



JSA Newsletter

Food and Consumer

October-November 2024

This bi-monthly (October-November 2024) edition of the JSA Foods and Consumer Newsletter highlights recent regulatory developments focused on consumer protection and the facilitation of food businesses in India.

To ensure compliance with the provisions of the Legal Metrology Act, 2009, the Government of India has issued notices to several quick-commerce firms. These notices relate to the production and sale of packaged goods and address instances of non-compliance with the Legal Metrology Act, 2009, and the Legal Metrology Packaged Commodity Rules, 2017 (collectively, "**Legal Metrology Law**"). Legal Metrology Law mandates the display of specific labelling and key product information on product packaging, such as the display of maximum retail price and expiration dates, to protect consumers. Regulatory bodies are currently examining compliance with these mandatory disclosures. It may be noted that home brands as well as third-party brands offered on quick commerce platforms ("**Platforms**") result in the Platforms being scrutinized by regulatory bodies. As such, this requires increased investment and oversight by the Platforms for ensuring compliance by the brands displayed on them.

Furthermore, in an effort to safeguard consumer interests, the regulatory body has inspected multiple fuel stations to ensure accurate fuel delivery. 16 (sixteen) cases have been registered against fuel station owners for short delivery.

Curbing misleading advertisement and protecting consumer interest

Considering the order passed by the Supreme Court of India in *Indian Medical Association and Anr. vs. Union of India and Ors.*, from earlier this year, all Food Business Operators ("**FBOs**") must comply with the directives aimed at curbing misleading advertisement and protecting consumer interest. Referencing the order, the Food Safety and Standards Authority of India ("**FSSAI**"), *vide* advisory dated November 11, 2024, has directed that a self-declaration must be submitted by the advertiser/advertising agency on the designated portal before any advertisement is printed/aired/displayed, certifying that its advertisement does not violate the Advertising Code prescribed under Cable Television Networks Rules 1994. The Broadcast Seva Portal is the platform for this for television and radio, while for print the platform is the Press Council of India's corresponding portal. Proof of uploading the self-declaration must be made available by the advertisers to the concerned broadcaster/printer/publisher/TV channel/electronic media for the records.

While the portals have been active from earlier in the year, this advisory specifying submission of proof adds a layer of compliance for both the FBOs and the broadcaster/printer/publisher/TV channel/electronic media community.

FSSAI reinforces food safety compliance amongst e-commerce FBOs

FSSAI, *vide* press release dated November 12, 2024, aims to address concerns related to food safety, labeling, and consumer protection in the growing e-commerce food industry. A few key points are as follows:

1. FBOs have been asked to ensure that products delivered to consumers have a minimum shelf life of 30% or 45 (forty-five) days before their expiry date;
2. e-commerce platforms must ensure that product claims and descriptions align with the information provided on product labels;
3. any FBOs operating on e-commerce platforms must possess a valid FSSAI license or registration;
4. FBOs must implement robust food safety and hygiene practices, including proper training for delivery personnel; and
5. e-commerce platforms must ensure that food items and non-food items are delivered separately to prevent cross-contamination.

Upon implementation, the above has a potential cost implication for e-commerce FBOs, as well as a potentially different experiential difference for the end user.

Mandatory Permanent Account Number compliance for FSSAI license/registration

FSSAI, *vide* order dated November 13, 2024, has decided to link Permanent Account Number ("PAN") with FSSAI licenses and/or registrations. Existing licensed/registered FBOs, whose renewal or modification is not due in near future, must update their PAN details under the food safety compliance system user profile section. If any FBO applying for registration does not possess a PAN, a declaration is required to be given for non-possession of PAN.

Guidelines for Prevention of Misleading Advertisement in Coaching Sector, 2024

The Central Consumer Protection Authority ("CCPA"), *vide* notification dated November 13, 2024, has issued guidelines aimed to safeguard students and the public from deceptive marketing practices such as false/misleading claims, exaggerated success rates, and unfair contracts that coaching institutes often impose on students. These guidelines apply to all forms of advertisements by any person including an endorser engaged in the coaching sector. The guidelines focus on regulating such false advertisements and impose obligations on persons engaged in coaching as well, when making advertisements. These obligations include, *inter alia* the following:

1. disclose important information such as rank secured, name and duration of the course; and
2. accurately represent the service, facilities, resources and infrastructure of the coaching centre.

It must be noted that usage of the phrase 'any person who is engaged in coaching' has the prospect of casting a wide net.

