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Draft Guidelines for Food Business Operators

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Sanitary/Phytosanitary/Food Safety

Exporter Guide

Food and Agricultural Import Regulations and
Standards - Narrative

Approved By:

Jonn Slette

Prepared By:

Radha Mani

Report Highlights:

The Government of India's (GOI) Food Safety and Standards Authority of India (FSSAI) published draft guidelines for food business operators (FBO). The draft guidelines stipulate mandatory licenses for all food manufacturers, importers, distributors, storage units, marketers, retailers, and suppliers.

General Information:

DISCLAIMER: The information contained in this report was retrieved from the Food Safety and Standard Authority of India's (FSSAI) website <http://www.fssai.gov.in/>. The Office of Agricultural Affairs and/or the U.S. Government make no claim of accuracy or authenticity.

On January 16, 2017, FSSAI published draft guidelines for all food manufacturers, importers, distributors, storage units, marketers, retailers, and suppliers. These guidelines include FBO registration and license requirements, liability and other requirements, handling of consumer complaints, responsibility of direct selling FBOs towards recall, and other obligations of direct selling FBOs. Interested readers should review specific details from the text of the draft guidelines pasted below or access the guidelines from FSSAI's website: www.fssai.gov.in.

Any comments on the draft guidelines may be sent to the physical and/or email addresses below:

The Chief Executive Officer
Food Safety and Standards Authority of India
3rd Floor, Food and Drug Administration Bhawan, Kotla Road
New Delhi – 110002
Email: bkdubey@fssai.gov.in

File No. 13(12)2016/DS Companies/Enf/FSSAI
Food Safety and Standards Authority of India
(Regulatory Compliance Division)
FDA Bhawan, Kotla Road, New Delhi – 110002

Dated, the 16 January, 2017

Subject: Draft Guidelines for operations of direct selling food business operators - reg.

Sir/ Madam,

In pursuance of the decision of the Food Authority in its 22nd Meeting dated 20th December, 2016 the draft guidelines for operations of direct selling food business operators are enclosed herewith.

2. The comments/ suggestions on the draft guidelines may be forwarded to this office or emailed to ID: bkdubey@fssai.gov.in, latest by 2nd February, 2017.

Encl: as above


(Prabhat Kr. Mishra)
Assistant Director (RCD)
Tel: 011-23237435

To,

1. Commissioners of Food Safety of State/UTs
2. All concerned Stakeholders

Copy to,

CITO- for uploading on FSSAI website

DRAFT

GUIDELINES FOR OPERATIONS OF DIRECT SELLING FOOD BUSINESS OPERATORS

In order to ensure food safety, it is necessary to address all ways in which food is supplied to consumers, including sale of food by direct selling companies. Although it is clear that any food supplied through direct selling should meet the same requirements as food sold in shops, it is necessary to ensure that direct selling FBO should have mechanism to help the general public to address the issues to consume safe and wholesome food supplied through operation of this model.

FSSAI has drafted the following guidelines for operation of direct selling by food business operators:

1. DEFINITIONS

- (i) ***"Direct Selling"*** means marketing, distribution and sale of goods or providing of services as a part of network of Direct Selling other than under a pyramid scheme, provided that such sale of goods or services occurs otherwise than through a "permanent retail location" to the consumers, generally in their houses or at their workplace or through explanation and demonstration of such goods and services at a particular place
- (ii) ***"Direct Selling Entity"***, means an entity, which sells or offers to sell goods or services through a direct seller. Provided that "Direct Selling Entity" does not include any entity or business notified otherwise by the Government for the said purpose from time to time.
- (iii) **"Direct selling FBO"** means Direct Selling Entity selling food product directly to consumers or through the network of their agents, representatives, consultants, direct distributors, etc.

2. METHODS OF DIRECT SELLING

- (i) **Sale at the Manufacturer's Plant or Head Office:**
Consumer go to the manufacturer to purchase the goods.
- (ii) **House to House Selling:**
Products are sold to the consumer by companies own salespersons or through the network of Agents.
- (iii) **Sale by Mail Order:**
Products are sold to customers through post by sending registered or value payable parcels by the manufacturer or Agents. The goods may be sent through railways and transport agencies.
- (iv) **Sale by own Retail Shops:**
Products are sold through retail shops owned by the manufacturer/Agents.
- (v) **Sale through Mechanical Devices/Electronic platform:**

Products are sold to customers by employing automatic selling machines or vending machines or through websites. The website can be owned by the manufacturer or Agents.

