



ADVERTISING AND CLAIMS REGULATION – NEED FOR APPROPRIATE AND ADEQUATE DATA FOR SUBSTANTIATION – ROLE OF ASCI

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Seminar on Clinical Evaluation/Intervention
Studies for New Foods & Food Ingredients
Currency Status and Way Forward
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WHO ARE WE?



A guardian of the advertising landscape in India

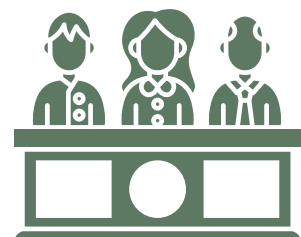


A moral compass

WHAT DO WE DO?



Work relentlessly towards consumer protection and the protection of responsible advertisers by introducing standards to help in keeping the ecosystem clean



An independent and impartial body responsible for ensuring compliance of individual ads within the standards.

HOW DO WE DO?



Corrective Action

Reacting to Complaints

Proactive Monitoring



Preventive Action

Training & Education

Advisory services

THE FOUR TENETS OF THE ASCI CODE



Honest Representation

Advertisements should be truthful and honest



Non-Offensive to Public

Advertisements should be within the bounds of accepted standards of decency and propriety.



Against Harmful Products & Situations

Advertisements should not promote products or show situations that are harmful to society or individuals, particularly children.



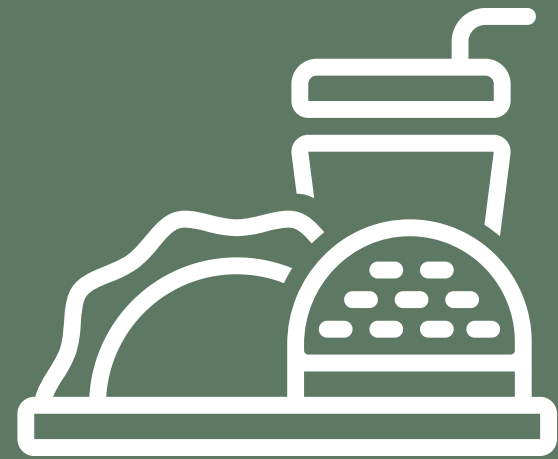
Fair in Competition

Advertisements must observe fairness in competition

- All claims that are objectively ascertainable should be capable of substantiation - supported by robust data
- All such data should be available before framing of the claims
- Claims/visuals in ads are not seen in isolation to the context or premise of the ad
- Advertisements should not abuse the trust of consumers or exploit their lack of experience or knowledge. Ads should not lead to grave or widespread disappointment in the minds of consumers



KEY POINTS TO KEEP
IN MIND



SPECIFIC GUIDELINES FOR F&B ADS

- Consumption of product advertised will result directly in **personal changes in intelligence, physical ability or exceptional recognition**
- Should not **disparage good dietary practice**
- Should not **encourage over or excessive consumption** or show inappropriately large portions of any food or beverage
- **Undermine the importance of healthy lifestyles** or mislead as to the nutritive value of the food or beverage.
- Should not be **promoted or portrayed as a meal replacement**, unless nutritionally designed as such
- **Undermine the role of parental care** and guidance in ensuring proper food choices are made by children
- Should not be **inconsistent with information on the label or packaging of the food or beverage**

