

## “It is proposed to include ‘export’ to be regulated by FSSAI under FSS Act”

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The Food Safety and Standards Authority of India is doing exemplary work in regard to ensuring food safety in the country. Among the various initiatives by the Authority in recent times is FoSCoS that aims at easing the licensing and registration procedure for Food Business Operators. The Authority is also making relentless efforts to update the standards to international levels, improve food testing by setting up new labs and upgrading manpower and other resources with focus on ease of doing business for FBOs. In its latest initiative, FSSAI is set to regulate exports of food in the country, making the export-import scenario at par with developed countries reveals **Arun Singhal, CEO, FSSAI**, in an exclusive email interaction with **Manjushree Naik**. Excerpts:

**FoSCoS seems to have found the solution for all licensing and registration issues. Comment.**

The Food Safety Compliance System (FoSCoS) was launched pan-India with effect from November 1, 2020, replacing an aging and outdated Food Licensing and Registration System (FLRS). FoSCoS functions on a cloud-based server with upgraded software and hardware, which has improved the speed and efficiency of licensing. It is envisaged to be a one-stop ‘Compliance Portal’ for food safety and in future will incorporate modules for functional needs such as advanced MIS, integration with InFolNet and FICS; Hygiene Rating and Audits etc.

Module for filing of annual returns, audit module, inspection module and search module have already been incorporated in FoSCoS. Mandatory documents have been rationalised and several paper-based declarations have been replaced with an online declaration. A payment gateway has been incorporated. The central theme is to enhance the ease of doing business for the food business operators without compromising the safety of food produced or compliance with regulatory requirements.

The new system has been very well received by the food industry. The industry recognises the convenience the system provides. The overall migration has been satisfactory and technical issues that emerge are being tackled on day to day basis.

**A huge backlog in licensing and registration still remains. What are your plans to address the same??**

While there exists a provision in the Act for deemed approval in case of pending issues with

licensing/ registration, the same are also being built into the regulations. The draft is under public consultation and shall be finalised soon. To effect the same, an auto-generation policy based on risk approach has been approved by the food authority and shall be soon implemented. Any application (non-manufacturer presently) pending for long shall be issued a licence/ registration automatically by the system. This is expected to be implemented very soon and will help in dealing with the backlog in licensing and registration.

We are monitoring the states/UTs very closely and a quarterly performance review is done regularly. Pendency of licences and registrations is a very key feature in the review. FoSCoS has enabled generation of real-time pendency statistics, which is now also available to supervisory officers and Food Safety Commissioners.

We are using newer tools including automated KYCs such as Aadhar verification, PAN verification and CIN verification. FoSCoS is being integrated with PAN, CIN and Aadhar validations. This will enable quicker and seamless validation and confirmation of basic KYC of the applicants. It will hasten and ease the process of granting registration and licences. New-age tools like AI are also being explored to reduce the load on the licensing authorities and have better checks in-built into the FoSCoS system.

The Covid-19 pandemic had caused disruption in normal business processes even for the regulatory staff. Key personnel were busy with Covid related duties, leading to piling up of pendency. With the impact of Covid being minimised as we move forward along with strict monitoring, the pendency is expected to be streamlined soon.

**How has the new immunity boosting products scenario impacted the product approval process with FSSAI?**

As we know, Covid-19 disease is a viral disease and currently there is not much evidence that immunity boosting products contribute to enhance immunity against it.

However, FSSAI has a robust mechanism in place for approving any new product which is a non-specified food product and ingredient approval system based on the Food Safety & Standards (Non-Specified Food Products and Ingredients) Regulations, 2017. The process has set timelines and involves scientific scrutiny and due risk assessment if needed.

**How far has been the harmonisation of standards with Codex? How is the food safety scenario in the country when compared to international standards?**

One of the responsibilities of FSSAI is to promote consistency with the relevant international standards as envisaged under Section 16(3) (m) of the FSS Act, 2006. The standards and other guidance texts developed by the Codex Alimentarius Commission are the relevant international standards and are also the reference point within the framework of WTO. FSSAI initiated the work of harmonising domestic food standards with those of the Codex Alimentarius Commission in 2012 and has made significant progress in the same. Harmonisation is more advantageous particularly with respect to the food additives, contaminants and heavy metals as the risk assessment to establish the limits has already been done by the scientific expert bodies of Codex like JECFA, JMPR etc.

Further, while establishing such limits in the Codex, the data submitted by India has also

been considered. FSSAI, while framing standards, also reviews standards of the other international regulatory bodies such as EFSA, USDA etc. India also generates significant data domestically, which serves as the starting point for standards development.

The globally benchmarked standards in our domestic regulations have largely contributed to the strengthening of the food safety system in the country, and in particular enhanced the capacities of the food business operators in producing safe and good quality food products.

**Since most norms under FSS Regulations are replicated from the US and Europe, it is said that we are copying the regulations rather than laws based on ground realities. How far this is true?**

FSSAI does not simply copy, but there is a well-established scientific structure comprising of Scientific Panels and Scientific Committee, and these scientific bodies undertake due diligence for preparing new standards and harmonising or adopting various international standards. Most standards have been notified only after relevant stakeholder comments including the comments from WTO.

FSSAI is also responsible to promote consistency with the relevant international standards to facilitate trade and ensure availability of safe food to the consumers. The FAO and WHO regularly encourage countries to harmonise their standards with those of the Codex. The FSSAI is also working on harmonising Indian food standards with Codex standards and other international best practices.

