An Examination of Misleading Labeling in Prepackaged Foods and Regulatory Countermeasures

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Abstract. Prepackaged food labeling serves as a critical conduit between production information and consumer decision-making. However, the rampant occurrence of labeling fraud severely infringes consumer rights and jeopardizes public health. Despite China's establishment of a Food Safety Law-centric regulatory framework, persistent implementation gaps continue to undermine its efficacy. To address these systemic failures, this study advocates for legislative clarification of labeling fraud's constitutive alongside optimized elements for punitive damages. Concurrently, it proposes establishing producers and operators as primary responsible parties with rationally reallocated evidentiary burdens, thereby mitigating consumers' proof obstacles. Finally, a cross-agency coordinated regulatory mechanism must be institutionalized to synchronize enforcement. Collectively, these interventions strengthen the theoretical and operational foundations of China's prepackaged food labeling regulation, ultimately advancing high-quality development in the food industry.

Keywords: Prepackaged Food; Food Labeling; Labeling Fraud; Legal Regulation; Postharvest Preservation

1 Introduction

The use of prepackaged food labels such as "0 additives" and "0 sugar" in the consumer field has sparked food safety controversies. As a bridge across the information gap between producers and consumers, prepackaged food labels not only directly reflect key information such as the food's formula and consumption method, but also serve as a key basis for consumers to exercise their right to know and choose and make health decisions [1]. With the development of the Internet economy, label fraud has become increasingly frequent, and the significant information asymmetry between producers and consumers has become an important factor inducing fraud [2]. Such behavior not only erodes market integrity, but also poses a potential threat to public health. Although China has built a regulatory framework with the Food Safety Law as its core, problems such as the blurred boundaries between "fraud" and "defect" and the unclear application standards for punitive damages are still prominent. In-depth exploration of the legal regulatory dilemma of prepackaged food label fraud and clarification of its internal

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mechanism are of urgent practical significance for protecting consumer rights and maintaining market order. Prepackaged food label fraud usually refers to the behavior of producers or sellers who deliberately conceal or fabricate key information in product labels, thereby harming consumer rights. In law enforcement and judicial practice, common pre-packaged food labeling fraud presents three typical forms: false labeling of nutritional components, false functional claims, and falsification of production information.

2 The Failure of Legal Regulation of Label Fraud in Prepackaged Foods in China

In response to label fraud involving prepackaged foods, China has preliminarily established a composite legal regulatory system spearheaded by the Food Safety Law, working in synergy with the Law on the Protection of Consumer Rights and Interests, the Product Quality Law, and other relevant laws. Building upon this foundation, the country has further developed a clearly hierarchical labeling system for prepackaged foods, where laws, regulations, and food standards are mutually coordinated [3]. This system protects consumers' legitimate rights and interests from multiple dimensions, including civil compensation, administrative liability, and even criminal sanctions. However, this seemingly complete system repeatedly encounters difficulties when dealing with the complex and varied practices of labeling fraud. The root cause lies in the inherent contradictions in the design and operation of the current regulatory system.

2.1 The Definition of Label Fraud is Vague.

Currently, the definition of label fraud is ambiguous due to multiple factors. First, China lacks a clear and legally binding definition of "prepackaged food label fraud" within its legal regulatory system, resulting in a lack of clear legal basis for judicial decisions and regulatory enforcement, thus weakening regulatory effectiveness. Second, there is confusion between label fraud and false advertising; accurately defining "label fraud" and clarifying its boundary with "false advertising" is a prerequisite for the correct application of the law. Third, the boundary between label fraud and label defects is unclear. Accurately defining label defects and label fraud is crucial for the correct application of the "proviso" clause in Article 148 of the Food Safety Law.

2.2 Abuse and Misuse of Punitive Damages Proverbial Clauses

Judicial practice has not yet formed a unified standard on what label violations constitute fraud and whether punitive damages can be applied. Some courts adopt strict liability and determine that violating mandatory standards constitutes fraud; other courts require consumers to prove that they have a "substantial misunderstanding", which forms a "double proof" standard. At the same time, the "proviso" of Article 148, Paragraph 2 of the Food Safety Law, which states that "it does not affect food safety and will not mislead consumers", is often misinterpreted, and many judgments are exempted from liability simply because one of them is met. In addition, data shows that in 2017, among the 257 first-instance judgments that rejected punitive damages for nutrition labels nationwide, 37% were directly exempted from liability because they "met the proviso", and even substantive errors such as false labeling of core nutrients were misjudged as "non-substantial defects" [4]. Even worse, some cited the proviso on the grounds that "the plaintiff was informed of the false label and bought a fake product, and was not subjectively misled", which contradicts the provisions of Article 3 of the Supreme People's Court Interpretation [2013] No. 28, which states that "if the purchaser knows that there are quality problems but still buys the product, the court will not support the defense", thus rendering the punitive damages system ineffective.