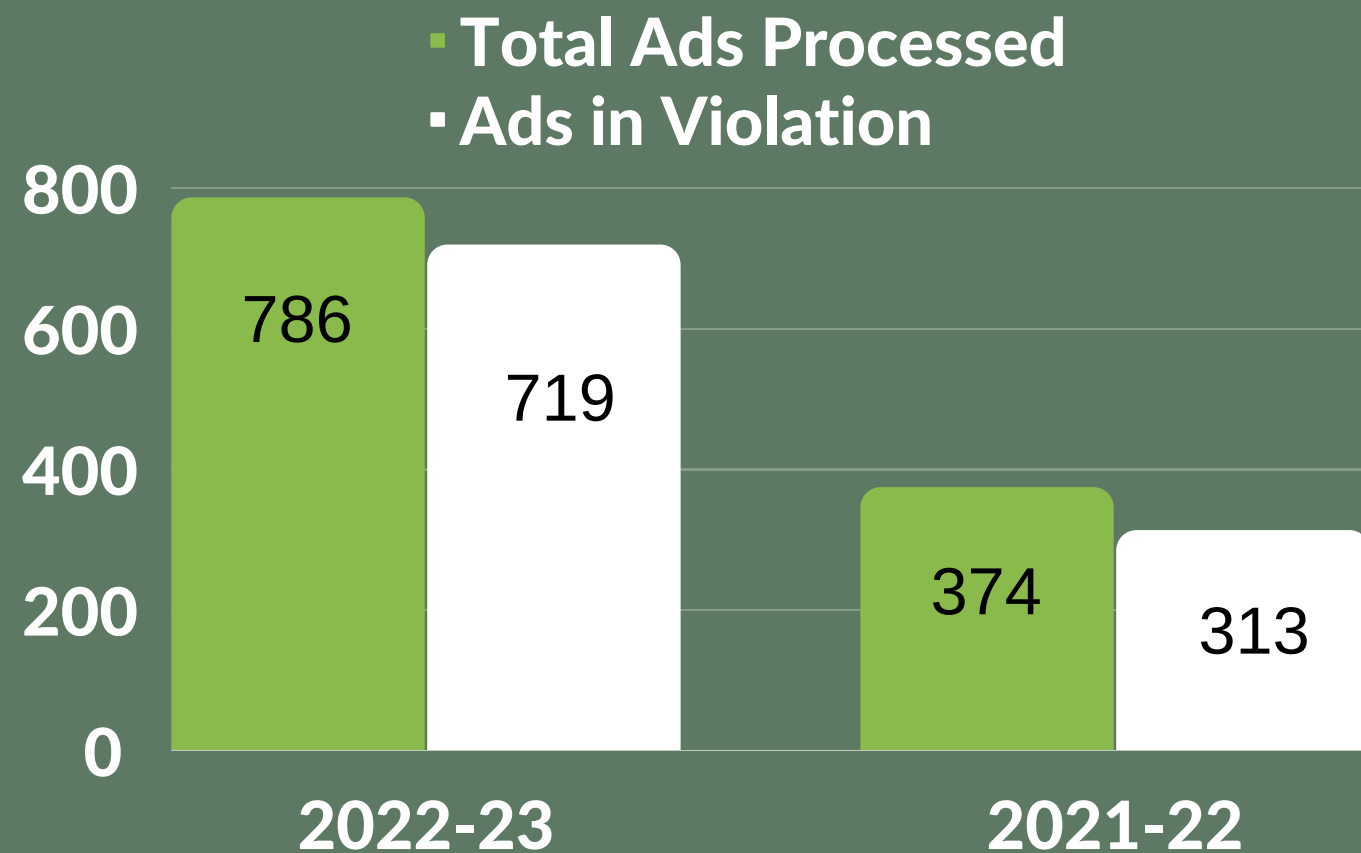
IN ADDITION, THE REGULATORY GUIDELINES ALSO REQUIRE

- Claims shall specify the number of servings of the food per day for the claimed benefit
- The claim that a food has certain nutritional or health attributes shall be scientifically substantiated by validated methods of characterising or quantifying the ingredient or substance that is the basis for the claim
- Where the meaning of a trade mark, brand name or fancy name containing adjectives such as “natural”, “fresh”, “pure”, “original”, “traditional”, “authentic”, “genuine”, “real”, etc., appearing in the labelling, presentation or advertising of a food is such that it is likely to mislead consumer as to the nature of the food, in such cases a disclaimer in not less than 3mm size shall be given at appropriate place on the label stating that – *“*This is only a brand name or trade mark and does not represent its true nature”*
- Claims in advertisements shall be consistent with information on the label of the food or beverage.



