



**FICCI study on Implementation of Food
Safety and Standards Act:
An Industry Perspective**

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Federation of Indian Chamber of Commerce and Industry

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Executive Summary

During the past five years, India has been through many dilemmas in relation to the reform process of the country's food safety administration. India's potential to garner a higher share in the increasing world food trade and the advent of Sanitary and Phytosanitary (SPS) Agreement under the World Trade Organization (WTO) have lead to increasing recognition and adoption of food safety measures. The capacity of India to penetrate world markets depends on its ability to meet increasingly stringent food safety standards imposed by developed countries.

In August 2006, the reform process acquired pace with the passing of Food Safety and Standards Act (FSSA). The Act proposes establishment of a new authority; the Food Safety and Standards Authority, reorganization of scientific support pertaining to the food chain through the establishment of an independent risk assessment body, a new Food Law, merging 8 separate Acts and a new clarification of the relevant ministries' responsibilities.

FICCI has been relentlessly working with the member companies and the government on this Act. This Act with its three tier structure (An apex Food Safety and Standards Authority, a Central Advisory Committee under it and various Scientific panels and Committees) is expected to lay more emphasis on science based and participatory decisions and adopting contemporary approach in both standard setting and implementation.

Keeping in view the impact of FSSA on food processing industries in India, FICCI conducted this study to understand the food processing industry's perception of the implications of FSSA.

Prominent benefits of implementation of the Act as anticipated by industry are:

- Unification of eight laws (80%)
- Hope for stronger implementation that will curb corruption (74%)
- Anticipation of science based standards (68%)

95% of the respondents appreciate the benefits of the Act and look forward to its implementation at the earliest.

Major problem that industry will face due to implementation of the Act are:

- Anxiety due to lack of information (83%)
- Massive penalties proposed under the Act (67%)
- Difficulty in meeting certain processed food standards when raw material violates standards (52%)

Industry anxiously awaits the rule framing exercise wherein Industry strongly feels that these concern issues will be addressed.

Prominent problems identified for the government are

- Inter-Ministerial/ Department resistance to give up portfolios (70%)
- Creation/ rationalization of infrastructure (65%)
- Manpower constraints, both in terms of quality as well as quantity (60%)

Given the current state of PFA implementation, industry also feels that effective implementation of the Act will in itself be a challenge for the government.

Industry has also identified some other aspects that need to be worked on for effective implementation of the Act like introducing and maintaining transparency, conducting awareness programs for industry and also regular training programs for regulators.

The first industry-wide study on the much awaited Food Safety and Standards Act was recently conducted by FICCI. Till date, industry has been deliberating on the Act rigorously but no compendium was available. The study not only collates the existing concerns but also reveals some startling information and can be used as reference information for any further activities on Food Safety and Standards Act.

The findings of the Study further generate curiosity to address other critical questions like:

- Impact of FSSA on tiny and small-scale food manufacturers
- Strategy for human resource development
- Strategy to conduct awareness programs for industry
- Consumer benefits introduced through FSSA

Recommendations:

- Industry anxiously awaits implementation of Food Safety and Standards Act. Various features of the Act raise the hopes of the industry that inspector-raj will come to an end leading to speedy and fair resolution of cases and disputes.
- All FSSA activities under progress must be shared with the industries in view of the fact that they are expected to implement the Act. Since the tiny, small and medium scale industries do not have the technical expertise to track the regulatory changes, they will find it difficult to identify the procedural and compliance changes brought in by the Act. Ministry of Health and Family Welfare (nodal ministry) needs to launch certain awareness and capacity building programs. These will be extremely beneficial to enable effective implementation of the Act. This information can also be made widely available through websites, letters and associations. Consumer awareness is also an important aspect that needs attention. FICCI would like to partner in any government initiative in this direction.
- Industry bodies should be increasingly given the opportunity to partner with the government in all policy issues and awareness programs.

Other well established observations that have been discussed earlier and are reiterated through the study as well are:

- Meeting certain processed food standards may be difficult considering the fact that primary producers are kept out of the ambit of the Act. This leads to a situation wherein final product needs to meet all norms whether or not the raw materials conform to standards. In certain cases, removal of harmful constituent is technically not feasible.
- Processing water supply to potable water standards is not affordable and technically feasible for all food-processing industries. Respondents again register this concern clearly in the study.
- Whilst in other sectors, introduction of Food Safety and Standards Act will remove multiplicity of laws, in alcoholic beverages sector it will lead to

multiplicity of authorities. Manufacturers of alcoholic beverages feel that implementation of the Act would pose problems.

- Concerns on the infrastructure and manpower requirements for the government under the Food Safety and Standards Act are also highlighted.

Chapter I Salient features of the law

CHAPTER I SALIENT FEATURES OF THE LAW

The food sector in India is governed by a multiplicity of laws under different Ministries. A number of committees, including the Standing Committee of Parliament on Agriculture in its 12th Report submitted in April 2005, have emphasized the need for a single regulatory body and an integrated food law.

The Indian Food Safety and Standards Bill 2005 has been signed into law, promising a major impact on the Indian Food Processing Industry.

The Food Safety and Standards Act aims to integrate the food safety laws in the country in order to systematically and scientifically develop the food processing industry and paradigm shift from a regulatory regime to self-compliance. As part of the process of consolidation, the Act proposes to repeal eight existing laws related to food safety.

Objectives of the Act

The main objectives of the Act are:

- (a) To introduce a single statute relating to food, and
- (b) To provide for scientific development of the food processing industry.

The Act aims to establish a single reference point for all matters relating to food safety and standards, by moving from multi-level, multi-departmental control to a single line of command. It incorporates the salient provisions of the Prevention of Food Adulteration Act 1954 and is based on international legislations, instrumentalities and Codex Alimentarius Commission.

Chronology of events from Bill stage to Act:

FICCI /CIFTI had initiated this move towards Integrated Food Law years back by preparing a base paper for Ministry of Food Processing Industries and the objective was "To provide safe and wholesome food to the consumers and to create an enabling environment for value addition to primary agricultural produce, to bring innovation and creativity, and rapid development of food processing industries in an integrated manner, ensuring a high degree of objectivity and transparency." The main idea behind the whole exercise was to abolish the multiplicity of food laws and other associated laws.