2.3 Imbalance in the Allocation of the Burden of Proof

The core difficulty in identifying label fraud lies in proving the operator 's "subjective intent." Current law does not clearly define the burden of proof for this specific type of infringement, leading to significant deviations in judicial practice and further exacerbating the imbalance in the allocation of the burden of proof. Some courts adhere to the principle of "whoever asserts must prove," a model that ignores the information asymmetry in the food production and distribution sector. Operators control key aspects such as raw material procurement, production and processing, and quality testing, possessing complete internal documents such as purchase inspection records and factory inspection reports; however, consumers have virtually no access to this crucial evidence proving the operator's subjective intent.

Furthermore, the burden of proof regarding whether food meets safety standards remains controversial, with academics and practitioners disagreeing on whether consumers should provide preliminary evidence or businesses should provide evidence of compliance. Due to the lack of legal guidance, judges often find themselves at a loss when making rulings, leading to frequent losses for consumers due to insufficient evidence. This clearly contradicts the legislative spirit of the Consumer Rights Protection Law, which aims to protect the vulnerable.

2.4 Lack of a Coordination Mechanism for Regulatory Powers

There is a fundamental tension between the limited regulatory resources and the concealment of illegal activities. Faced with a massive amount of pre-packaged food in circulation, law enforcement agencies are constrained by high professional and technical thresholds and insufficient sampling coverage, making it difficult to achieve full-chain supervision, which objectively leaves gray areas for illegal activities. Although new methods such as credit supervision and the "blacklist" system have been piloted in some areas [5], their legal basis is still insufficient, and the cross-departmental and cross-regional joint punishment mechanism is far from sound, which hinders the effectiveness of collaborative law enforcement.

3 Corrective Pathways for Legal Failures in Prepackaged Food Labeling Fraud

The aforementioned multiple dilemmas are intertwined and mutually reinforcing, collectively leading to the current regulatory system's weak effectiveness, necessitating the construction of a comprehensive governance framework with distinct levels and both internal and external improvements.

3.1 Scope of Application of Punitive Clauses Distinguishing Between Labeling Fraud and Food Safety Issues

Although the "proviso" clause of Article 148 of the Food Safety Law provides an exemption for minor defects, its application must strictly follow the wording of the law. For labeling behavior that "does not affect food safety but misleads consumers", although it does not meet the requirements for ten times compensation, it still infringes on consumers' right to know and should instead apply Article 55 of the Consumer Rights Protection Law to claim three times compensation. For example, in the case of Shen Kai v. Beijing Wumart, the honey involved was labeled as "Grade 1" but the implementation standard did not have this grade. The court determined that it constituted fraud and supported three times compensation. This distinction is in line with the principle of proportionality and also respects the administrative statutory nature of food safety standards - the court should adopt formal review when judging "whether it affects safety" and respect the professionalism and standard-setting power of administrative organs [6].

3.2 Clarify the Standards for Allocating the Burden of Proof for Label Fraud

The difference in judicial philosophy is the underlying reason for the "different judgments for the same case". The conservatives strictly adhere to the traditional rules of evidence, while the proactives emphasize the deterrent function of punitive damages and tend to apply the presumption of fault. In order to alleviate the difficulties of consumers in providing evidence, judicial practice has shown positive changes in recent years: some judgments have presumed that the operators have subjective fault on the grounds that they have failed to fulfill their obligation to inspect the goods upon purchase or that the error of the core nutrients far exceeds the national standard [4]. These explorations are in line with the basic principles of "prevention first and risk management" in the Food Safety Law and the legislative purpose of the Consumer Rights Protection Law. In the future, they should be institutionalized and standardized through judicial interpretation or guiding cases.

3.3 Correcting the Negative Correlation Between the Cost of Violations and Law Enforcement Effectiveness

At present, some companies have transformed label fraud into a low-cost, high-return marketing strategy, and even internalized fines as "operating costs". In the face of the prominent contradiction between law enforcement resources and regulatory needs (especially emerging business formats such as e-commerce), a modern regulatory concept with risk prevention as the core should be established. We can learn from the experience of the US Food Safety Modernization Act (FSMA) and promote the forward shift of regulatory "gates"[7]: for unintentional and minor label defects, we should take the flexible measure of "ordering correction" first, and if they refuse to correct, we should impose penalties to improve law enforcement efficiency and corporate compliance willingness [8]. At the same time, we should force companies to establish a "vulnerability assessment" system to systematically identify weak links that are prone to mislabeling. Regulatory departments can formulate a key regulatory list based on this to achieve precise targeted supervision and concentrate limited resources on high-risk areas.

4 Improve Legal Regulations to Address Pre-packaged Food Labeling Fraud

A grand corrective path must be translated into concrete and operable institutional plans in order to weave a full-chain regulatory network covering pre-event prevention, in-event control, and post-event accountability.

4.1 Clarify the Elements Constituting Fraud in Prepackaged Food Labeling

Regarding the vague definition of the above-mentioned standards, it is recommended to clarify the definition of "fraudulent labeling of prepackaged food" by revising the Food Safety Law or formulating special regulations and to systematically stipulate its constituent elements and identification methods. In terms of identification standards, an objective criterion based on the cognition of "rational consumers" should be established: non- substantial defects should be exempted by a "proviso", and substantial false labeling of ingredients, nutrition and efficacy should be identified as fraud. In order to solve the problem of proving subjective intent, an objective presumption rule can be established, for example, stipulating that "if the error between the labeled value and the measured value of core nutrients exceeds the national standard allowable error by more than 2 times, it is presumed that the operator has fraudulent intent" [4].

