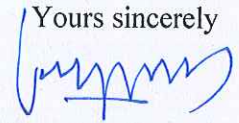


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Food Safety and Standards Authority of India
(Regulatory Compliance Division)
FDA Bhawan, Kotla Road, New Delhi – 110002

Dated the 4th October, 2019

The draft guidelines on '**Working with the Private Sector**' are placed herewith for consultation, comments or feedback of stakeholders and public. Objections or suggestions, if any, may be addressed to the Executive Director (Compliance Strategy), Food Safety and Standards Authority of India, Food and Drug Administration Bhawan, Kotla Road, New Delhi-110002, or may be sent at ed-office@fssai.gov.in latest by 25th October 2019.

Yours sincerely



(Parveen Jargar)

Jt Director (Regulatory Compliance)

Draft Guidelines on Working with the Private Sector

Food safety is a shared responsibility of the government/regulator, food businesses and the consumers. FSSAI works with a wide range of stakeholders including the private sector, both in food and non-food sector and industry associations with the objective of building a culture of self-compliance and preventing food hazards across the food supply chain. While the participation of private entities is encouraged, there is a need for full accountability and complete transparency and care to address any potential conflict of interest in various areas of work.

These guidelines shall be followed, in addition to any statutory or mandatory requirements, while working/associating with private sector.

1. Institutional Framework

(a) Food Authority and Central Advisory Council (CAC)

Composition of the Food Authority and CAC is provided in the FSS Act. Sec 5 provides for the composition of Food Authority and Sec 6 provides for the selection process of the members. Before recommending any person for appointment as a Chairperson or other member of the Food Authority, the Selection Committee has to satisfy itself that such person does not have any financial or other interests, which is likely to affect prejudicially his functions as a Member. Similarly Sec 11 provides for the composition of the CAC.

Representatives of food businesses and/or associations are included in the composition of both the bodies, as per the provisions. To avoid any potential conflict of interest, in day to day working, the following needs to be ensured:-

- (i) A declaration regarding conflict of interest, if any, to be obtained before every meeting of CAC and Food Authority.
- (ii) A provision for a member to recuse from the decision making on any agenda/ issue in case of conflict of interest.

Provision for above procedures for independent decision making exist in the Food Safety and Standards Authority of India (Procedure for Transaction of Business of the Central Advisory Committee) Regulations, 2010 [Regulation 12] and Food Safety and Standards Authority of India (Procedure for Transaction of Business in its meeting) Regulations, 2010 [Regulation 14].

(b) Scientific Committee, Scientific Panels and Working Groups

- (i) The constitution of the scientific committee and scientific panels need to be done with due scrutiny and procedure, as per the search cum selection committee procedure established by the Food Authority to ensure "*independent*" scientific experts.
- (ii) Any candidate currently working/employed or associated with private food businesses or their research centres cannot be considered for appointment. Those having any prior association with private entity are however allowed by giving an undertaking and declaration of interest.

- (iii) Regulation 21 of the '*Food Safety and Standards Authority of India (Transaction of Business and Procedures for the Scientific Committee and Scientific Panels) Regulations, 2016*' provides for the independence of the members of the scientific committee, scientific panels and working groups and external experts, to undertake to act independently of any external influence and make a declaration of commitment and an annual declaration of interests. They, at each meeting, shall also make a specific declaration of Interests in relation to the items on the agenda.
- (iv) These are multi-member body, where final recommendations are based on majority views, mostly by consensus. More so the decision making is multi-stage with recommendations of scientific panels being considered by the scientific committee and thereafter by Food Authority. The decisions need to be based on credible scientific data, sources and research. Thus there is an inbuilt mechanism to prevent any bias.
- (v) Public consultations must be preferably done online with widespread and inclusive approach. Any interface with industry should be preferably through associations or with multiple representatives of the industry.

(c) Standards Review Groups

The standards review groups have been set up to review existing food standards, identify gap areas, and suggest changes in standards that are found necessary. The scientific panels treat the recommendations of these groups as one of the inputs in their work of standard setting and have complete autonomy to accept any or all of the recommendations of the groups. The members of SRG are nominated by the industry associations. Further, it has been decided to include the representatives from reputed consumer rights and civil society organizations in such groups.