3. KIND OF BUSINESS APPLICABLE TO DIRECT SELLING FBO

- (i) Manufacturer
- (ii) Importer
- (iii) Distributor
- (iv) Storage
- (v) Marketer
- (vi) Retailer
- (vii) Supplier

4. REGISTRATION & LICENSE REQUIREMENTS FOR DIRECT SELLING FBO

- (i) Direct Selling FBO shall take relevant FSSAI licenses for the kind of intended business as mentioned under III of these guidelines.
- (ii) Direct selling FBO shall take licenses from *the Central Licensing Authority for their network of Agents/salesman/etc. if area of operation of business is more than one State and State License if the area of business is limited to one State. The Licenses can be obtained as per the following criteria:*
 - (a) One License each for all Agents/salesman/etc. operating in the jurisdiction of respective Regional Office of the FSSAI;
 - Or
 - (b) State/UT wise license for all Agents/salesman operating in the respective State/UT;
- (iii) Direct selling FBO shall provide the complete details of all their Agents/Salesman and unique ID shall be generated for the respective Agent/Salesman by the Central Licensing Authority.
- (iv) Details of the Agents shall be annexed with the license so generated along with the Unique ID of the respective Agent/Salesman.
- (v) Unique ID so generated shall be mentioned in the identity card of the respective Agent/Salesman in addition to the License number.
- (vi) Details of the License shall be updated by the Direct selling FBO on quarterly basis.
- (vii) License granted to the network of the Agents are not required to printed/displayed on any food product manufactured/imported by the Direct Selling FBO.
- (viii) *It shall maintain proper records either manual or electronic of their business dealings, with complete details of their products, services, terms of contract, price, income plan, details of direct selling Agents, including but not limited to enrolment, termination, active status, earning etc;*
 - a) *Every Direct Selling entity shall maintain a "Register of Direct Sellers" wherein relevant details of each enrolled Direct Seller shall be updated and maintained;*

- b) *The details of Direct Sellers shall include and not be limited to verified proof of address, proof of identity and PAN*

5. LIABILITY AND OTHER REQUIREMENTS

- (i) Direct selling FBO, shall submit an undertaking which states that the said 'Agent' will comply with FSS, Act, and Rules and Regulations made thereunder.
- (ii) Direct Selling FBO shall ensure the details provided of the Agents is true and correct and if any of the information is found to be incorrect/inconsistent they shall immediately remove the said Agent from the License.
- (iii) Direct selling FBO and Agents shall be liable to sampling of food product at any point.
- (iv) The responsibility of the food product complying with the FSS, Act, and Rules and Regulations made thereunder shall lie with the Direct Selling FBO.
- (v) Agents selling the products through retail shop should ensure that the premise is licensed as per the provisions contained in the FSS, Act, and Rules and Regulations made thereunder.

6. HANDLING OF CONSUMER COMPLAINTS

- (i) Direct Selling FBO shall be responsible for maintaining effective grievance Redressal mechanism. The direct selling FBO shall be liable for grievances arising out of sale of products by them or by its Agents.
- (ii) Consumer complaints shall be handled by the Direct Selling FBO and Agents in a time bound manner and it shall be ensured that the grievance of the consumer is redressed within a time period of seven working days. *All complaints received over phone, email, website, post and walk-in should have a complaint number for tracing and tracking the complaint and record time taken for Redressal.*
- (iii) *Every Direct Selling FBO shall constitute a Grievance Redressal Committee whose composition, nature of responsibilities shall include but not limited to:*
 - a) *The Grievance Redressal Committee shall consist of at least three officers of the Direct Selling FBO;*
 - b) *The Grievance Redressal Committee shall address complaints and inform complainants of any action taken;*
 - c) *Complaints may be made by any member of the general public against a Direct Selling FBO, an employee or any other officer of the entity;*
 - d) *All such grievances will be resolved directly by the Direct Selling FBO*

7. RESPONSIBILITY OF DIRECT SELLING FBO TOWARDS RECALL

- (i) Direct Selling FBO and their Agents shall immediately comply with recall orders issued under FSS Act or Rules or Regulations, made

- thereunder, if so themselves and/or when directed by the FSSAI.
- (ii) Direct Selling FBO shall be responsible for forwarding the details of the recall made to the FSSAI.

8. OTHER OBLIGATIONS OF DIRECT SELLING FBOs

- (i) *A direct selling FBO shall keep proper book of accounts in respect of goods sold by him in such form as applicable by law;*
- (ii) *It will be the responsibility of the direct selling FBO to monitor and control the practice/methods adopted by their Agents.*