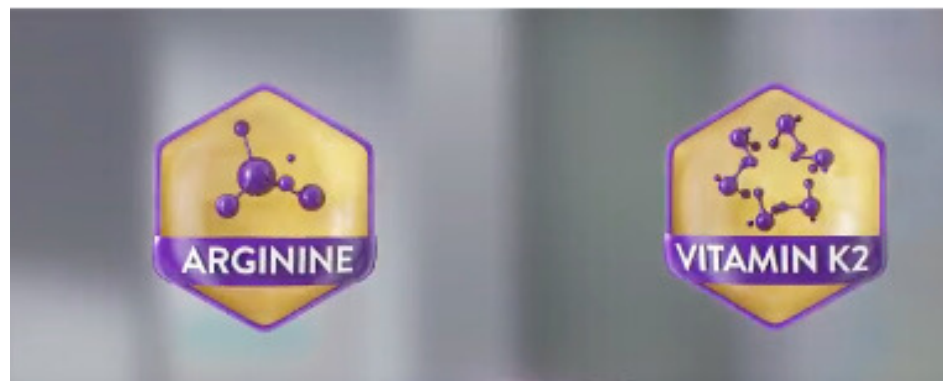

F&B CATEGORY SNAPSHOT

- 110% rise in cases as compared to the previous year
- Health & Nutrition claims have been on the rise thanks to the pandemic and with the explosion of brands in the nutraceuticals category.
- 47% of the total ads processed under F&B last year (22-23) were from brands that sell health and nutrition products.
- 98% of these were found to be in violation of the advertising code.



HEALTH AND NUTRITION CLAIMS MORE OFTEN THAN NOT, CALLS FOR CLINICAL STUDIES

**60%
BONE
GROWTH**



**VISIBLE
GROWTH IN
90 DAYS**

Adequate product based clinical substantiation provided for the above claims and thus we not a problem



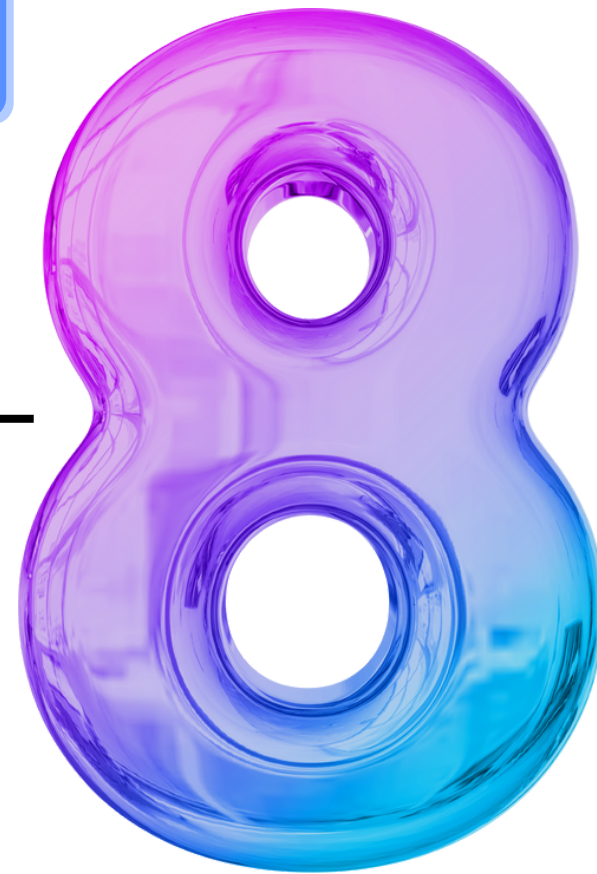
**BETTER
IMMUNITY**

The data provided was inadequate to prove that the product can deliver better immunity or provide a better immune response in children. The claim of "Better Immunity" was inadequately substantiated with clinical evidence of product efficacy.

NUTRIENT FUNCTION CLAIMS CANNOT BE ATTRIBUTED TO PRODUCTS UNLESS THE PRODUCT AS A WHOLE IS TESTED TO DELIVER

**BANAYE IMMUNITY
HAR DIN**

**with 8 immunity
nutrients**



Claim is not linked to the product but it is a nutrient function claim.

The eight ingredients called out in the communication help in enhancing immunity of an individual

Claim in ad posed as a product benefit and not benefit derived from nutrients.