(d) Codex Shadow Committees

FSSAI is the designated Codex Contact Point (CCP) for India. The CCP acts as the link between India and the Codex Secretariat, and coordinates all Codex related activities at the national level. FSSAI has also established a National Codex Committee (NCC), which is supported in its work by several Shadow Committees corresponding to the respective subsidiary bodies (Codex Committees/Task Forces) of the Codex Alimentarius Commission (CAC). The membership of the NCC and its Shadow Committees is drawn from relevant government departments and organizations, scientific and research institutions, industry associations and consumer organizations.

The National Codex Committee and its Shadow Committees are tasked to take note of the issues under discussion at Codex and formulate India's position on such issues. Since the CAC has got twin mandate of ensuring food safety and fair practices in food trade, the Shadow Committees develop India's position from both these perspectives with the overall objective of ensuring that the standards so developed are implementable in our situations too and do not create a trade barrier to our food exports. This is ensured by taking into consideration both scientific opinion as well as industry perspective, albeit, without compromising food safety aspects. The members are nominated by the industry associations.

(e) Technical Panels (TPs)

Technical panels comprising of experts may be constituted with specified mandate and accordingly with experts who have relevant experience for the purpose of developing code of practices and guidance documents at different stages in the supply chain for different kinds of food businesses. This may include primary production as well. Such panels may also have a representative of reputed consumer organisation. Since the subject matter may require expertise from industry, care needs to be taken to avoid any conflict of interest with due declaration of same for such technical panels.

(f) Method Review Groups (MRGs)

The method review group was set up to review, identify and approve methods of testing that can be uniformly followed across the food testing ecosystem. The scientific panel on methods of sampling and analysis relies on the inputs from this group in their work; and, the panel has complete autonomy to accept any or all the recommendation of the MRG.

2. Food testing laboratories

FSSAI recognises and notifies food testing laboratories under Sec 43(1) of the FSSA as per Food Safety and Standards (Recognition and Notification of Laboratories) Regulations, 2018. Private labs that are NABL accredited are also permitted to be recognized and notified under the said regulations. Such notified laboratories can also be recognised as 'National Reference Laboratories'.

Only those labs which have food analyst in position are authorised to test regulatory samples. FSSAI notifies the food analyst through a due process. No private laboratory is allowed to test any compliance sample of any food business related to it or having commercial interest in the laboratory.

FSSAI also encourages laboratories under the PPP framework. These should however be established within a framework agreement designed to prevent any risk of conflict of interest.

3. Training and Capacity Building

a) Training of FBOs: Section 16 (3) (h) of Food Safety & Standards Act 2009 mandates the Food Authority to arrange for training of food businesses. Accordingly, FSSAI has started Food Safety Training & Certification (FoSTaC), a large-scale training programme.

FoSTaC involves private partners to scale up the training programme and ensure capacity building of huge number of food businesses, FSSAI empanels training partners (TPs) through expression of interest from interested organizations. The training is conducted by trainers duly certified by FSSAI and assessed by third party evaluators.

FSSAI precribes the courses, course content/ curriculum and procedure for training and assessment. Entire training programme is regulated by FSSAI end to end with the help of FoSTaC Portal.

The choice to attend training with any training partner is voluntary.

b) Training of regulatory staff: In regulatory staff training, experts in specific domains can be drawn from both the private sector and public sector. The curriculum is prescribed by FSSAI and assessment, if any, is done by FSSAI itself.

c) Training of laboratory personnel: For training of laboratory staff, both public and private sector can be associated, with the condition that the private sector does not promote a proprietary technology/ product and should not have any interest in Food Business. Centers of excellence for training created with collaboration with private enterprise should have a MoU or agreement with suitable provisions for avoiding potential conflict of interest.

4. Third Party Accreditation/ Audit

To ensure food safety of the vast and extensive network of Food Businesses in India, FSSAI relies on third party accreditation and auditors.

For the laboratory network only NABL accredited laboratories are considered for notification.