**Though recruitment levels are high, manpower is a major issue. Why is it so?**

To meet the challenge of manpower for performing various functions of FSSAI, the sanctioned strength of FSSAI has been significantly raised from 356 to 824 in Oct 2018. Recruitment for these posts has been planned in two phases and I am glad to share that the selection of nearly 280 candidates in the first phase was completed by December 2020, despite the challenges created by the pandemic. Selected candidates are in the process of joining FSSAI.

The second phase of recruitment for the balance positions is planned during the first half of FY 2021-22. Once the staff is in place, the reach as well as services delivery of FSSAI will improve tremendously as it will facilitate opening up of branch offices/ import offices in the country and also ensure availability of optimal manpower for functions like standards setting, licensing and surveillance/enforcement.

In addition to regular staff, FSSAI has provisions for engaging manpower from the open market for special skills in various fields of food safety and standards, nutrition etc. This provision is currently also being utilised to meet the specific manpower requirements of FSSAI.

You may also be aware that a large number of scientists and other experts are providing their services to FSSAI on part-time basis as members of the various scientific panels and committees. In addition, FSSAI is fully utilising national expertise in the crucial areas of food safety and nutrition through its network of professionals like the Network for Scientific Cooperation for Food Safety and Applied Nutrition (NetSCoFAN) and Network of Professionals

**New labs are coming up but we are still lagging behind in collecting samples and testing during festival times. Why is it so?**

As on date, FSSAI has 190 notified labs, 18 referral labs, 14 reference labs including ancillary reference labs in the country, and 74 state food laboratories. A food testing lab is the backbone of Food Safety Management System that assures safety of food through surveillance and enforcement. These labs, however, are heterogeneous in infrastructure as well as testing capabilities. Some are having sophisticated analytical equipments and microbiological testing facilities, while some others have basic facilities. These labs are being strengthened from time to time through various schemes of FSSAI.

As indicated previously, manpower which was a challenge is now being addressed through active recruitments which are underway, and hopefully the gap of collecting the samples followed by its testing will be curtailed in due course. Further, FSSAI has given 90 mobile food testing labs (Food Safety on Wheels) to different states to reach out far flung places for performing food testing at consumer's place.

**Adjudication is still not upto the mark. How do you intend to tackle this to improve ease of doing business?**

A conscious effort is being made to decriminalise offences and to widen the provisions for compounding of offences. It may be seen that in quite a few sections, the provisions for imprisonment are proposed to be done away with and instead fines are being enhanced. These measures along-with the provision for compounding of all offences will go a long way in furthering the ease of doing business and reducing pendency of cases.

**Amendments wise what are the new changes we expect in the amended FSS Act? How soon it will be finalised?**

The FSS Act is in operation for more than a decade. Some shortcomings and gaps have been noticed in the working of the Act. Therefore, to make the Act more user-friendly and to meet the emerging aspirations of the FBOs and the consumers, some amendments have been proposed in the Act. Some of the noteworthy amendments proposed are:

- i. Animal Feed:** In line with the trend in most countries in the world and in view of the fact that animal feed is also a part of the food value chain, it is proposed to include 'animal feed' within the ambit of FSS Act to enable the Food Authority to make standards of such feed as well as to evolve a machinery for implementation. The Ministry of Animal Husbandry and Dairying is also in favour of FSSAI to take up regulation of animal feed.
- ii. Exports:** In most of the developed countries, a single regulator deals with exports and imports. This is essential to ensure uniform standards of quality and safety as well as enforcement. This arrangement is inconvenient for food business operators as they have to interact with multiple agencies. Therefore, it is proposed to include 'export' to be regulated by the Food Authority under FSS Act. This will promote ease of doing business. FSSAI's role would be essentially to the extent of framing standards and requirements for products intended for exports. APEDA and EIC (Export Inspection Council of India) would continue to perform their respective mandates of promotion and certification/quality control of certain products meant for exports. A special dispensation / exemption could be built upon for meeting the requirement of importing country. Units operating under SEZ will be exempt

from the requirements of FSSAI regulations.

**iii. Enhanced Penalties:** Based on the directions of the Supreme Court, the recommendations of the Department Related Parliamentary Standing Committee on Health and Family Welfare and the Committee set up by the Government under the Chairmanship of R K Jain, than Chairman NDMA, Section 59A is proposed to be inserted to provide for stringent/ deterrent punishment upto life imprisonment for willful adding of adulterant to food to make it unsafe whether it causes actual death or grievous injury or not. The penalty for obstructing food safety officials in performance of their work has been increased from 3 months to 6 months and fine increased from Rs 1 lakh to 5 lakh. A new section 65A has been inserted to provide for recovery of expenses on conviction under the Act from the convict. In order to make 'Brand owner and any intermediary' responsible for outsourced food items, these have been included in the definition of 'manufacturer' and would share primary responsibility for any unsafe food.

**iv. Rationalisation of procedures:** This includes defining a food laboratory, and food safety incidents; provision for safe custody of samples; provisions for seizure of vehicles, equipment etc.; manner of taking of samples and getting them tested by non-government organisations; time-frames for various activities; manner of prosecution in cases not requiring laboratory analysis; recognition of referral laboratories and reference laboratories. Packaging material has been replaced by food contact material and a provision inserted for making regulations for it. Section 18(2)(d) has been amended to enable FSSAI to issue regulations or specify standards without prior approval of the government in emergent cases.

The Amendment proposals were sent to the Ministry in August, 2020. The Ministry, after taking approval of the competent authority publicised the proposals through Public Notice for soliciting comments of stakeholders and public at large. Quite a large number of suggestions have been received from wide spectrum of society, including trade and industry. The comments / suggestions are under consideration of the Government.