Therefore, product tests required

INGREDIENT BASED LITERATURE IS NOT ENOUGH TO MAKE A PRODUCT CLAIM - CLINICAL STUDIES REQUIRED

Protect your child from Stress 😞, Low Energy 🙄, Weak Immunity 🤒, and Lack of Focus 😞 during this Exam Season with SuperMilk Genius. 🍫 🥛

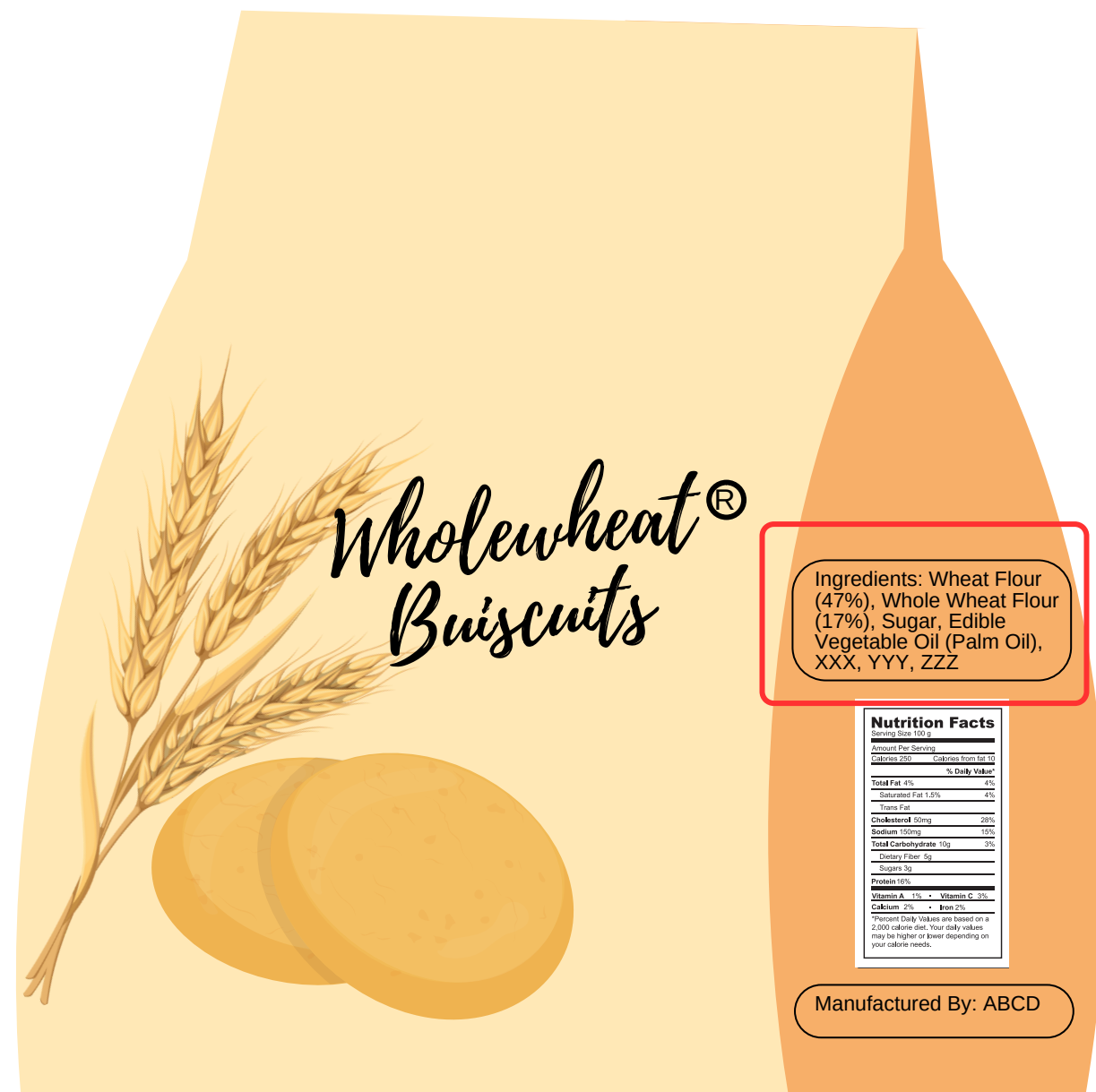
The product as a whole was not tested to prove that the product delivers the **synergistic benefits** of all the individual ingredients.