The Draft Food Safety Bill was put up for comments and suggestions from the stakeholders in the month of February 2005. FICCI was entrusted with the responsibility of compiling the comments and suggestions received and unanimously agreed upon by all the major chambers and experts from the industry. FICCI held several joint meetings of all the interested industry members, legal experts and associations and presented suggestions to Ministry.

February 2002	Group of Ministers constituted “to propose legislative and other changes for preparing a modern integrated food law and related regulations”. Ministry of Food Processing was the Secretariat Ministry
March 2002-04	GOM meets 4 times before Parliament dissolves for election
May 2002	FICCI prepared the draft Model Integrated Food Bill
August 2004	GOM gets reconstituted. Chairmanship during the course changes from Mr Murasoli Maran to Mr Arun Jaitley and finally to Mr Sharad Pawar in August 2004.
Feb 2005	Ministry of Food Processing Industries seconds the FICCI Model Integrated Food Bill. Under the new Minister Mr Subodh Kant Sahai, MoFPI presents the first draft of the bill for public comments.
Feb- May 2005	After the detailed exercise of comments receiving, compiling and collating, FICCI made a detailed document commenting section by section
May 2005	Amended draft presented to Cabinet
May-August 05	Second round of commenting and redrafting
August 2005	Bill presented to Parliament. Parliament refers the bill to Agriculture Standing Committee for further debate amongst MPs and other stakeholders. Agriculture standing Committee constitutes a committee under Dr Mashelkar to decide on the implementing authority. The committee entrusts Ministry of Health and Family Welfare to be the implementing authority of the Act.
Sep 05- Dec 05	Series of meetings held by Agri Standing Committee with different stakeholders.
April 06	The final draft along with the comments of the Agriculture Standing Committee presented before Parliament.
August 2006	The Bill passed by Parliament

Jan 2007	President endorses the Act.
Jan 2007	Ministry of Health and Family Welfare, the implementing authority of the Act, commences the process of implementation.

Highlights of the Act:

- The Food Safety and Standards Act, 2005 consolidates eight laws governing the food sector and establishes the Food Safety and Standards Authority (FSSA) to regulate the sector and other allied committees.

The FSSA would consist of a Chairperson and 22 members. The Chairperson would be either an eminent food scientist or a civil servant not below the rank of Secretary. Seven of the members would be ex-officio, not below the post of Joint Secretary, from various ministries. Five members would be appointed by rotation every three years from the states and Union Territories. The Authority would have two representatives each from the food industry and consumer organizations, three food technologists, and two members from a farmers' organization and one from retail organization.

FSSA will be aided by several scientific panels and a Central Advisory Committee to lay down standards for food safety. These standards will include specifications for ingredients, contaminants, pesticide residue, biological hazards, labels and others.

- Everyone in the food sector is required to get a license or a registration that would be issued by local authorities. Temporary stall holders are exempted from the license but need to get their businesses registered with the local municipality or Panchayat.
- The law will be enforced through State Commissioners of Food Safety and local level officials.

The Act empowers the FSSA and State Food Safety Authorities to monitor and regulate the food business operators. The Commissioner of Food Safety of each state appoints a Designated Officer (DO), not below the level of Sub-Divisional Officer, for a specific district whose duties include issuing or canceling licenses, prohibiting sale of food articles that violate specified

standards, receiving report and samples of food articles from Food Safety Officers and getting them analyzed. The State Commissioner, on the recommendation of the Designated Officer, decides whether a case of violation would be referred to a court of ordinary jurisdiction or to a Special Court.

- The Act provides for a graded penalty structure where the punishment depends on the severity of the violation.

Offences such as manufacturing, selling, storing or importing sub-standard or misbranded food could incur a fine. Offences such as manufacturing, distributing, selling or importing unsafe food, which result in injury could incur a prison sentence. The sentence could extend to life imprisonment in case the violation causes death. Petty manufacturers who make their own food, hawkers, vendors or temporary stall holders could be fined up to Rs 25 thousand if they violate the specified standards.

- **New Judicial process:**
In order to judge cases related to breach of specified regulations, the state government has the power to appoint an Adjudicating Officer, not below the rank of Additional District Magistrate. Any person not satisfied by the decision of an Adjudicating Officer has the right to appeal to the Food Safety Appellate Tribunal (or to the State Commissioner until the Tribunal is constituted). The Tribunal enjoys the same powers as a civil court and decides the penalty in case of non-compliance with the provisions of the Act.
- **Food Recall Procedures:** Every distributor is required identify any food article to its manufacturer, and every seller to its distributor. Anyone in the sector should be able to initiate recall procedures if he finds that the food sold had violated specified standards.

Chapter II Study

CHAPTER II STUDY

The enactment of Food Safety and Standards Act has been a landmark decision to ensure increased availability of safe food to consumers whilst also fostering the development of the food industry.

The most important thing to happen to the consumers and the food processing industry in India is that the Ministry of Food Processing Industries has piloted the Food Safety and Standards Bill, 2006, which became an Act in August 2006 after getting the President's assent. Once implemented, the food processing industry in the country will be regulated under a single law.

The regulatory scenario for Food Processing Industries in India is fast changing with introduction of Food Safety and Standards Act. The Indian food industry has been closely following this Bill with a keen interest, since the formation of one single regulatory system will definitely bring synergy in technical and regulatory matters and substantially reduce the transaction costs imposed on Industry.

According to recent information, Ministry of Health and Family Welfare has been entrusted with the responsibility of establishing the Food Safety and Standards Authority (FSSA), the preparatory activities for setting up of the authority have begun in full swing. Sources indicate that the nodal Ministry has six months to set up the Food Safety and Standards Authority. Drafting of rules and regulations is a mammoth task and is anticipated to begin shortly.

Keeping in view the impact of FSSA on food processing industries in India, FICCI conducted this study to garner responses on various issues and concerns vis-à-vis the implementation and also to understand industry perception of the implications of FSSA.

