

THE FOOD,
BEVERAGE AND
COSMETICS
LAW REVIEW

Editors

Kara L McCall and Elizabeth M Chiarello

THE LAWREVIEWS

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COSMETICS
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CONTENTS

PREFACE.....	v
<i>Kara L McCall and Elizabeth M Chiarello</i>	
Chapter 1	ARGENTINA..... 1
<i>María Morena del Río, Fernando Martínez Zuviria, Carola Pignatelli and Vanesa Fernández</i>	
Chapter 2	BRAZIL..... 13
<i>Angela Fan Chi Kung and Nicole Recchi Aun</i>	
Chapter 3	CALIFORNIA..... 26
<i>Amy P Lally, Adriane Penalta, Celia H Spalding and Patrick D Rubalcava IV</i>	
Chapter 4	INDIA..... 43
<i>Anoop Narayanan and Shree Mishra</i>	
Chapter 5	MEXICO 63
<i>Cecilia Stahlhut Espinosa</i>	
Chapter 6	SPAIN..... 82
<i>Francisco Javier García Pérez, Montiano Monteagudo, Marta Rios, Juan Reyes, Patricia Vidal, Manuel Álvarez, Cristina Ayo, Jaime Calvo, Eduard Vila, Violeta Marinas, Yanira Miguel and Cristina Moreno</i>	
Chapter 7	SWITZERLAND 96
<i>Simon Holzer, Michael Reinle and Daniel Donauer</i>	
Chapter 8	UNITED STATES 113
<i>Kara L McCall, Elizabeth M Chiarello, Diane C McEnroe and Sarah M Goldstein</i>	
Appendix 1	ABOUT THE AUTHORS..... 131
Appendix 2	CONTRIBUTORS' CONTACT DETAILS..... 143

PREFACE

Food, beverage and cosmetic companies provide products that are beneficial to consumers, important to the economy and in high demand. Consumers are seeking not only high-quality products at reasonable prices, but also increasingly considering sustainability, methods of manufacture and use (or omission) of certain ingredients. These demands require companies to not only be looking ahead towards the ‘next big thing’ in these consumer industries, but also considering how those attributes that are so important to customers (some of which have not been universally defined) can be communicated in a true and not misleading way. What’s more, companies need to act in compliance with the regulatory schemes of the locations in which they sell, and also make sure that their products – some of which are quite cutting edge – are safe and effective.

Regulatory, legislative and civil litigation frameworks vary dramatically from country to country and from locality to locality within each country. These laws and regulations may be similar, or may be directly contradictory. Some types of products may be subject to extreme scrutiny, while others seem to be of less interest (and where on that spectrum your product falls may differ from day to day). Each jurisdiction is different, and advice from local legal experts is absolutely necessary before operating in (including selling into) any jurisdiction. This guide, however, is intended to provide a general overview of both the regulatory and civil legal frameworks in key countries for consideration by legal practitioners in these industries.

This is the first edition of *The Food, Beverage and Cosmetics Law Review*. It was developed because of the increase in class action litigation related to claims, particularly health benefit claims, made in the labelling and marketing of food, beverage and cosmetic products. We have also seen an increase in concern about food safety and food tracing across the world as a result of food-borne illness outbreaks. This first edition covers nine countries and includes a high-level overview of each jurisdiction’s legal framework for food, beverage and cosmetic products, and a year in review, followed by discussions of legal frameworks related to food, beverage and cosmetic safety (including recalls); supply chain issues (including sustainability, anti-corruption, and labour and immigration); special legal issues related to sales and

marketing (including whether regulatory approvals are required); general product liability and intellectual property laws; the role of trade organisations (including certifications) and unique issues related to financing, mergers and acquisitions in this space.

We hope that all readers find these chapters useful and informative. We wish to thank all of the contributors who have been so generous with their time and expertise. They have made this publication possible.

Kara L McCall and Elizabeth M Chiarello

Sidley Austin LLP

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INDIA

*Anoop Narayanan and Shree Mishra*¹

I OVERVIEW

The primary legislation governing the manufacture, storage, distribution, sale, import and availability of safe and wholesome food for human consumption in India is as follows:

- a* the Food Safety and Standards Act 2006 (the FSSAI Act) and;
- b* the Food Safety and Standards Rules 2011 (the FSSAI Rules).

The manufacturing of non-alcoholic beverages and toddy (an alcoholic beverage) is regulated under the Food Safety and Standards (Food Products Standards and Food Additives) Regulation 2011. The manufacturing of distilled and undistilled alcoholic beverages is regulated under the Food Safety and Standards (Alcoholic Beverages) Regulations 2018 (the AB Regulation).