For Organic certification FSSAI relied on anticipatory Guarantee Systems (PGS) under National Centre of Organic Farming (NCOF) and National Programme for Organic Production (NPOP)

In addition to the existing enforcement and inspection procedure, FSSAI has instituted auditing of Food Businesses through FSSAI recognised auditing agencies. FSSAI has notified the Food Safety and Standards (Food Safety Auditing) Regulation 2018, which has been issued under Section 44 of the Food Safety and Standards Act, 2006. The criteria for recognition of these agencies include having a valid accreditation on ISO/IEC 17020 or ISO/IEC 17021 or ISO/TS 22003 from NABCB for management system certification. The Regulations has provisions to avoid potential conflict of interest. Regulation 12 requires a declaration as per Form C regarding conflict of interest of the auditor agency and also its auditors/ employees. It is a mandatory declaration to be submitted with every audit report.

Similarly, agencies for hygiene audit have been empanelled for voluntary hygiene rating of restaurants/ QSRs etc. in catering sector. Empanelment has been done through open tender and a declaration similar to Auditor (under Reg 12) is required to be furnished for each hygiene audit done.

FSSAI has a number of initiatives like the Clean Street Food Hub, BHOG, Eat Right Campus, Clean and Safe Mithai Shop, Clean and Safe Meat Shop, Clean and Fresh Fruit and Vegetable Market etc. These initiatives are based on initial audit, gap analysis viz a viz Schedule 4 compliance and final assessment for certification which can be done by FSOs/ DOs or empanelled auditors.

In case of any violation by way of wrong declaration, Food Authority may ensure penal/ remedial action including by way of cancelling/ debarring of the audit agency.

5. Association with Specialized Centre established by Industry or Industry Associations

FSSAI encourages the private sector or industry associations to establish specialized centre (s) with the aim of developing a robust ecosystem for safe food and healthy and sustainable diets in the country. FSSAI can associate with such centres and have interface committees for the same. In doing so, it must ensure that the mandate and scope of work of such centre is fully aligned to the aims of objectives of FSSAI. Further, it must be seen that the centre does not promote a particular business or brand and there is no potential conflict of interest.

6. Outreach and Awareness

The message of food safety and Eat Right India needs to reach every citizen and food business. The same is possible only by mass outreach activities which only is possible with private participation and initiative. However any copartner needs to ensure that it does not promote a particular business or brand or interest. Specifically few engagements are highlighted below:

- (a) Food businesses, individually and as association or groups are encouraged to amplify messages for safe food, healthy and sustainable. They are allowed to use the content created by FSSAI giving due credit.
- (b) Logo of FSSAI may be used for any event or activity as per FSSAI's Logo Support Guidelines <https://fssai.gov.in/upload/uploadfiles/files/LogoSupportGuidelines.pdf>. Any commercial usage or sale of goods/ items with FSSAI branding/ content by private enterprise should also follow similar principle.
- (c) FSSAI invites various stakeholders to support its initiatives for the collective journey towards creating a culture of food safety and nutrition across the country. Guidelines for participation by various stakeholders under Corporate Social Responsibility (CSR) and other voluntary initiatives have been created <https://fssai.gov.in/cms/csr-guidelines.php>

In case any partnership is not covered by above, specific clause on neutrality and non-profit must be included before finalization.

7. Food Safety Mitra 'Friends of Food Safety'

FSSAI has initiated a scheme of Food Safety Mitra to create an ecosystem for easily available and low cost services for assisting FBOs to comply with the regulatory requirement. The three aspects of the scheme are Digital Mitra, Trainer Mitra and Hygiene Mitra. The code of conduct for the Food Safety Mitra regulates the functioning of the FSMs with provisions to penalise / suspension and cancellation in case of impropriety. The scheme shall be open to all with objective selection criteria if any. FSMs are not allowed to represent FSSAI or use its logo without authorisation. The detailed mechanics of the scheme are under development and will need to evolve over time, however the same will need to comply with the following:-

- The choice whether to use the services of FSM or which FSM shall be entirely be of the FBO. No FSM shall be publicised or recommended or advocated by FSSAI.
- The list of FSMs with valid certification shall be displayed on the website for information of FBOs.