The FSSA study has gathered and collated a fairly extensive and complex set of responses about Food Safety and Standards Act- its benefits and anomalies as observed by the Food Processing Industries in India. 54 responses were received across sector and locations; this included small, medium and large-scale industries, both domestic and multinational companies from various locations.

Based on the responses, FICCI has made an attempt make some key observations about the feedback that can serve as valuable inputs for implementation of Food Safety and Standards Act and defines Industry's role in the process. Also an effort is made to flag certain key concerns.

In interpreting the Study data, we seek to clarify "the big picture" by looking for overall patterns that can be reasonably drawn from the aggregated responses. All the observations have been collated to trends that provide useful insights and help establish a valuable perspective that will prove helpful in setting overall prioritization for proposed FSSA activity.

Methodology:

The study was conducted with following milestones:

- Preparation of study
 - Working out the strategy
 - Preparing questionnaire
- Collection of data
 - Identification of companies
 - Mass communication to all players
 - Follow up for comments
 - Focused group discussions
- Analysis and interpretation of data
 - Qualitative
 - Quantitative
- Recommendations and suggestions

Chapter III Findings

CHAPTER III (a) Benefits of implementation of the Act

One of the major benefits of implementation of FSSA Act will be the consolidation the laws relating to food and establishment of the Food Safety and Standards Authority of India, which will lay down science-based standards for food items, regulate the manufacture, storage, distribution, sale and import of food item, and ensure the availability of safe and wholesome food for human consumption.

Across the globe, some of the major single enforcement agencies established to regulate food worldwide are:

European Food Safety Authority

UK Food Safety Authority

Food Safety Authority for individual states of Europe- Finland, Ireland, Norway

US- Food & Drug Administration

New Zealand Food Safety Authority

Korea Food & Drug Administration

Philippines National Food Authority

Thailand Food & Drug Administration

The European Food Safety Authority (EFSA) was set up in January 2002 following a decade of food scares and a loss of confidence by the European public which led to a complete overhaul of the European Union (EU) food safety system and policies. EFSA was established to 'ensure a high level of consumer protection through which consumer confidence can be restored and maintained'.

Establishment of Food Safety Authority in Europe brought about a sea change in the field of Food Regulation. Amongst other benefits it underlines the essential role of scientific advice, data collection and analysis. A strong in-house expertise in the area of food and feed analytical control allows that problems of various kinds (e.g. natural and man-made toxins, ingredients, additives etc.) can be handled in order to deliver scientific and technical (analytical) support also in urgent and unexpected cases.

Similarly all the authorities set have refined and standardized the food regulation process by avoiding duplication of efforts, conflicting actions and gaps in coverage.

In India, independent regulation has emerged in the last two decades as a fourth branch of government. Independent regulatory agencies have been set up in India for electricity, insurance and telecommunications in the last seven years. India has also established the Competition Commission of India (CCI) under the Competition Act, 2002, for regulation of industry in general. The overlap between the central and sectoral regulators is as yet unexplored. Thus, the Indian regulatory landscape is complex and formative.

The Indian food regulations comprise various food laws that have been enacted at different points of time and are under the ambit of various Ministries. Very often these organizations work independently of each other and there is no coordination between them. This in turn, has led to loose administration and enforcement of various laws with the result that the consumer and the processor/exporter are adversely affected.

Several Ministries have legislative responsibility for the safety of food products for domestic consumption and exports. Each Ministry has prescribed its set of Rules under relevant Acts and Orders, often creating a confusing and sometimes contradictory environment for the industry.

About 80% of the respondents to the FICCI Study accepted that the prime benefit of the Act was the unification it will bring about. Since unification of multiple laws is one of the basic objectives of FSSA, Industry feels that implementation of the Act will surely reduce the confusion and hassles that used to exist under multiple laws.

The statistical compilation of the responses is summarized:

Table 1: Benefits of implementation of Act (Response pattern)

Benefit of implementation of the Act	% of respondents
Unification of eight laws	80
Alignment with international regulations	26
Science based standards	68
Clarity and uniformity on novel food areas	20
Implementation will be stronger: help curb corruption	74

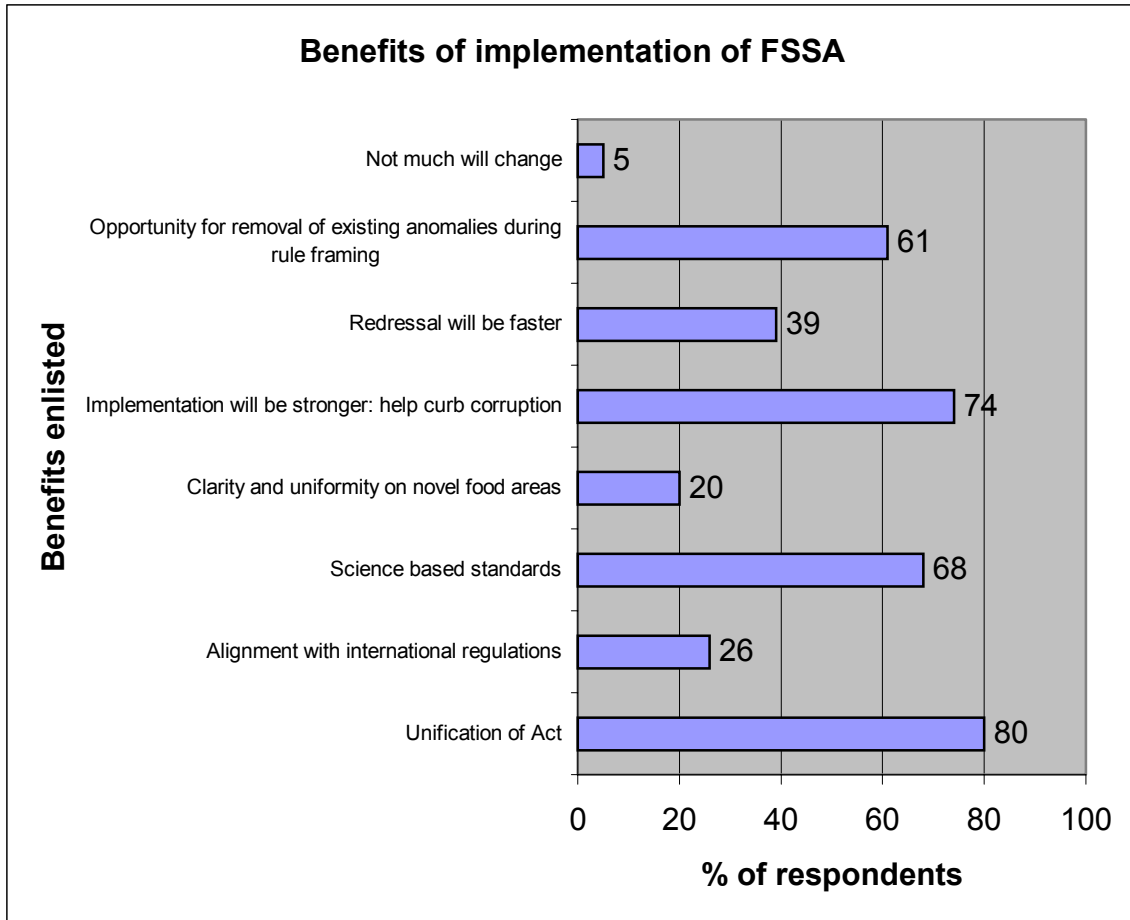
Redressal will be faster	39
Opportunity for removal of existing anomalies during rule framing	61
Not much will change	5