Besides the foregoing, there are several regulations under the FSSAI Act that govern and regulate the manufacturing, sale, import, safety, packaging, labelling, licensing requirements, fortification, etc., of food and beverages in India. Some of the relevant regulations under the FSSAI Act are as follows:

- a* the Food Safety and Standards (Prohibition and Restriction of Sales) Regulation 2011 (the PRS Regulation);
- b* the Food Safety and Standards (Packaging) Regulation 2011 (the Packaging Regulation);
- c* the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulation 2011;
- d* the Food Safety and Standards (Food Products Standards and Food Additives) Regulation 2011 (the FPSFA Regulation);
- e* the Food Safety and Standards (Contaminants, Toxins and Residues) Regulation 2011 (the CTR Regulation);
- f* the Food Safety and Standards (Laboratory and Sampling Analysis) Regulation 2011;
- g* the Food Safety and Standards (Health Supplements, Nutraceuticals, Food for Special Dietary Use, Food for Special Medical Purpose, Functional Food and Novel Food) Regulations 2016;
- h* the Food Safety and Standards (Food Recall Procedure) Regulation 2017 (the Food Recall Regulation);
- i* the Food Safety and Standards (Import) Regulation 2017;
- j* the Food Safety and Standards (Approval for Non-Specific Food and Food Ingredients) Regulation 2017;

¹ Anoop Narayanan is the founder and Shree Mishra is an attorney at ANA Law Group.

- k* the Food Safety and Standards (Organic Food) Regulation 2017 (the Organic Food Regulation);
- l* the Food Safety and Standards (Fortification of Food) Regulation 2018;
- m* the Food Safety and Standards (Food Safety Auditing) Regulation 2018;
- n* the Food Safety and Standards (Advertising and Claims) Regulation 2018 (the AC Regulation);
- o* the Food Safety and Standards (Packaging) Regulation 2018;
- p* the Food Safety and Standards (Recovery and Distribution of Surplus Food) Regulation 2019;
- q* the Food Safety and Standards (Safe food and balanced diets for children in school) Regulations 2020;
- r* the Food Safety and Standards (Foods for Infant Nutrition) Regulations 2020; and
- s* the Food Safety and Standards (Labelling and Display) Regulations 2020 (the Labelling and Display Regulations).

The Food Safety and Standards Authority of India (FSSAI), under the Government of India's Ministry of Health and Family Welfare (MoHFW), is the nodal regulatory authority on all food and beverages matters in India. The FSSAI mandates food business operators (FBOs) to obtain registrations and licences from the FSSAI, to manufacture, store, sell or distribute any type of food or beverage in India.

The manufacture, import, licensing, distribution and sale of cosmetics in India are governed under the Drugs and Cosmetics Act 1940 (the DC Act) and the Cosmetics Rules 2020 (the Cosmetics Rules). The DC Act recognises 'cosmetics' as any article intended to be rubbed, poured, sprinkled, sprayed, introduced or applied on the human body for cleansing, beautifying, promoting attractiveness or altering the appearance, and includes any article intended for use as a component of cosmetic. The recently notified and enforced Cosmetics Rules have introduced the concept of 'new cosmetics', which include cosmetics containing a novel ingredient not used anywhere in the world, or not recognised for use in cosmetics in any national or international literature.

The Central Drugs Standard Control Organization (CDSCO) is the nodal regulatory authority in respect of manufacturing, sale, import, licensing and distribution of cosmetics in India.

Market overview

The fast-moving consumer goods (FMCG) industry is one of the largest sectors in India, and the food and beverage sector accounts for 19 per cent of the FMCG industry. Media reports estimated that in 2020 the Indian food and beverage market was valued at US\$33.22 billion and that the market value is expected to grow up to US\$156.25 billion by 2026. Since the covid-19 pandemic in 2020, there has been increased demand and significant growth in the Indian online food and beverage packaging and delivery market, which, according to reports was valued at US\$4.35 billion in 2020. Further, with the FSSAI's increased food safety mandates during the pandemic, the FBOs have adopted new measures to ensure safe packaging, good hygiene standards and safe and contactless delivery to consumers.

Additionally, there is significant awareness of healthy food and food safety among consumers in India. As a result, there is an increase in consumer demand for vegan foods, plant-based alternatives, organic foods, dairy alternatives and protein options, low-calorie

beverages, etc. According to one statistical report, hot drinks were the most highly consumed beverages (70 litres per capita) in India in 2021, whereas, alcohol has been the least consumed beverage, accounting for approximately four litres of consumption per capita in 2021.

The cosmetics market in India was reportedly valued at US\$13.1 billion in 2020, and is estimated to grow by up to US\$2.9 billion by 2026. The colour cosmetics, eye, facial and lip makeup category was the most prosperous category of cosmetics in 2020 in India. There is increased awareness of cruelty-free, clean cosmetics and health risk from cosmetics among consumers in India and, therefore, there has been significant demand for local herbal and ayurvedic cosmetics. Additionally, owing to the covid-19 pandemic, there has been rapid growth in many Indian cosmetics e-commerce platforms since 2020.

II YEAR IN REVIEW

i Developments in the food and beverage industry

Some of the notable developments in the food and beverage industry's legal and regulatory framework are as follows:

- a In April 2020, the MoHFW issued the Food Hygiene and Safety Guidelines for Food Businesses during Coronavirus Disease (COVID-19) Pandemic, which mandated FBOs to implement specific measures at food business establishments and operations, and for the customers – such as mandatory temperature screening at the entry point of the establishment; mandatory hand sanitisation and sanitary dispensers; social distancing; masks and protective gear for all food handlers; and regular cleaning and sanitisation of the establishment. The MoHFW also declared food retail and delivery services to be 'essential services', and food production facilities, distributors, retailers and wholesalers to be 'critical infrastructure' of India, in order to remain operational during the pandemic and nationwide lockdown.
- b In June 2020, the MoHFW issued standard operation protocols (SOPs) on preventive measures in restaurants to contain the spread of covid-19. The SOPs mandated restaurants to remain closed in containment zones (areas with the highest spread of covid-19) and prohibited vulnerable groups of people, including pregnant women, children aged below 10 years, people aged above 65 years and people with comorbidities, from visiting restaurants. Further, the SOPs mandated restaurants to follow general public health measures such as regular sanitisation, thermal screening, use of masks and gloves and social distancing with markings.
- c In July 2020, the FSSAI, under the MoHFW, amended the PRS Regulation and prescribed that FBOs selling food products containing artificial sweetener through a vending machine, must display the details regarding the artificial sweetener on the vending machine, and on cups and containers labels as per the Packaging and Labelling Regulations.
- d In November 2020, the FSSAI divided the erstwhile Food Safety and Standards (Packaging and Labelling) Regulations 2011 into the Packaging Regulation, and Labelling and Display Regulations.

The newly introduced Labelling and Display Regulations prescribe several new labelling requirements, as discussed below:

- a* all food products sold over e-commerce platforms and other direct selling means must contain all mandatory declarations on the labels, except batch or lot number, best before date, use by date, expiry date and date of manufacturing or packing;
- b* every food package must contain the following declarations:
 - the name of the food, indicating its true nature, on the front of the pack;
 - the nutritional information and per serve percentage contribution to the recommended dietary allowance;
 - manufacture or packaging date and expiry date (however, 'best before' details are optional on the labels); and
 - the brand owner's name, complete address, and whether or not the owner is the manufacturer, marketer, packer or bottler, as required on the label;
- c* food products containing allergens must contain a declaration regarding the allergens on the label. The allergens recognised under the Labelling Display Regulations include gluten, crustacean, milk, eggs, fish, peanuts, tree nuts, soy and sulphite. The allergen-labelling requirement is not mandatory for cross-contaminated ingredients and oils derived from allergens and raw agricultural commodities;
- d* non-edible food packages sold in retail must contain the new 'cross' symbol; non-vegetarian food packaging must contain the new 'triangle' symbol; and vegetarian food packaging must contain the old 'circle' symbol on the label;
- e* packed meals served in airlines, railways and mobile catering units must contain the date and time of manufacture on the labels;
- f* food service establishments having a central licence or more than 10 locations and e-commerce platforms must declare the following information on menu cards, boards and websites:
 - calorific value (in kcal per serving and serving size) against each food item and reference information;
 - allergen information;
 - vegetarian and non-vegetarian symbols; and
 - nutritional information;
- g* non-retail food packages must contain the name of the food, net quantity, FSSAI logo and licence number, date markings, lot number, manufacturer's and packer's names and addresses, list of ingredients, vegetarian or non-vegetarian declaration and nutritional information; and
- h* the food additives package for retail sale must contain the additive's name, the phrase 'FOR USE IN FOOD', and the additive mixtures must contain the expression 'flavour' or 'flavouring' on the label.

The FBOs are mandated to comply with the above requirements by 1 January 2022.

The AB Regulation was amended in December 2020, and recognised alcohol-free beer (above 0.0), craft beer, Indian brandy, sherry under fortified wines and wine-based beverages as beverages, among others, under the regulation. The amendment also mandated to mention the fruit's name in the packaging labels of wines produced from fruits other than grapes, such as plum wine, apricot wine and pear wine.

The PRS Regulation was amended in March 2021, and mandated the sale of multi-source edible vegetable oil in sealed packages weighing within 15 kilograms in tamper-proof containers, and bearing the name 'multi-source edible vegetable oil', and the AGMARK

certification mark on the labels. Further, the FSSAI has limited the use of trans-fatty acids from 3 per cent to 2 per cent by mass, in respect of foods containing edible oil and fats, and the FBOs are mandated to comply with this requirement by 1 January 2022.

ii Developments in the cosmetics industry

The most notable development was the introduction of the Cosmetics Rules in December 2020, as they divided the provisions related to cosmetics from the erstwhile Drugs and Cosmetics Rules 1945 (the DC Rules). Although most of the provisions are similar to those of the DC Rules, the Cosmetics Rules prescribe new forms and reduced official fees in respect of applications for fresh registrations, registration certificates, validity of registration, renewals (every five years), importation, grant or retention of registration certificate per cosmetic category, etc.

The Cosmetics Rules also introduced a new category of cosmetics called ‘new cosmetic’, which includes cosmetics containing novel ingredients that have not been used and recognised for use anywhere in the world. For the importing and manufacturing of new cosmetics in India, the Cosmetics Rules mandate that manufacturers obtain prior approval of the central licensing authority (CLA), and submit a self-declaration confirming compliance with good manufacturing practices and other requirements before the Commissioner of Customs. In the case of more than one cosmetic manufacturing location, the Cosmetics Rules mandate that manufacturers obtain separate licences for each premises.

The Cosmetics Rules prohibit the importation and manufacturing of cosmetics that do not fulfil the prescribed quality and safety standards. The Cosmetics Rules also mandate immediate recall of cosmetic products, if the manufacturer considers that the product is likely to pose a risk to the user’s health, and may be unsafe. In that case, the manufacturer must inform the reasons for recall to the state licensing authority or the CLA, as required.