PRODUCT CLAIMS SHOULD NOT BE DESIGNED IN A WAY TO MISUSE THE CONSUMERS LACK OF KNOWLEDGE



Source of Energy? What is more nutritive? Undermining mother's choice for nutritious foods?
Like to like equivalence or misleading by omission?

TRADEMARKS BEAR AN ADDED RESPONSIBILITY TOWARDS CONSUMERS



Trademarks that pose as product claims or provide information on which consumer choice is dependent have a greater responsibility

If it is only a trademarked name and not the true nature of the product, the same should be disclosed

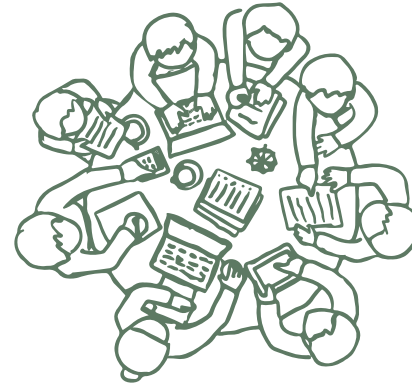
Wholewheat biscuits to the ordinary consumer would mean the biscuit is made entirely or mostly out of wholewheat

FEW MORE KEY POINTS TO REMEMBER IN CLAIM SUBSTANTIATION

- Control groups a standard requirement For health benefit claims to establish the benefit being derived from advertised product
- The sample size for the study - clinical comparative studies can have 60 subjects (30 in each wing), non-comparative studies ideally should have 100 subject, for consumer studies at least 200 subjects
 - Study parameters to be robust/ all protocols followed
 - all aspects that can impact the stated claim should be addressed - randomized sample, double blinded studies in case of comparative claims, products should be tested on the same population that it is advertised to, products claiming benefits within a certain time frame should ideally be tested for longer to substantiate the claim

IT IS IMPORTANT TO NOTE THAT ASCI CODE DOES NOT SET STANDARDS FOR CLINICAL EVALUATION FOR CLAIM SUBSTANTIATION, HOWEVER, THERE ARE GENERALLY ACCEPTED METHODS DEPENDING ON INDUSTRY PRACTICES AND STANDARDS AND THE EXPERTISE AND OPINIONS OF SUBJECT EXPERTS OVER THE YEARS

HOW DOES ASCI EVALUATE SUCH CASES?



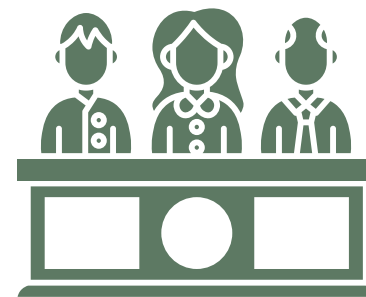
ASCI SECRETARIAT

Team that receives complaints and investigates matters in adherence to the self-regulatory codes and processes