As all of us are aware, earlier 8 separate laws and many ministries were controlling the industry. A unified Act will enable unidirectional compliance. The multiplicity of rules has hampered the progress of various sectors and FSSA is perceived as a step towards harmonization.

About 74% of the respondents felt that effective implementation of the Act in right spirit will help in regulation of food manufacturers objectively. Several features of the Act like establishment of an autonomous standard setting Authority (Food Safety and Standards Authority) and a separate judicial process through Food Safety Appellate Tribunal, raises the hopes of the industry that inspector-raj will come to an end. Industry looks forward to speedy and fair resolution of cases and disputes. The respondents of the study were also of the opinion that since industry is extremely plagued with exploitation from Food Inspectors, the implementation of this Act will go long way to unshackle the chains, the major stumbling blocks the growth of food industry. Surprisingly, this answer was observed to be second most common, leaving behind certain obvious responses.

Establishment of science-based standards was the next most accepted advantage expected from implementation of the Act. Currently, minimal amount of research and literature search is conducted before standard setting exercise. Also, lack of risk assessment studies makes our standards highly vulnerable and somewhat unscientific. 68% of the respondents believed that since it is a mandate of the Food Safety and Standards Authority to carry out scientific studies, further food standards would be based on sufficient and sound scientific basis. Also increased participation of technical experts, research bodies and laboratories from the field of food will boost scientific standards setting.

Chart 1: Benefits of implementation of Act (Bar graph)



Other major findings of the benefits of implementation of the Act that came to fore were:

- Opportunity for removal of existing anomalies during rule framing: Since it is proposed that once the Food Authority is established, its one of the primary task will be rule framing. Even if new rules are not worked out, 61% of the respondents felt that a review of the existing rules should enable elimination of certain incongruities that have crept in the present rules.
- 39% of the respondents felt that redressal under the Food Safety and Standards Act will become quick and easier.
- 26% of the respondents believe that implementation of FSSA will create a platform wherein we can look forward to alignment with international

standards. Aligning with international regulations will not only remove the current unreasonable restrictions such as recipe-based standards, restriction on usage of additives but will also enable manufacturers to compete better in international markets.

- Since foods for special dietary uses or nutraceuticals or functional foods or health supplements is a category that has been specifically defined in the Act, a feature which was not there in existing standards. 20% of the respondents felt that such clarity and uniformity in the area of novel foods would enable business plan formation to manufacture and market these products. The Act will facilitate and promote the development of new products with innovative recipes catering to different palates in different markets thus furthering growth of the industry.

One of the general observations derived from the study is that industry collectively (95% of the respondents) appreciates the benefits of the Act and look forward to its implementation at the earliest. This re-establishes the need for government to implement the Act as top priority.

Apart from the above, Industry unanimously feels that realization of the benefit enlisted above depends on the rules that will be framed under the Act and professional administration of those rules.

CHAPTER III (b) Problems that would result from implementation of the Act

Regulation broadly defines mechanisms of government intervention in industry. Typically, regulation entails intervention in price, entry, market, structure, procurement and quality. In case of food, regulations primarily control the product quality.

Every system of regulation has its own pros and cons. The benefits anticipated from the implementation of Food Safety and Standards Act are already enlisted in the previous chapter. This chapter aims at collating the troubles that would arise from implementation of the Act.

The prime problem that 83% of the respondents felt will arise from implementation of the Act is the initial phase of disorder that will be introduced. The tiny, small and medium scale industries that do not very vigorously track the regulatory changes will find it difficult to identify the procedural and compliance changes brought in by the Act. Further during rule framing, since the existing laws will be re-appealed or reviewed, a phase of vacuum may be introduced wherein neither the regulator nor the food business operator will have clarity on the rules to be followed. Industry was also apprehensive that during the transition phase of about one year, uncertainty will prevail till the food processing industries and the regulators can come to a common platform.