III FOOD AND COSMETIC SAFETY

i Regulatory framework

Food and beverages

Regulatory framework and duties of the regulator

The FSSAI is the regulatory authority on all matters related to manufacture, storage, distribution, sale, import and availability of safe and wholesome food and beverages for human consumption in India. It consists of one chairperson and 22 members, one-third of which are women, including:

- a* seven *ex officio* joint secretaries from the ministries of agriculture, commerce, consumer affairs, food processing, health, legislative affairs and small-scale industries;
- b* two representatives from the food industry, including small-scale industries;
- c* two representatives from consumer organisations;
- d* three eminent food technologists or scientists;
- e* five members representing the prescribed states and the union territories;
- f* two persons representing farmers’ organisations; and
- g* one person representing retailers’ organisations.

The key role of the FSSAI is to regulate and monitor the manufacture, processing, distribution, sale and import of food while ensuring safe and wholesome foods for consumers. The following are some of the key duties and functions of the FSSAI:

- a* prescribing standards and guidelines in relation to food and specifying appropriate systems for enforcement;
- b* specifying limits for additives, contaminants, pesticides and veterinary drug residues, heavy metals, processing aids, mycotoxins, antibiotics and pharmacological active substances and irradiated foods;
- c* laying down food labelling standards including claims on health, nutrition, special dietary uses and category systems for foods;
- d* laying down methods of sampling, analysis and exchange of information among enforcement agencies prescribing procedures and guidelines for accreditation of certification bodies and laboratories;
- e* taking up, summarising and analysing relevant scientific and technical data on incidence and prevalence of biological or emerging risk, residues of various contaminants and introducing rapid alert systems, among other things;
- f* prescribing procedures and the enforcement of quality control in relation to any imported food article in India;
- g* creating an information network access in the country to disseminate rapid, reliable and objective information about food safety and issues of concern;
- h* providing training programmes for persons who are involved or intend to get involved in the food businesses; and
- i* promoting general awareness about food safety and food standards and promoting coordination of work on food standards by international governmental and non-governmental organisations.

Audit and inspections

The FSSAI appoints third-party auditing organisations for the purposes of food safety auditing and ensuring compliance with food safety management systems under the FSSAI Act and various regulations. The auditing procedure is governed under the Food Safety and Standards (Food Safety Auditing) Regulations 2018.

The Commissioner of Food Safety, CDSCO, appoints various food safety officers (FSOs) to enter and inspect places where food articles are manufactured, stored for sale, stored for the manufacture of any other food articles, exposed or exhibited for sale, and where any adulterant is manufactured or stored. The FSOs can also search and inspect any food business; collect samples of food articles or adulterants and send them to food analysts appointed under the FSSAI Act; and keep in safe custody as well as seize any food articles found to be in contravention of the FSSAI Act and the regulations therein.

Offences

Failure to comply with the FSSAI Act or the FSOs' directions is punishable with a fine of 200,000 rupees. Tampering with food articles seized by the FSOs is punishable by six months' imprisonment and a fine of 200,000 rupees. Obstructing or impersonating an FSO during the exercise of his or her functions is punishable by three months' imprisonment and a fine of 100,000 rupees. Providing false or misleading information under any direction or requirement under the FSSAI Act is punishable by three months' imprisonment and a fine of 200,000 rupees.

Some other relevant offences under the FSSAI Act are as follows:

- a* sale of substandard food articles in contravention of the FSSAI Act and its regulations is punishable by a fine of 500,000 rupees;
- b* FBOs carrying on business without a valid licence are punishable by a fine of 500,000 rupees;
- c* manufacturing, selling, distributing and importing food articles containing extraneous matters is punishable by a fine of 100,000 rupees;
- d* misbranding of food articles by the manufacturer, seller or distributor is punishable by a fine of 300,000 rupees; and
- e* misleading advertising with regard to the description, nature, substance and quality of a food article is punishable by a fine of 1 million rupees.

Cosmetics

The CDSCO is the regulatory authority on all matters related to cosmetics in India. The manufacture of cosmetics is regulated under a system of inspection and licensing by state licensing authorities appointed by state governments. The Drugs Controller General of India functions as the CLA, which regulates the import of cosmetics into India and grants import registration certificates.

Some of the key responsibilities of the CDSCO are as follows:

- a* to safeguard and enhance public health by assuring the safety, efficacy and quality of cosmetics;
- b* to scrutinise applications relating to the registration of cosmetic products for import into India;
- c* to scrutinise applications for no objection certificates, and clarifications relating to the import of cosmetic products;
- d* to amend the Cosmetics Rules with respect to registration and import of cosmetic products;
- e* to respond to queries raised under the Right to Information Act 2005, and in court proceedings, references and parliamentary questions;
- f* to respond to correspondence from the government and Bureau of Indian Standards (BIS), as and when required;
- g* to respond to queries raised through the Prime Minister Office's Public Grievance Redress and Monitoring System, public inquiries and hearings related to the cosmetic import registration process, and provide guidance thereto; and
- h* to respond to complaints and grievances from the public, non-governmental organisations and consumer forums.