Addition of food products under 'high risk food categories'

FSSAI, *vide* order dated November 29, 2024, has decided that 'Packaged Drinking Water and Mineral Water' (for which Bureau of Indian Standards certification was mandatory prior to Food Safety and Standards (Prohibition and Restrictions on Sales) First Amendment Regulations, 2024 dated October 17, 2024, will be treated under 'High Risk Food Categories'. Consequently, the Risk Based Inspection Scheduling policy for these products is modified to include mandatory inspection of manufacturers/processors before the grant of license/registration and mandatory inspection of FBOs, once a year.

Draft amendment to the Food Safety and Standards (Licensing and Registration of Food Business) Amendment Regulations, 2024

FSSAI, *vide* notification dated October 3, 2024, has issued draft regulations to amend the Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011. Comments on the draft were to be submitted by December 3, 2024. The proposed amendments are as follows:

1. a new provision on digitising the issuance of license and registration is provided. It aims to expedite the licensing and registration process by authorising the food authority to take decisions on automating the processes where verifications are possible through digital tools. If implemented well, this could reduce time and other related entry barriers into the food business industry; and
2. in the framework for general hygiene and sanitary practices to be followed by FBO considerations to be followed by primary milk producers are added. Primary production of milk intends to cover end consumer distribution by the milk producer itself, where milk production is typically *sans* milking machines. Given the additional governance and compliance added in this space, it remains to be seen if it has a corresponding effect (either positive or adverse) on the complementary industries such as subscription milk distribution platforms.

Draft Food Safety and Standards (Import) Amendment Regulations, 2024

To streamline the process of analysing imported food samples and ensure consistency in laboratory practices, FSSAI, *vide* notification dated October 3, 2024, has issued draft regulations to amend the Food Safety and Standards (Import) Regulations, 2017. Comments on the draft were to be submitted by December 3, 2024. The proposed amendments are as follows:

1. the method of analysis of samples of food articles will be in accordance with the manuals adopted by the food authority. In case in case the method for analysing any parameter is not available in these manuals, the food laboratory can adopt a validated method of analysis prescribed by AOAC/ISO/Pearson's/Jacob/IUPAC/Food Chemicals CODEX/BIS/Codex Alimentarius/Woodmen/Winton-Winton/Joslyn or any other internationally recognised regulatory agencies; and
2. the laboratory analysis report on a sample can now be signed by a Food Analyst or Director of the notified laboratory or referral laboratory. Earlier, this had to be signed by the Food Analyst of the notified laboratory or referral laboratory.

Submission of proposals for setting up of multiproduct irradiation facilities under the scheme for integrated cold chain and value addition infrastructure against the expression of interest

Ministry of Food Processing Industries ("MoFPI"), *vide* public notice dated October 11, 2024, has continued to invite submission of proposals for setting up of multiproduct irradiation facilities under the scheme for Integrated Cold Chain, Value Addition and Preservation Infrastructure (the "**Scheme**") against the expression of interest pursuant to their frequently asked questions issued on September 14, 2024. Under Clause 9(n) (*application filing and documents required*) of the Scheme, a firm letter of recommendation or a memorandum of understanding/agreement between applicant and the designated agency of Department of Atomic Energy for the supply of source of food irradiation must be submitted. The successful applicant(s) will be required to submit the final memorandum of understanding within a period of 60 (sixty) days from the date of issue of the approval letter. Further, MoFPI *vide* circular dated October 21, 2024, provided extension of timeline for submission of proposals under the Scheme against the expression of interest up to 5:00 PM of November 21, 2024.

Implementation of agreement signed between FSSAI, Ministry of Health and Family Welfare, Government of India and Bhutan Food and Drug Authority

To ensure the smooth import of food products from Bhutan to India, FSSAI, *vide* office order dated October 17, 2024, has notified the format of the health certificate for import of food products into India intended for human consumption. The agreement signed between FSSAI and the Bhutan Food and Drug Authority (“**BFDA**”) recognises the equivalence of the regulatory controls exercised by both authorities. The BFDA will issue a health certificate for food products exported to India, ensuring compliance with FSSAI requirements. The office order also provides a list of approved Bhutanese manufacturers and their scope of approval. Imported food consignments from these approved Bhutanese manufacturers must be accompanied by a valid health certificate issued by the BFDA. Further increase and cooperation in international standardisation of practices and certification is a positive for the industry. In particular, it may have a convenience factor for traders and distribution/marketplace platforms selling imported food products.