4.2 Optimize the Rules for Applying Punitive Damages

The root cause of the institutional dilemma in identifying label fraud and applying punitive damages lies in taking "non-compliance with food safety standards" as the only applicable condition and ignoring the diversity of label fraud. Legislation could amend "non-compliance with food safety standards" in Article 148 of the Food Safety Law to "the existence of substantial food safety problems" (i.e., posing a real and imminent threat to health) [9] : ten times the damages would only apply if label fraud simultaneously met the conditions of "false labeling" and "causing safety risks"; for cases where "it only constitutes fraud but the food itself is safe", three times the damages under the Consumer Rights Protection Law would apply.

In addition, it can be clarified that the application of punitive damages is not based on actual personal injury, and the independent infringement of the right to know and the right to choose constitutes the basis for the claim. In order to regulate the application of the "proviso", a judicial interpretation can be issued to clarify that: (1) false labeling involving core nutrients, allergens, and efficacy claims shall not be exempted; (2) non-substantive errors may only be considered for exemption when the operator provides complete purchase inspection records to prove that it has fulfilled its reasonable duty of care; (3) the consumer's purchase motivation does not affect the judgment of the objective misleading nature of the label information [9]. In the long run, a more flexible compensation amount calculation mechanism can be introduced to replace the rigid "ten times the price" standard, giving judges room for discretion based on factors such as the circumstances of fraud and the harmful consequences.

4.3 Strengthen the Information Disclosure Obligations of Producers and Operators

In response to the structural dilemma of the weakening of information disclosure obligations and the imbalance in the allocation of the burden of proof, the status of producers and operators as the primary responsible parties for the authenticity of labels should be established, and higher standards of disclosure obligations should be imposed [10] : First, nutritional data must be based on scientific testing, sensitive indicators should be truthfully labeled, and it is strictly forbidden to use the rule that "≤0.3g/100g can be labeled as " 0 " to circumvent substantive disclosure; Second, alcoholic beverages and other currently exempted categories should be included in the scope of mandatory energy labeling; Third, core nutrients should be clearly labeled by means of bolding and enlarging the font size; Fourth, the dual labeling model of "per 100g/ml" and "smallest sales unit" should be promoted to improve the practicality and comparability of information.

To ensure the fulfillment of the above obligations, we can learn from the EU's "Traffic Light" (MTL) system and the French "Nutri-Score" system and introduce intuitive nutrition rating labels to reduce consumers' decision-making costs. In addition, we can introduce a burden of proof mitigation rule, in which the burden of proof shifts to the operator when the consumer provides preliminary evidence that the label is false.

4.4 Establish a Collaborative and Interconnected Full-chain Regulatory Mechanism

In response to the lack of a coordination mechanism for regulatory powers, it is necessary to build a preventive regulatory system that runs through the entire chain of research and development, production, distribution, and consumption, and achieves efficient collaboration among multiple departments.

First, efforts should be made to build a national unified food label information sharing and law enforcement collaboration platform. We can learn from the experience of the European Food Safety Authority (EFSA) to establish a national label database, realize the interconnection of information such as enterprise registration, supervision and sampling inspection, and consumer complaints, and break down the "information silos". Second, we must clarify the main responsibilities of the whole chain. We should clarify the label review obligations of suppliers, manufacturers, distributors and e-commerce platforms to ensure that online and offline regulatory standards are consistent and responsibilities are traceable. Finally, we can promote a scientific risk-based recall system. Drawing on the successful experience of Japan, we can divide label risks into different levels: Level 1 high-risk safety labels will be subject to mandatory rapid recall; Level 2 non-core information defects will be subject to tiered regulatory measures such as ordering rectification and consumer warnings [11]. At the same time, we should strengthen the linkage between market supervision, public security and procurator departments, establish an efficient case transfer and administrative and criminal linkage mechanism, and strengthen the normalized professional supervision of online food labels.

5 Conclusion and Outlook

The legal regulation of pre-packaged food labeling fraud is a systemic project concerning consumer rights, market order, and public health. Currently, China still has significant shortcomings in the precise application of punitive damages and the uniformity of judicial standards. The EU's unified technical standards and Japan's social co-governance model provide valuable lessons from abroad. Future governance must shift from an "extensive" to a "refined" approach: legislation must clearly define the elements of fraud; the judiciary must optimize compensation rules and the allocation of the burden of proof; and the administration must strengthen information disclosure obligations and build a comprehensive, collaborative regulatory system. Only then can a balance be found between incentivizing honest business practices and protecting consumers' legitimate rights. Only by ensuring that the teeth of the legal system truly "bite" into every fraudulent act can consumer trust be rebuilt, propelling China's food industry towards a more standardized, healthy, and sustainable development path.

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