Inspections

The state governments appoint inspectors under the DC Act and the Cosmetics Rules to inspect the manufacturing of cosmetics at all licensed premises at least once every three years. The inspectors are prescribed under the Cosmetics Rules to carry out the following functions:

- a* to send detailed reports to controlling officers after each inspection;
- b* to institute legal proceedings upon violation of the DC Act or Cosmetics Rules;
- c* to inspect manufacturing premises and examine the process, procedure and documents in respect of any manufacturing site;
- d* to collect cosmetics samples for test and evaluation;

- e to enquire and inspect to detect the manufacture or sale of cosmetics contravening the DC Act and Cosmetics Rules;
- f to investigate any written complaints relating to cosmetics; and
- g to inspect laboratories and testing facilities.

Offences

Failure to disclose information related to the manufacture, sale and distribution of cosmetics to the inspector is punishable by imprisonment of one year, a fine of 20,000 rupees, or both. The manufacturing of cosmetics in contravention of the central government's mandate prohibiting a cosmetic's use involving risk to humans and animals is punishable with imprisonment of three years and a fine of 5,000 rupees.

Some other relevant offences under the DC Act are as follows:

- a manufacture, sale and distribution of adulterated or spurious cosmetics is punishable by three years' imprisonment and a fine of 50,000 rupees, and in contravention of the DC Act is punishable by one year's imprisonment, a fine of 20,000 rupees, or both;
- b importation of spurious cosmetics in India is punishable by three years' imprisonment and a fine of 5,000 rupees;
- c importation of prohibited cosmetics is punishable by six months' imprisonment, a fine of 5,000 rupees, or both; and
- d importation of cosmetics in contravention of the DC Act is punishable by three years' imprisonment, a fine of 5,000 rupees, or both.

ii Food additives and contaminants

The FSSAI Act and CTR Regulation prohibit contamination of food, including naturally occurring toxic substances, toxins, hormones or heavy metals in excess of the prescribed quantities under the CTR Regulation. Further, the FPSFA Regulation prescribes the nature and quantity of additives, and specific additives permissible in numerous food articles. For example, the FPSFA Regulation prohibits the use of additives in milk; however, specific food additives are allowed in milk products and sterilised milk under the FPSFA Regulation.

iii Recalls

Food and beverages

A food article can be voluntarily or involuntarily recalled under the FSSAI Act and Food Recall Regulation in India. The FSSAI mandates the FBO to immediately initiate the voluntary recall procedure if the FBO considers or believes that any processed, manufactured or distributed food article is in contravention of the FSSAI Act, the rules or regulations thereunder, or that the food article placed on the market is unsafe for consumption. The FBO must inform the FSSAI or the State Commissioner of Food Safety about the recall, and provide the reasons for it and the risk-preventive measures taken by the FBO.

The recall procedure may also be initiated upon direction from the FSSAI or the State Commissioner of Food Safety at state level.

According to the Food Recall Regulation, all FBOs and food retailers engaged in the manufacture, importation or wholesale supply of food must have an up-to-date recall plan, except for food service providers, including restaurants, caterers and takeaway outlets, unless they are running multi-outlet food business chains with an integrated manufacturing and distribution network.

- The Food Recall Regulation mandates the following duties on the FBOs in the recall:
- a the FBO must follow the food recall procedure including recall, post-recall report and follow-up action to ensure the effectiveness of the recall and prevent recurrence;
 - b the FBO must maintain food distribution records, including names and addresses of suppliers and customers, nature of food, date of purchase, date of delivery, lot number, batch code, pack size, brand name, date of manufacture, date of expiry and best before date;
 - c the FBO must maintain records of the foregoing information for a period of one year from the best before or expiry date;
 - d the FBO must maintain records for a period of two years from the date or month of supply from the manufacturer (in the case of alcoholic beverages, without the best before date declaration);
 - e the FBO must submit the information requested by the authorities within 24 hours and by the quickest means of communication available;
 - f the FBO must stop production and distribution of food under recall, without waiting for instructions from the authorities, to ensure that consumer safety is not compromised; and
 - g to facilitate speedy identification and recall, the FBO must contact all concerned persons, from raw material vendors to the consumers, by written communication, notify the suppliers, retailers or trade associations, and immediately identify all required product details.

The FBO must submit a recall status report, post-recall report and follow-up action report to the appropriate authorities during and after the recall. The recovered or recalled food must be stored isolated from other food articles, and contain the words 'RECALLED PRODUCT NOT FIT FOR HUMAN CONSUMPTION' on the label plate.

In the case of failure to comply with the recall procedure, or the appropriate authorities' directions, the FBO would be punished with a fine of 200,000 rupees.

Cosmetics

The Cosmetics Rules prescribe that if a manufacturer or its authorised agent considers or believes that an imported, manufactured, sold or distributed cosmetic is likely to pose risk to the user's health and may be unsafe, the manufacturer or authorised agent must immediately initiate procedures to withdraw the cosmetics from the market. The manufacturer or its agent must indicate the reasons for the withdrawal and inform the details of the recall to the appropriate licensing authority.

Further, if there are reasons to believe that a cosmetic already placed on the market may be unsafe for users, the manufacturer or authorised agent must inform and cooperate with the appropriate licensing authorities accordingly. The manufacturer or authorised agent must also inform the preventive measures taken, and must not prevent or discourage any person from cooperating with the licensing authorities to prevent, reduce or eliminate any risk arising from the cosmetics.

