, 2006	Parent statute, in force
FSS (Advertising and Claims) Regulations, 2018, gazetted November 27, 2018	In force
Section 53, FSS Act	Penalty for misleading advertisement up to ₹10 lakh
CCPA Guidelines for Prevention of Misleading Advertisements, 2022, notified June 9, 2022	In force; penalty up to ₹10 lakh , and ₹50 lakh for repeat contraventions

WHAT OTHER COUNTRIES DID

Chile went first. Under Law 20.606, mandatory **black octagon “high in” warnings** came into force in **June 2016**. Research published in *PLOS Medicine* found sugar-sweetened beverage purchases fell by roughly a quarter after the law.

Mexico, Peru, Uruguay, Argentina, Brazil, Colombia, Canada, Israel and Venezuela have since adopted or enacted mandatory warning-label laws; **ten countries** had done so as of August 2024. Mexico’s octagons additionally flag **non-caloric sweeteners and caffeine**.

Warning labels (*Chile’s octagon, FSSAI’s proposed hexagon*) tell you a product is high in something and are **mandatory** where adopted. **Traffic-light labelling** in the United Kingdom and **Nutri-Score** in France are **interpretive but not warnings**, and are **voluntary**. **WHO recommends interpretive front-of-pack labelling** over non-interpretive formats.

WHY THIS IS URGENT

NFHS-6 (2023-24), released in late May 2026, covering 6.79 lakh households across 715 districts:

INDICATOR	NFHS-6	NFHS-5
Women overweight or obese	30.7%	24%
Men overweight or obese	27.3%	22.9%
Men with elevated blood sugar	20.9%	15.6%
Women with elevated blood sugar	17.8%	13.5%

A *Lancet* projection puts **21.8 crore men and 23.1 crore women** in India as overweight or obese by **2050**.

The policy context was set from the top: in **Mann Ki Baat on February 23, 2025**, the Prime Minister noted that **one in every eight Indians** is obese, that childhood obesity had risen roughly fourfold, and appealed for a **10 per cent monthly reduction in cooking oil use**. The Education Ministry followed with a directive to cut oil in **PM POSHAN** meals by 10 per cent.

UPSC RELEVANCE

GS Paper 2: Issues relating to development and management of Social Sector/Services relating to Health. Front-of-pack labelling is a textbook preventive-health intervention, and the eight-year delay is a case study in regulatory implementation.

GS Paper 2: Statutory, regulatory and various quasi-judicial bodies. FSSAI's [mandate](#) under the FSS Act, and the CCPA's under the Consumer Protection Act, 2019, with overlapping jurisdiction over misleading food advertising.

GS Paper 3: Issues relating to intellectual property rights, and awareness in the fields of health. The non-communicable disease burden and the economics of processed food.

GS Paper 4 angle. Where an industry's commercial interest and a public health objective conflict, and a regulator is accused of deferring to the former, the case supports an answer on **conflict of interest** and **regulatory capture**.

★ FACTS CORNER — KNOWLEDGEEDIA

FSSAI's red hexagonal warning label was proposed in a Supreme Court compliance affidavit, not a gazette notification.

The warning triggers only where a product is high in two or more of added saturated fat, added sugar and salt.

Phase II of the proposal extends warnings to a single nutrient, but no date has been given for it.

The case is 3S and Our Health Society v Union of India, W.P.(C) 437/2024, before Justices J.B. Pardiwala and K. Vinod Chandran.

The Supreme Court gave the Union two weeks on August 13, 2026, after earlier orders in April 2025 and February 2026.

ICMR-NIN 2024 cut-offs: total sugar above 10 per cent of energy, added fat above 15 per cent, salt above 625 mg per 100 g.

Only the ICMR-NIN salt threshold is expressed per 100 g; sugar and fat are shares of total energy.

India has no HFSS definition in force in law; the ICMR-NIN 2024 guidelines are advisory only.

FSSAI's September 2022 draft proposed the Indian Nutrition Rating star system, which it later moved to withdraw.

India mandates back-of-pack nutrition information but has never had a mandatory front-of-pack warning label.

Chile was first to mandate black octagon warning labels, in force June 2016 under Law 20.606.

Ten countries had adopted or enacted mandatory front-of-pack warning label laws as of August 2024.

Traffic-light labelling and Nutri-Score are interpretive but voluntary; WHO recommends interpretive front-of-pack labels.

Section 53 of the FSS Act, 2006 allows a penalty up to Rs 10 lakh for a misleading food advertisement.

CCPA misleading-advertisement guidelines were notified on June 9, 2022, with penalties up to Rs 50 lakh for repeat breaches.

FSSAI's advisory of May 28, 2025 told food businesses to stop using "100%" on labels and promotional material.

NFHS-6 for 2023-24 found 30.7 per cent of women and 27.3 per cent of men overweight or obese.

That is up from 24 per cent of women and 22.9 per cent of men in NFHS-5.

The Prime Minister appealed in February 2025 for a 10 per cent monthly cut in cooking oil use, citing obesity.

Source: The Two-Nutrient Loophole: FSSAI's Red Hexagon Would Let a Sugary Product Escape a Warning —
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