PANEL OF FIELD EXPERTS

Who evaluate data to help us understand whether a claim is technically sound



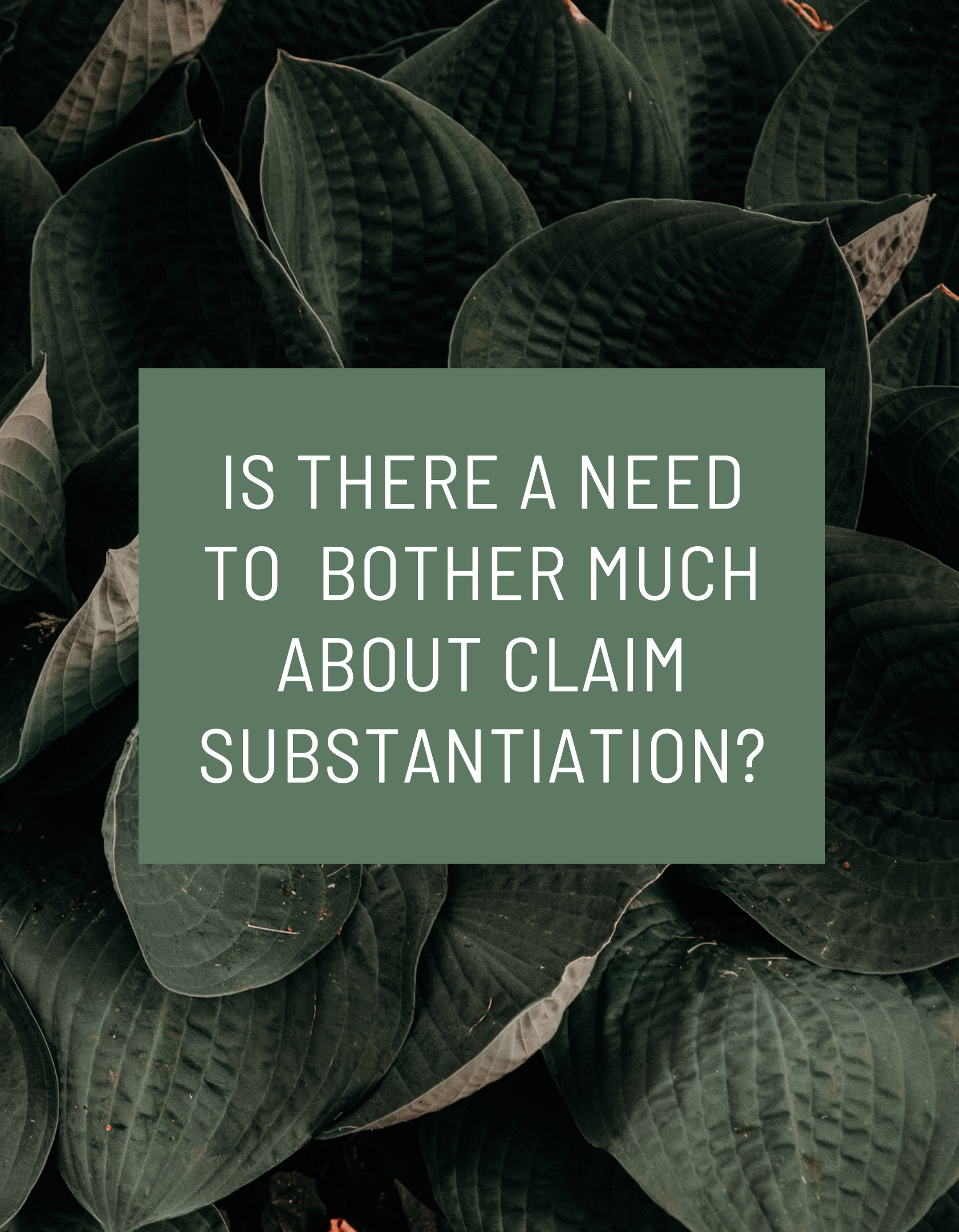
CONSUMER COMPLAINTS COUNCIL - ASCI'S JURY

Who adjudicate on complaints and provide recommendations, evaluating cases vis-a-vis the ASCI Code keeping the consumer perspective in mind



TIMELINE

Complained resolved between 30 - 45 days



IS THERE A NEED
TO BOTHER MUCH
ABOUT CLAIM
SUBSTANTIATION?

IN TODAY'S ENVIRONMENT,
REPUTATIONS MADE OVER YEARS
CAN FALL APART PRETTY QUICKLY

Constant scrutiny


- Consumers
- Regulatory environment
- Consumer activists

FALSE CLAIMS HAVE A NEGATIVE
IMPACT ON CONSUMER TRUST

Consumer trust is a hard nosed business
issue without which no brand can survive

FAILURE TO SUBSTANTIATE
CLAIMS INVITES A HEAVY
HANDED REGULATORY APPROACH

It is always better to self-regulate, be honest
& truthful in framing ad claims



TO LEARN MORE
ABOUT THE SELF-
REGULATORY CODE
ON ADVERTISING
PLEASE VISIT

www.ascionline.in

For any queries, write
to us at:
contact@ascionline.in