When applying for an import registration number, the cosmetics importer is required to undertake that it may recall the cosmetics product, in the case of quality failures of the imported cosmetics, or based on the licensing authorities' direction due to non-compliance with the Cosmetics Rules.

Recall under other laws

Apart from the above, the Central Consumer Protection Authority (CCPA), after discovering that there is sufficient evidence of violation of consumer rights or unfair trade practice, and allowing an opportunity to be heard, may pass orders to recall dangerous, hazardous or unsafe goods under the Consumer Protection Act 2019.

Further, the Bureau of Indian Standards may direct the licence holder to recall goods or articles bearing the standard mark and not conforming to the requirements of the relevant standard under the Bureau of Indian Standards Act 2016.

Prospects of litigation

The recall of food articles and cosmetics may eliminate or reduce the prospect of harm or injury to the consumers, and, therefore, the recall may reduce litigation against FBOs and cosmetics manufacturers. However, there is a lack of jurisprudence on avoiding consumer litigation based on product recall itself in India. Further, any potential liability on the FBO and manufacturer in the litigation will depend on various factors, such as the FBO or manufacturer's conduct and intention; the preventive measures taken to avoid risk of harm or injury to consumers; the nature and extent of compliance of recall procedures, etc.

IV SUPPLY CHAINS

i Labour and immigration

India has adequate laws to address labour, immigration, health and safety, forced labour and human rights compliance. However, enforcement of these laws can be challenging based on geographic locations. Foreign workers are permitted in India, subject to local registrations.

ii Processing and certifications

Subject to the FSSAI Rules and regulations, the FSSAI Act prohibits the manufacturing, distribution, sale or importation of any novel food, genetically modified food articles, irradiated food, organic foods, foods for special dietary uses, functional foods, nutraceuticals, health supplements, proprietary foods and all other food articles notified by the government. The Organic Food Regulation mandates compliance with the quality standards and systems, labelling and certification requirements, and the FPSFA Regulation, to manufacture, pack, sell, offer for sale, market, distribute or import organic food in India.

Organic food offered or promoted for sale (except for organic food marketed through direct sales by small original producers or producer organisations) must comply with any of the following standards and systems:

- a* the National Programme for Organic Production (NPOP);
- b* the Participatory Guarantee System for India (PGS-India); or
- c* any other system or standards notified by the FSSAI (such as ISO 22000:2005).

Further, organic food labels must convey full and accurate information regarding the product's organic status, and must contain the certification or quality assurance mark of one of the above systems, along with the FSSAI logo.

Quality assurance of food is one of the core regulatory functions of the FSSAI. To ensure quality control of the food manufactured, distributed and sold in the markets, the FSSAI has established more than 200 testing laboratories in India. These laboratories are

accredited by the National Accreditation Board for Testing and Calibration Laboratories, a government accreditation board under the Quality Council of India. The FSSAI has also ensured mobile food testing laboratories for food testing in areas, which are far away from the FSSAI-notified laboratories. Additionally, to ensure faster, better and cheaper real-time food testing at field level, the FSSAI has approved 53 rapid food testing kits and devices.

In the cosmetics industry, the Cosmetics Rules mandate that persons intending to manufacture cosmetics must submit a self-declaration form confirming compliance with the prescribed Good Manufacturing Practices (GMP), among other requirements. The GMP requires manufacturers to ensure quality control of raw materials and finished cosmetic products, including sampling, inspecting and testing of raw or packaging materials in process, and intermediate, bulk and finished products. It also mandates manufacturers to establish a quality control system in the manufacturing premises, to ensure that products contain the correct materials of specified quality and quantity, and are manufactured in proper conditions according to operating procedures. The quality control system may also include the adoption of parametric release of raw materials and finished products.

iii Sustainability

Food and beverages

The Government of India and the FSSAI have launched an initiative called Eat Right India, which aims to transform India's food systems to ensure safe, healthy and sustainable food produced in environmentally sustainable systems. Under the initiative, the FSSAI works closely with diverse stakeholders from government departments, consumer organisations, development partners, industry associations, academia, professional associations, etc., to foster a sustainable food system in India.

The initiative has five key action plans, as follows:

- a* to formulate new regulations to promote healthy eating;
- b* to train and build the capacity of various stakeholders in the food ecosystems, such as food handlers, administrators and frontline health workers, and help food businesses succeed, ensure compliance of food safety measures and serve safe food to the public at large;
- c* to certify various food businesses based on the benchmarks for food safety and hygiene;
- d* to encourage food businesses to reformulate packaged foods into healthier options, use safe and sustainable packaging materials, reduce usage of fat, sugar and salt in food and donate food under FSSAI's Save Food Share Food initiative; and
- e* to drive large-scale social and behavioural change among the people towards safe, healthy and sustainable eating habits through various initiatives and awareness campaigns.

Cosmetics

As part of compliance with the good manufacturing practices under the Cosmetics Rules, manufacturers must ensure that sewage and effluents' disposal from the manufacturing premises is in conformity with the requirements of the state Environment Pollution Control Board.