Responses have been tabulated as:

Table 2: Problems from implementation of Act (Response pattern)

Problems from implementation of Act	% of respondents
Anxiety due to lack of information	83
Massive penalties proposed under the Act	67
Difficulty in meeting certain processed food standards esp when raw material fails to meet standards	52
Law covers minute details- changing these will be time consuming	22
Potable water requirement	40
Inclusion of alcoholic beverages in definition of food	7

About 67% of the respondents were of the opinion that the implementation of Food Safety and Standards Act will introduce huge penalties defined for various deviations and non-compliances as compared to present PFA regulations. The PFA Act gives a generic outline of the penalties that needs to be further worked out based on the severity of the offence. The Food Safety and Standards Act specifies very heavy fines ranging from Rs 1 lakh to Rs 10 lakh (in clauses 50-65 of the Act) accompanied with imprisonment, cancellation of license etc, which are not rational for the tiny and small-scale industry. These punishments can be levied irrespective of the nature of violation whether minor or major. Industry feels where the food is not causing any injury, the prosecution should levy appropriate fine and educate the manufacturer. Too many gradations in penalty that are not always at par with the severity of the offence will be difficult to manage at the field level. For ex:

Only fine

1. Not conforming to the law - upto Rs 5 lakhs (Section 50)
2. Sub standard food – upto Rs five lakhs
3. Misbranded – upto Rs 3 lakhs
4. Misleading Advertisement – upto Rs 10 lakh
5. Extraneous matter – upto Rs 1 lakh
6. Fails to comply with the standards – Rs 2 lakh
7. Unhygienic and unsanitary condition – Rs one lakh
8. Sale of Adulterant – non injurious - 2 lakhs
9. Sale of Adulterant – injurious – 10 lakhs

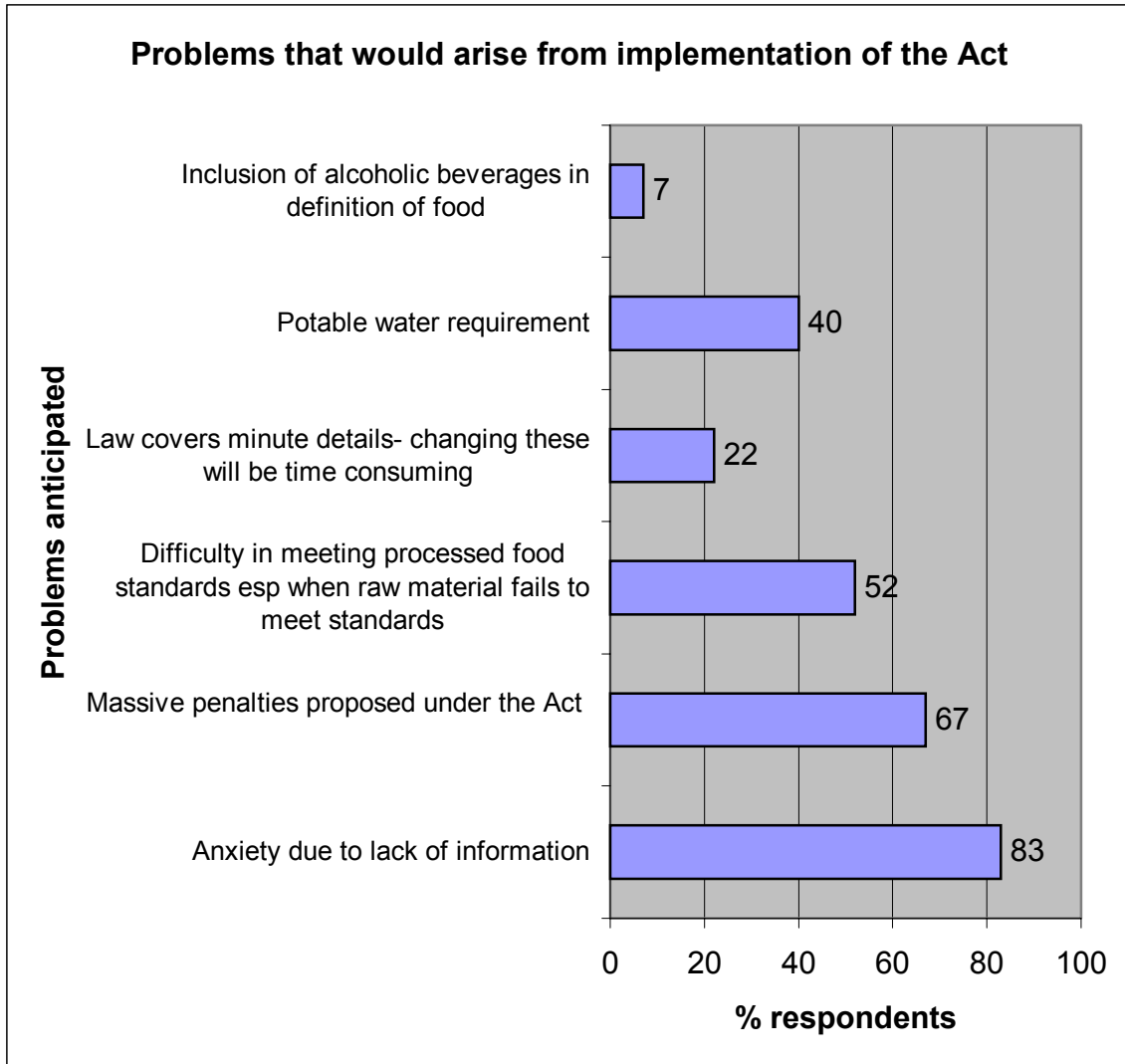
Imprisonment + fine

10. Unsafe – non injurious – imprisonment – upto 6 months and fine upto 1 lakh
11. Unsafe – non grievous injury - one year – 3 lakh and + compensation to the consumer upto 1 lakh
12. Unsafe – grievous injury – 6 years and 5 lakhs + compensation – upto 3 lakhs
13. Unsafe – death – not less than 7 years upto life – fine not less than Rs 10 lakh + compensation not less than 5 lakhs

Strangely misleading advertisement is equated with the most severe offence of selling adulterant or injury causing death with suggested fine of Rs 10 lakhs.

Surely, misleading advertisements cannot be more serious an offence than selling unsafe, unhygienic food.

Chart 2: Problems from implementation of Act (Bar graph)



Industry also felt that since the Act excludes plants prior to harvesting and animal feed from its purview, any harmful input (such as pesticides in vegetables or antibiotics in animal feed) that could affect the safety standards of food products is not effectively covered. About 52% of the respondents felt that it will be difficult for processing industries to take the onus for ensuring that such standards pertaining to pesticide residue etc is within acceptable levels in processed food when raw material is failing the standards.