Food Safety and Standards (Prohibition and Restrictions on Sales) First Amendment Regulations, 2024

FSSAI *vide* notification dated October 17, 2024, has amended the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011. The amendments are as follows:

1. Regulation 2.1.1 (5) provides that no person can either by himself or by any servant or agent sell a mixture of 2 (two) or more edible oils as an edible oil. An exception is carved out to provide that this restriction is not operative in respect of multi-source edible oil as specified under the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 provided such multi-source edible oil is sold in a package weighing less than 15 (fifteen) litres;
2. the restriction on sale of ghee having less Reichert value than that specified for the area where it is sold is removed;
3. the restriction on the manufacture, sale, storing or exhibiting for sale of the following products under the Bureau of Indian Standards Certification Mark is removed (a) infant milk food, infant formula and milk cereal based weaning food, processed cereal based weaning food and follow up formula; (b) condensed milk sweetened, condensed skimmed milk sweetened, milk powder, skimmed milk powder, partly skimmed milk powder and partly skimmed sweetened condensed milk; (c) packaged drinking water and mineral water; and
4. the requirement that sealed package of blended edible vegetable oils and fat spread must bear the AGMARK certification mark is removed.

Guidelines prohibiting companies from engaging in misleading environmental claims and greenwashing

CCPA has issued guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024. These guidelines seek to prevent companies from making false or misleading claims about the environment-friendly nature of their products and services. The guidelines were drafted in the wake of rapid increase of advertisement of green (environmentally friendly) products and the growing number of environmentally conscious consumers. The guidelines provide for a wide definition and guiding illustrations of what constitutes greenwashing and environmental claims, to ensure that consumers are shielded from misleading information, while also promoting genuine environmental responsibility within the business community. With the applicability extending to a manufacturer, service provider, trader as well as advertising agency or endorser, the obligations and liability net is particularly wide. The importance of fair and substantiated disclosures/claims is likely to increase the need for investment in the monitoring and certification space on a consistent and periodic basis.

Contraventions are tied to penalties under the Consumer Protection Act, 2019.

To read further details, please [click here](#).

Extension of validity order of mandatory jute packaging of foodgrains and sugar

The Ministry of Textiles, *vide* order dated December 26, 2023, directed that sugar and food grains must be packed in jute packaging material for supply or distribution. This direction was valid till June 30, 2024. *Vide* order dated October 1, 2024, this timeline is now extended upto December 31, 2024, or until further orders, whichever is earlier.

Food and Consumer Sector

The food and consumer practice at JSA has vast expertise across the entire value chain, offering guidance on all aspects of operations, from farm to table (for food and beverages), and origin to end use (for consumer space). Our work in this sector covers a wide range of areas, including both domestic and international investments, mergers and acquisitions, initial public offerings, joint ventures, litigation, corporate matters, real estate issues, and technology licensing, among others.

We advise a diverse range of industry participants, such as companies in food and beverage production, processing, and distribution, manufacturers of agrichemicals, agricultural commodity processors, producers of precision farming equipment, as well as banking and financial institutions.

With offices across India, our team delivers a seamless, comprehensive service to clients navigating the growing challenges in the food and beverages sector, such as increasingly complex regulatory requirements, supply chain issues, ESG concerns, and the enforcement and protection of trade secrets and other intellectual property.

This Newsletter has been prepared by:



Vivek K Chandy
Joint Managing Partner



Saurya Bhattacharya
Partner

		
18 Practices and 25 Ranked Lawyers	7 Ranked Practices, 16 Ranked Lawyers ----- Elite – Band 1 - Corporate/ M&A Practice ----- 3 Band 1 Practices ----- 4 Band 1 Lawyers, 1 Eminent Practitioner	12 Practices and 50 Ranked Lawyers
		
14 Practices and 38 Ranked Lawyers		
		
20 Practices and 22 Ranked Lawyers	Ranked Among Top 5 Law Firms in India for ESG Practice	Recognised in World's 100 best competition practices of 2024
		
Among Top 7 Best Overall Law Firms in India and 11 Ranked Practices ----- 11 winning Deals in IBLJ Deals of the Year ----- 12 A List Lawyers in IBLJ Top 100 Lawyer List	Asia M&A Ranking 2024 – Tier 1 ----- Employer of Choice 2024 ----- Energy and Resources Law Firm of the Year 2024 ----- Litigation Law Firm of the Year 2024 ----- Innovative Technologies Law Firm of the Year 2023 ----- Banking & Financial Services Law Firm of the Year 2022	Ranked #1 The Vahura Best Law Firms to Work Report, 2022 ----- Top 10 Best Law Firms for Women in 2022
		
		7 Practices and 3 Ranked Lawyers

For more details, please contact km@jsalaw.com

www.jsalaw.com



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This newsletter is not an advertisement or any form of solicitation and should not be construed as such. This newsletter has been prepared for general information purposes only. Nothing in this newsletter constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this newsletter disclaim all and any liability to any person who takes any decision based on this publication.