Further, the Government of India has instituted the Eco Mark scheme for certification and labelling of environmentally friendly products. The Eco Mark certification and labelling scheme is governed and administered by BIS, and prescribes specific BIS standards for a wide range of cosmetic products to qualify for the Eco Mark certification. To apply for the Eco Mark certification, the manufacturers must obtain the state Pollution Control Board's

prior consent clearance under various environmental laws, and submit the consent clearance along with the Eco Mark certification application to BIS. The Eco Mark scheme mandates that product packaging must be recyclable, reusable or biodegradable, and that the cosmetic product must be dermatologically safe when tested under the IS 4011:1982 standard method.

iv Anti-corruption rules

The general laws on anti-corruption, anti-bribery and anti-money laundering are applicable to the food, beverage and cosmetics industry in India. The primary legislation governing corruption by public servants (government employees, army officers, judges, police, local government authorities, etc.) are the Indian Penal Code 1860 (IPC) and the Prevention of Corruption Act 1988 (PCA). The Prevention of Money Laundering Act 2002 (PMLA) deals with money laundering in India. Unlawful buying of or bidding for property and criminal breach of trust by public servants are punishable offences under the IPC. Public servants can also be punished under the PCA for accepting gratification (except for official remuneration) to influence the public or public servants, and for accepting valuable things without paying for them, from others in a business transaction, in their official capacities.

Besides the above, money laundering by any person is punishable by seven years' imprisonment and a fine of 500,000 rupees under the PMLA. Additionally, since 2005, India has been a signatory to the United Nations Convention against Corruption, which is a legally binding international treaty against corruption, and deals with bribery, trading in influence, abuse of functions and various acts of corruption in the private sector.

v Due diligence and monitoring

India is a vast country and most of the food- and beverages-related raw materials are either produced or processed in remote areas of the country. The food production sector is still largely unorganised. Infrastructure issues are major challenges in ensuring real-time access to the suppliers for due diligence or monitoring. The unstructured nature and lack of adequate transparency in the aggregators' operations poses a major concern as well. Absence of organised supply chains in the remote areas of India impacts the ability to have a centralised evaluation of the parties involved. Unavailability of recorded data, lack of technology solutions at the producers' end, etc., also contribute to the inefficiencies.

However, governments have been adopting measures to connect the farmers and producers to the end buyers and corporates. Similarly, large retail businesses have established direct relationships with the producers and are managing their due diligence and supply chains.

V SALES AND MARKETING

i Regulatory framework

Food and beverages

The sale and marketing of food and beverages is regulated by the FSSAI and governed under the AC Regulation in India.

FBOs and marketers must follow the general principles prescribed under the AC Regulation for advertising, publishing or disseminating marketing communication to promote and sell food articles, including for labelling claims.

The following are some of the mandatory general principles in respect of marketing and labelling claims on food articles under the AC Regulation:

- a* claims must be truthful, unambiguous, meaningful, comprehensible and not misleading;
- b* claims must not encourage or condone excess consumption of a particular food;
- c* claims must not state, suggest or imply that a balanced and varied diet cannot provide appropriate quantities of nutrients as required;
- d* the label must state that the claim benefit is related to or dependent on the method of food preparation, wherever applicable;
- e* claims must specify the per-day number of food servings for the claimed benefit;
- f* claims specifying nutritional or health attributes must be scientifically substantiated with validated methods of characterising or quantifying the ingredient or substance therein;
- g* if the trademarks and brand names contain the adjectives 'natural', 'fresh', 'pure', 'original', 'traditional', 'authentic', 'genuine', 'real', etc., on the food label, presentation and advertising, which is likely to mislead the consumer as to the nature of the food, a disclaimer of 3mm in size must be specified at the appropriate place on the label, stating that '*This is only a brand name or trade mark and does not represent its true nature';
- h* all disclaimers must be conspicuous and legible;
- i* no claim or promotion of sale, supply, use and consumption of articles of foods must be made using the FSSAI logo and licence number, except as prescribed under the Packaging Regulation and the Labelling and Display Regulations;
- j* advertisements must not undermine the importance of healthy lifestyles;
- k* food or beverages advertisements must not be promoted or portrayed as a meal replacement unless specifically permitted under any of the FSSAI regulations;
- l* advertisement claims must be consistent with the information provided on the food or beverage label;
- m* misleading advertisements must not be made for food products; and
- n* every declaration on advertisements must be conspicuous and legible.

The AC Regulation mandates FBOs and marketers to obtain the FSSAI's prior approval for reduction of disease risk claims, except those prescribed under the AC Regulation and the FSSAI Act. Approval can be obtained by filing an application with payment of the official fees at the FSSAI. The application must contain the following information:

- a* the claims to be made;
- b* the name of the ingredient, nutrient or substance on the basis of which the claim is to be made;
- c* a validated method of ingredient or substance analysis for the proposed claim;
- d* scientific information or materials substantiating the claim;
- e* details on the claim's clarity and meaning, and guidance to consumers for comprehending the information provided;
- f* well-designed human intervention studies in the case of health claims conducted by or under the guidance of established research institutions; and
- g* any other useful information.

Thereafter, the FSSAI scrutinises the application and informs the applicant regarding the acceptance or any deficiencies in the application. If rejected, the FBO or marketer is prohibited from using that claim in the advertising and marketing communication.

In the case of non-compliance with the AC Regulation, including publication of an advertisement that falsely describes any food; is likely to mislead on the nature, substance or quality of any food; or gives a false guarantee, the FBO or marketer would be punished with fine of 1 million rupees.