As per 22% respondents, the Food Safety and Standards Act covers many minute routine details and even small amendment would now require approval from the parliament prior to implementation. This is likely to delay the process of making necessary amendments in the Act, thus hampering growth considering pace at which the food-processing industry is marching ahead.

On the responsibility of usage of water in food during manufacture & preparation (as per the definition of food in clause 3), 40% of the respondents were of the opinion that food-processing industries use municipal water and treatment of municipal water to get rid of any pesticide residues is technically not feasible and unaffordable for the food processing industries due to cost implications. The Industry hopes that this concern will be addressed during the rule framing activity.

Concerns of alcoholic beverage manufacturers:

Whilst in other sectors, introduction of Food Safety and Standards Act will remove multiplicity of laws, in alcoholic beverages sector it will lead to multiplicity of authorities. Currently, Excise inspectors regulate alcoholic beverages sector. With implementation of Food Safety and standards Act that covers alcoholic beverages under the definition of food, another regulatory body is introduced for the sector. This is the reason why 7% of the respondents (100% of those in the business of alcoholic beverages) felt that covering alcoholic beverages under the Act would pose problems.

Since alcoholic beverages is a State subject, all states need to develop a uniform excise policy and rules under the Food Safety and Standards Act needs to be a binding on the states.

For all the above-mentioned concerns, Industry anxiously awaits the rule framing exercise; wherein Industry strongly feels that these concern areas will be addressed.

CHAPTER III (c) Problems in implementation of the Act for the government

Worldwide success or failure of regulations depends primarily in the manner it is implemented, an activity spearheaded by the regulators. Two aspects of regulation that need to be vigilantly looked into are:

- Institutional efficacy- capacity and accountability
- Mode of regulation- regulator's functional scope

In Indian regulations for food processing industries, after the introduction of PFA Act in 1955, minor changes have been made to the regulations on an ongoing basis but Food Safety and Standards Act is a major transformation that has happened after about 50 years and ensures to bring paradigm shift in the food regulatory scenario of the country.

Implementation of the Food Safety and Standards Act is a mammoth task not only for the food processing industries but also for the government to incorporate the proposed changes in the existing structure and functioning of the government machinery.

Table 3: Problems from implementation of Act for Government (Response pattern)

Problems for government	% of respondents
Infrastructure- Testing labs	65
Getting the right people	60
Training of employees to understand international best practices	25
Changing mindset of people	57
Effective implementation of the Act at district level	45
Establishment of new judicial process	22
Inter-ministerial resistance to give up portfolios	70
Non-availability of data	13

One of the most obvious problems that government will confront, according to respondents, is the inter-ministerial resistance to give up their portfolios. Till date, eight separate laws and many ministries are controlling the industry. 70% of the respondents of the study considered that tussle between different ministries to part off with their powers will be one of the most difficult task for the nodal ministry for FSSA, Ministry of Health and Family Welfare. A brief of the eight laws considered for unification under Food Safety and Standards Act and their nodal ministries is as below:

	Ministry of Food and Civil Supplies	Ministry of Food Processing	Ministry of Agriculture	Ministry of Health and Family Welfare
Prevention of Food Adulteration Act 1954				√
Fruit Product Order, 1955		√		
Meat Food Products Order, 1973		√		
Vegetable Oil Products (Control) Order, 1947	√			
Edible Oils Packaging (Regulation) Order, 1998	√			
Solvent extracted Oil, De-oiled meal and edible flour control order, 1967	√			
Milk and Milk Products Order, 1992			√	
Essential Commodities Act, 1955	Inter-ministerial			

65% of the respondents were of the opinion that to implement the Food Safety and Standards Act in its true spirit, one of the basic pre-requisites is setting up infrastructure viz accredited and fully equipped laboratories and providing trained manpower to such labs.

The food-processing sector in India is struggling since decades to develop a national apex laboratory that offers the entire gamut of testing services and is accredited both domestically as well as internationally. FSSA has introduced heavy penalties for non-conformances. In such a situation, laboratories are of paramount importance to safeguard consumers from unsafe foods as well as manufacturers from unjust trials. With the advent of Food Safety and Standards Act, need of accredited labs is again hard pressed. Government may need to look into this requirement as a priority.

Getting the right people for the Food Safety and Standards Authority and allied committees is again a complex task. The Food Safety and Standards Authority and allied committees like Central Advisory Committee, Scientific Committee and Scientific Panels are the backbone of Food Safety and Standards Act for its effective implementation. However, 60% of the respondents to the Study feel that the huge repository of technical experts required for the purpose is a massive responsibility.

