

New FSSAI draft regulations – An initial reaction

Food Safety

The FSSAI has announced its draft regulations covering safety for food packaging that are due to become law by 1 July 2019. These were notified on 24 December 2018, and are divided into two sets of regulations entitled the 'Food Safety and Standards (Packaging Regulations), 2018' and 'Food Safety and Standards (Labelling and Display) Regulations, 2018.'

I had written earlier that the formulation of standards by the FSSAI is a highly ambitious exercise albeit a very commendable one. In this context, my initial reaction to the draft regulations is one of slight disappointment in that the net result is less of a 'standard' and more of a 'guideline' and the standards laid down tend to be a little wishy-washy in their content.

Admittedly, the attempt to devise a comprehensive set of such regulations is extremely difficult to execute effectively and one expected a much more detailed and specific set of standards to be laid down. What has emerged is too general in scope and could prove to be relatively toothless in its enforcement. Too much has been left to the authorities/food operators to determine what is really suitable for a particular application since it has been mandated that "every food business operator shall ensure that

the packaging material used shall be in accordance with these regulations” and “every food business operator shall obtain the certificate of conformity issued by NABL accredited laboratory against these regulations for the packaging material which comes in direct contact with food or layers likely to come in contact with food to be used”. Does this mean that every single package will have to be tested and passed by such laboratories to carry on business? Would it not have been simpler to formulate a basic ‘standard’ that the food operator would have to follow rather than having to seek individual clearance for every single package?

The most important oversight is the non-definition of a ‘negative’ list of dangerous or hazardous ingredients like additives or constituents that are known to affect human health (like toluene-based inks, mineral oil based inks, optical initiators, stabilizers/additives like phthalates, bisphenol A, etc.). All that has been specified is overall migration limits for some heavy metals.

The regulations specify that, in the absence of relevant Indian standards, relevant international standards may be complied with. This is too loose a specification as the interpretation of which relevant international standard will apply becomes a matter of choice by the laboratory or food operator concerned. There should be at least a benchmark laid down, e.g. an ISO standard or a standard laid down by well-known bodies like BIS, ASTM or the EU.

The regulations contain a suggestive list of packaging materials/systems for various categories of food products. In the first place, this list of categories is not comprehensive and many categories of food products are not covered. This list is contained in Schedule – IV of the regulations but it also says “provided that this is an indicative list not restricting the use of any other packaging material complying with the specified standards”. How can a standard be ‘suggestive’ or ‘indicative’ if it is to be statutorily enforced?

The most mystifying part of the regulations is that they specify that “products made of recycled plastics including carry bags shall not be used for packaging, storing, carrying or dispensing articles of food”. This totally goes against the all-important objective of developing circular economies and conservation of scarce non-renewable resources as envisioned in the government’s own Plastic Waste Management Act. Then, again, how can any laboratory clearly establish if or how much recycled material has been used? A lot of good work has gone into recycling waste material into food-grade applications like PET bottles and beverage cans, and all of this becomes illegal overnight.

I can foresee a lot of confusion and haziness in the implementation of these regulations. I do not think our NABL-accredited laboratories have the capacity to test and clear every single existing food package and potential new packages. This will lead to a drastic hold-up in obtaining certification to carry on business for food operators. It is also liable to provide scope for manipulation and corruption in an area as important as food packaging that affects almost every single citizen and family. This will render the entire exercise of satisfactory and fool-proof regulation as ineffective or even problematic.