



# **3<sup>RD</sup> NLUO-PHFI PUBLIC HEALTH LAW NATIONAL VIRTUAL MOOT COURT COMPETITION, 2023**

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**NATIONAL LAW UNIVERSITY ODISHA'S  
CENTRE FOR PUBLIC HEALTH LAW**

*IN ASSOCIATION WITH*

**THE PUBLIC HEALTH FOUNDATION OF INDIA**

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**MOOT PROPOSITION**

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1. Etinia is a rapidly developing country in South-East Asia, which has the world's third-highest population. A majority of its citizens are below the age of 50, with a significant portion of that category being below the age of 15. Etinia used the follow a system of red-tape bureaucracy earlier which hindered economic growth, but the system was disbanded in the year 2001, through a series of legislative reforms known as 'liberalisation', and since then the country has made tremendous progress in terms of its overall economic growth.
2. While millions of people have been lifted out of poverty since liberalisation took place, unemployment remains high in the country owing to its massive population. Etinia used to face massive food insecurity which led to widespread malnourishment amongst its citizens, especially the children. But, since liberalisation, the young, expanding market of Etinia has attracted several companies who were interested in obtaining a stake in it. This included several companies that are engaged in the Fast-Moving Consumer Goods (FMCG) sector. One such company is Apoxia Enterprises Limited ("Apoxia"), which manufactures instant ramen noodles under the brand name of 'Wahgi'. Apoxia is a conglomerate entity which is also involved in other sectors such as agro-produce, pharmaceuticals, and beverages.
3. Wahgi is known for its unique taste and is time efficient as it can be made within three minutes. As Etinia was suffering from chronic malnourishment when Wahgi was introduced into the market in 2002, the Government of Etinia voluntarily granted Apoxia special permits and relaxations of registrations as Wahgi could address the food insecurity concerns. The product caught on quickly as Wahgi packets were convenient to transport, could be stored for a long duration of time and could be made instantly. Additionally, owing to these features, Wahgi was a handy food product that could be transported, and consumed in instances of natural calamities. As a result, this further boosted the popularity of Wahgi. Children loved Wahgi for its taste and were its largest consumer base, and adults loved Wahgi because it saved them time to cook.
4. Noticing its mass appeal, the Government of Etinia, has continued to provide multiple incentives to Apoxia through the decades to set up more Wahgi manufacturing factories,

and helped them with licenses, permits and distribution channels. As a result, Wahgi and in turn Apoxia are the single largest private sector employers in the country, providing jobs to millions of people, and a source of livelihood to several more.

5. By 2023, Wahgi has captured 40% of the FMCG food market, and has become a product that is found in every household. In spite of its popularity, some of Wahgi's ingredients have been kept secret to avoid competitors from creating similar products and the said ingredients are not reflected on the packaging of the product. Apoxia guards Wahgi's formula and ingredients with great secrecy. But that has not stopped other companies from creating instant ramen noodles whose packaging, ingredients, and branding greatly resemble Wahgi. They are also successful in replicating the taste of Wahgi to a great extent as well. These rip-off companies started coming into the market in and around 2012, but they have rapidly captured around 20% of the FMCG food market, as they are cheaper.
6. However, a potential public health disaster is surreptitiously brewing in the nation for the past few years. Obesity started to become a pervasive affliction in Etnia, being particularly rampant amongst children. It became a common sight to see more and more school children barely able to walk or breathe comfortably because of being overweight. Hospitals started reporting increments in cases concerning obesity each year. More and more people started to be diagnosed with chronic heart conditions, and blood pressure issues.
7. Scientists and researchers felt that the problem was not natural and must have been caused by certain external elements. The premier health research organisation in Etnia is the government-funded Food Research Laboratory (FRL).
8. The head of FRL is Mr Ramsay who is a known critic of Wahgi and he has written several vicious articles in reputed journals criticising the product, even before he joined FRL. As the obesity issue starts coming into the limelight, Mr Ramsay spearheads the investigation into the obesity issue. Based on his research, FRL publishes a report which makes blockbuster claims that consumption of Wahgi over the course of time has resulted in all the health issues being faced by the nation. The research was based on analysis of samples of instant noodle packets that FRL researchers purchased at random from around the country. FRL also demands that all the ingredients of Wahgi be

disclosed including its secret ingredients, so that the exact cause of obesity can be determined. The report also alleges that packaging and labelling requirements for Wahgi are not being complied with, and what is being disclosed by Wahgi on its packaging is insufficient. It also alleges that the reason the diseases took so long to appear is that sustained consumption of Wahgi over a few years was necessary to cause this harm.

9. Meanwhile, based on FRL's research report, the Food Safety and Standard Authority of Etinia (FSSAE) has banned the sale of Wahgi in the entire country calling it 'unsafe and hazardous'. Further, FSSAE in its meeting with all the state food safety commissioners has directed them to collect Wahgi samples within their jurisdiction and send them for further testing.
10. Apoxia in turn claims that Wahgi is a safe product and that the ban and allegations are baseless. It states that it cannot disclose the entire list of Wahgi's ingredients to FRL as some of it is a trade secret and because of a past incident at FRL where it was found that bribes have been paid by companies to FRL researchers to obtain data from the research lab about products of competitors that were being tested or to influence test results in a certain way. Apoxia also states that disclosure of the key ingredients would lead to its entire market cap being wiped out, and disastrous economic consequences for the nation.
11. However, the damage has been done. Fuelled by the allegations being levelled against Wahgi, several public welfare organisations have called for a permanent boycott of the product. The ban and mass boycott have led to Apoxia losing out on hundreds of millions of dollars in revenue, and potential investment, as well as a loss of brand value and good faith. Apoxia has also had to layoff thousands of its employees owing to these pecuniary losses. The complainants have filed a consumer action case alleging that the company has adversely affected their health and safety and have demanded significant sums in compensation. Apoxia in turn has sued the FRL on the grounds of defamation, and misleading statements. Apoxia has also challenged FSSAE's ban on the sale of Wahgi on the of lacking any substantial reasons or research. The matter has now reached the Supreme Court of Etinia, which has clubbed the various issues together, and has identified the following three issues for contention.

12. The Court has framed following issues:

- i.* Is Apoxia bound to disclose the trade secret and constituent ingredients of Wahgi, and consequently has it violated the packaging and labelling requirements?
- ii.* Is FSSAI correct in banning the sale of Wahgi across the country?
- iii.* Should Apoxia be liable to pay for compensation in the consumer action lawsuit, for the potential public health crisis that it may have caused?

*(Please note that the laws and regulations of Etinia are in para materia with the laws and regulations of India.)*

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