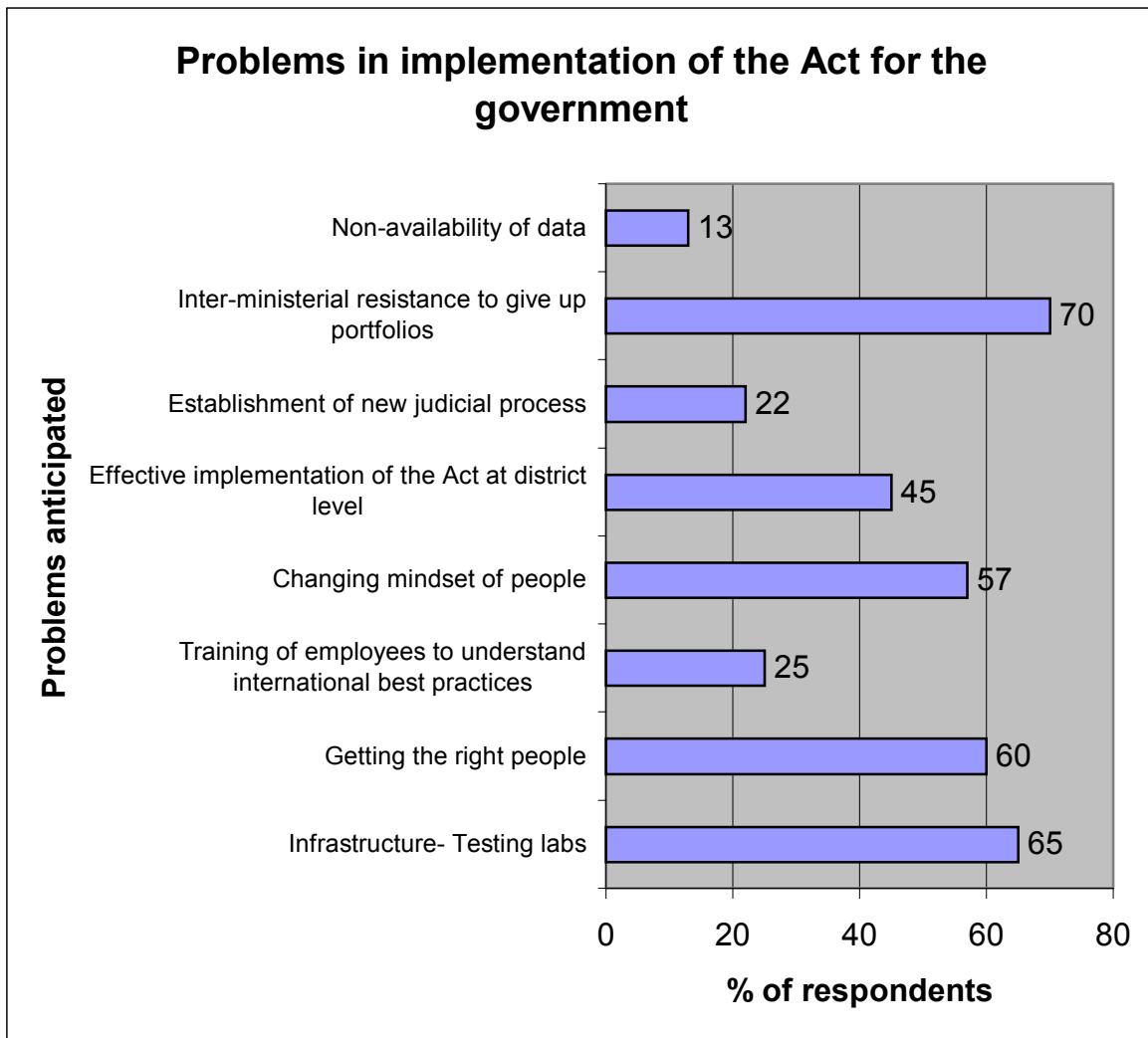
Other observations derived from the responses are:

- 57% of the respondents identified changing the mindset of existing people as a problem for government to enable effective implementation of the Act. Clause 90 under the Food Safety and Standards Act refers to transfer of existing employees of central agencies governing various food related Acts or Orders to the Food Authority. This on one hand may bring in experience but on the other hand will also bring in rigidity in way of working and lack of fresh outlook to issues. Government will need to address this issue by changing the mindset of their existing personnel to facilitate compliance rather than only pursuing the route of prosecution.
- Any regulation, no matter how meticulously it is drafted, needs to be effectively implemented to successfully monitor the regulated identity. PFA Act and Rules are an excellent piece of science but its ineffective

implementation at grass root level has rendered it futile. 45% of the respondents shared the view that under Food Safety and Standards Act, a dedicated chapter on enforcement of the Act (Clauses 29-42) explicitly outlines the procedure. To reflect the Act in reality is a colossal task for the government.

- 25% of the respondents registered that government may also find it difficult to identify, recruit and then continually train people for the accredited laboratories. Creation of this kind of pool of skilled manpower is extremely essential and need of the hour. Training is of utmost importance to keep employees abreast of the changes and developments in the field.

Chart 3: Problems from implementation of Act for Government (Bar graph)



- The Food Safety and Standards Act has also introduced the Food Safety Appellate Tribunal to hear appeals relating to food. 22% of the respondents were of the opinion that this new judicial process will surely give relief to the industry as well as regulator against long pending cases but establishment of this dedicated structure for Food Industry is going to be a big task for the government.
- Standards setting exercise for foods requires availability of authentic and continually updated data not only on consumer related indicators but also on the ingredient related indicators. 13% of the respondents felt that since reliable data for food consumption is not available, Food Safety and Standards Authority would need to undertake a comprehensive monitoring of data pertaining to food consumption pattern, food additive levels, contaminant levels and relevant health surveys. This being a time consuming activity will increase the slack period before the Authority can actually concentrate on standard setting.

CHAPTER III (d) Other factors that will enable successful implementation of the Act

While reforming the food safety administration in the country, some of the important ingredients of success that need to be cautiously understood, have been enlisted.

The statistical compilation of responses is available as under:

Table 3: Factors that will enable successful implementation of the Act (Response pattern)

Other factors which will enable successful implementation of the Act	%
Laying more emphasis on self regulation	55
Effective Rule making- involving all stakeholders	83
Awareness campaigns for industries	78
Regular training programs for enforcement agencies	70
Setting time limits for all actions under FSSA	21

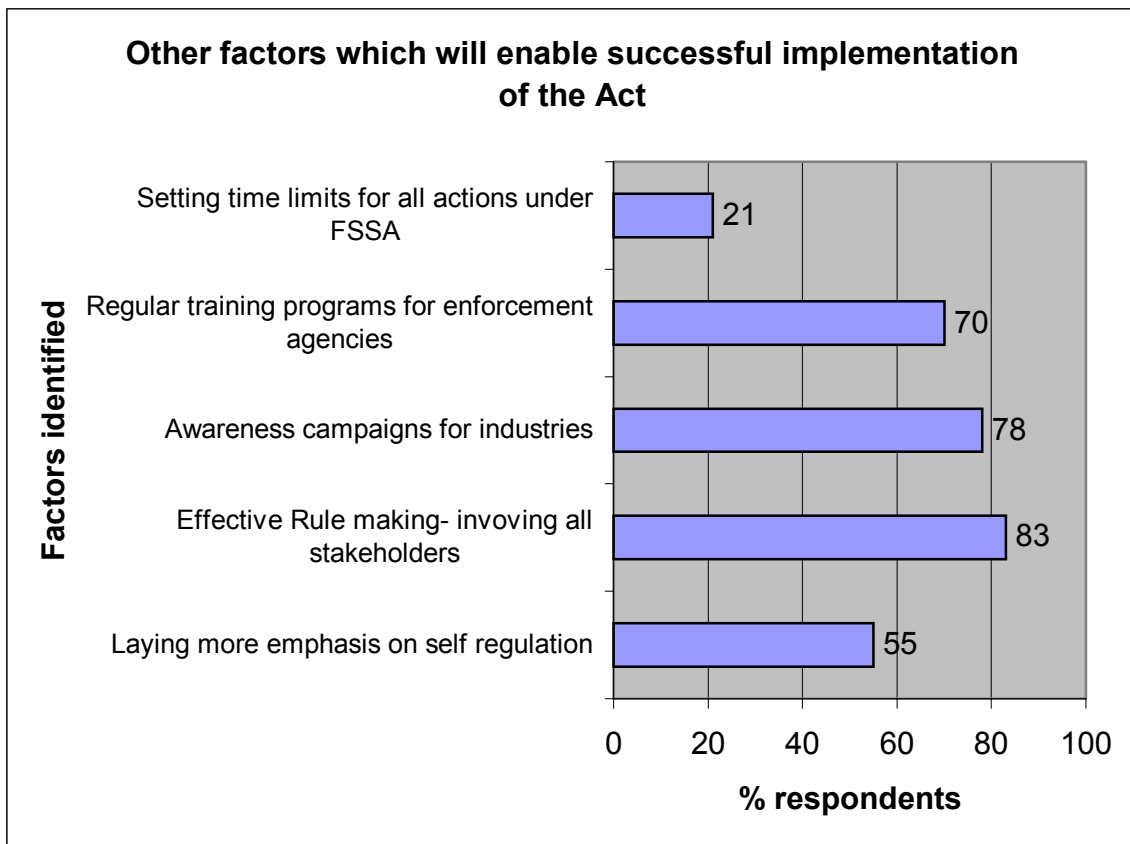
83% of the respondents feel that to fully realize the benefits of the Food Safety and Standards Act, the authority needs to maintain total transparency in rule framing. Involvement of industry and other stakeholders at the earliest stages of rule framing and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of food law is essential for setting of sound scientific standards.

The Authority ensuring full transparency and full communication must involve stakeholders such as consumers, industry, scientific institutions and the public at large who have a role to play in the exercise. This will enable a comprehensive review and examination of the issues involved based on sound science.

As identified earlier, one of the prime problem that will arise from implementation of the Act is the initial phase of disorder that will be introduced. Industry felt that the tiny, small and medium scale industries that do not very vigorously track the

regulatory changes will find it difficult to identify the procedural and compliance changes brought in by the Act. 78% of the respondents were of the opinion that to keep industries abreast with the changes, Ministry of Health and Family Welfare (nodal ministry), could launch certain awareness and capacity building programs. These will be extremely beneficial to enable effective implementation of the Act. The awareness programs may cover the salient features of the law and other details like procedural changes, PFA Vs FSSA and should answer practical problems that the manufacturers are facing in this state of limbo.

Chart 3: Factors that will enable successful implementation of the Act (Bar graph)



It is also perceived that apart from setting of the Authority and committees and recruitment of Food Officers, it is of utmost importance that the personnel are regularly trained with the changing trends and best international practices. 70% of the respondents laid emphasis on regular training programs for enforcement agencies. This will enable regulators to make judicious decisions and will raise

the general confidence of industry in regulators and also confidence of consumers in quality of food.

Encouraging compliance of the regulations and thereby making good quality food available to the consumers can be best achieved by upgrading the human resources in the field. It is suggested, that the ground level inspectorate be provided with updation & training. All Food Officers should undergo training for at least 5 days in a year to keep abreast with the developing technology so that they can help upgrade the industry in their jurisdiction.

Other observations:

55% of the industry felt that laying more emphasis on self-regulation and compliance is vital to improve food safety. Self-regulation by manufacturers is a better alternative than regulation through punitive action by enforcement

Setting time limits for all actions under FSSA: 21% of the respondents felt that delay in process of taking action is leading to a host of malpractices in the field apart from denying the accused their rights. Mandatory time limits for some crucial activities like report of sampling, testing of samples, test report generation, recommending prosecution may be set.

Chapter IV: **Conclusions and recommendations**

Conclusions and recommendations:

- Industry anxiously awaits implementation of Food Safety and Standards Act. Various features of the Act raise the hopes of the industry that inspector-raj will come to an end leading to speedy and fair resolution of cases and disputes.
- All FSSA activities under progress must be shared with the industries in view of the fact that they are expected to implement the Act. Since the tiny, small and medium scale industries do not have the technical expertise to track the regulatory changes, they will find it difficult to identify the procedural and compliance changes brought in by the Act. Ministry of Health and Family Welfare (nodal ministry) needs to launch certain awareness and capacity building programs. These will be extremely beneficial to enable effective implementation of the Act. This information can also be made widely available through websites, letters and associations. Consumer awareness is also an important aspect that needs attention. FICCI would like to partner in any government initiative in this direction.
- Industry bodies should be increasingly given the opportunity to partner with the government in all policy issues and awareness programs.

Other well established observations that have been discussed earlier and are reiterated through the study as well are:

- Meeting certain processed food standards may be difficult considering the fact that primary producers are kept out of the ambit of the Act. This leads to a situation wherein final product needs to meet all norms whether or not the raw materials conform to standards. In certain cases, removal of harmful constituent is technically not feasible.
- Processing water supply to potable water standards is not affordable and technically feasible for all food-processing industries. Respondents again register this concern clearly in the study.

- Whilst in other sectors, introduction of Food Safety and Standards Act will remove multiplicity of laws, in alcoholic beverages sector it will lead to multiplicity of authorities. Manufacturers of alcoholic beverages feel that implementation of the Act would pose problems.
- Concerns on the infrastructure and manpower requirements for the government under the Food Safety and Standards Act are also highlighted.