Cosmetics

The Cosmetics Rules prohibit the sale or distribution of cosmetics unless they are of Indian origin (or imported by registering with the CDSCO), manufactured by a licensed manufacturer, and comply with the statutory labelling and packing requirements, including BIS. Further, the product label must contain the name of the cosmetic and the manufacturer and its address; use before or expiry date details; batch number; manufacturing licence number; net contents declaration; safe use, warning or details of hazardous ingredients; import registration certificate number; and ingredients list, and the label must comply with the BIS.

Cosmetics that purport, claim to purport or convey any false or misleading idea to the intended user are prohibited under the Cosmetics Rules. Further, in the case of misbranding of cosmetics, namely, cosmetics containing non-prescribed colour or labelling, or false or misleading particulars, the manufacturing implements or machinery, the receptacle, packages, or coverings containing the cosmetic, and the animals, vehicles, vessels and other conveyances used in carrying the cosmetics would be liable to confiscation under the DC Act and the Cosmetics Rules.

ii Consumer protection and false advertising

The CCPA, under the Consumer Protection Act 2019 (CPA), is the primary regulator in matters relating to violation of consumer rights, unfair trade practices and false or misleading advertisements in India. The duties of the CCPA include ensuring that no false or misleading advertisement is made of any goods or services in contravention of the CPA, and that no person takes part in the publication of any false or misleading advertisement. A complaint on false and misleading advertising can be filed before the CCPA by any person, including a class of consumers. Thereafter, the CCPA may conduct a preliminary enquiry to ascertain whether a prima facie case of false and misleading advertisement prejudicial to public or consumer interest exists. If a prima facie case is established, and the investigation thereafter reveals that an advertisement is false and misleading, the CCPA may direct the trader, manufacturer, endorser, advertiser or publisher to discontinue the advertisement, or modify it in a prescribed manner. The CCPA may also prohibit the endorser from making any product or service endorsements for one year.

Any manufacturer or service provider creating a false or misleading advertisement prejudicial to consumers' interests is punished by two years' imprisonment and a fine of 1 million rupees. Subsequent offences are punishable by up to five years' imprisonment and a fine of 5 million rupees.

The Consumer Protection (E-Commerce) Rules 2020 (the E-Commerce Rules), under the CPA, prescribe that sellers on e-commerce marketplaces and inventory e-commerce entities must ensure that the advertisements for marketing of goods or services are consistent with their actual characteristics, access and usage conditions. If the goods or services are not of the characteristics or features as advertised on the e-commerce marketplace, sellers are mandated to recall the goods or services.

Besides the CPA, the Advertising Standards Council of India (ASCI), a self-regulatory non-profit organisation, looks into complaints of false and misleading advertisements in India. ASCI has formulated the Code of Self-Regulation in Advertising for India (the ASCI Code) to ensure truthfulness and honesty in advertisements, and prevent offensive advertisements. The ASCI Code is applicable to all kinds of advertisements in India, although compliance is not mandatory.

In September 2020, the Department of Consumer Affairs (DCA), under the Ministry of Consumer Affairs, Food and Public Distribution, launched an online portal named Grievance Against Misleading Advertisements (GAMA) for registering consumer complaints against misleading advertisements. ASCI assists the DCA in probing complaints received through GAMA.

In July 2021, the FSSAI and ASCI entered into an agreement to curb false and misleading advertisements in the Indian food and beverage industry. As per the agreement, the ASCI would identify advertisements that contravene the AC Regulation and the FSSAI would investigate such advertisements and take the necessary action under the FSSAI Act and AC Regulation.

VI PRODUCT LIABILITY

The CPA recognises product liability and prescribes that any person or class of persons can initiate a product liability action against the product manufacturer, product service provider or product seller, at the District Consumer Disputes Redressal Commission (DCDRC), based on harm caused in the following circumstances.

The product manufacturer can be held liable in a product liability action based on the following grounds:

- a* the product contains a manufacturing defect;
- b* the product is defective in design;
- c* there is a deviation from manufacturing specifications;
- d* the product does not conform to the express warranty; or
- e* the product does not contain adequate instructions for correct usage to prevent harm, or does not contain any warning regarding improper or incorrect usage.

Further, the product manufacturer would be held liable regardless of whether the manufacturer was negligent or fraudulent in making the product's express warranty.

The service provider can be held liable in the product liability action based on the following grounds:

- a* the service provided was faulty, imperfect, deficient or inadequate in quality, nature or manner of performance;
- b* there was an act of omission, commission, negligence or conscious withholding of the information that caused harm;
- c* the service provider did not issue adequate instructions or warnings to prevent the harm; or
- d* the service did not conform to express warranty or terms and conditions of the contract.

The product seller (not being the manufacturer) can be held liable in a product liability action if:

- a* the seller had exercised substantial control over the product's design, testing, manufacture, packaging or labelling, which caused the harm;
- b* the seller had altered or modified the product, which substantially caused the harm;
- c* the harm was caused due to the product's non-conformity to the seller's express warranty, regardless of the manufacturer's express warranty;
- d* the product has been sold by the seller and the identity of the product manufacturer of such product is not known, or if known, the service of notice or process or warrant cannot be effected on the seller or the seller is not subject to the law that is in force in India, or the order, if any, passed or to be passed cannot be enforced against the seller; or
- e* the harm was proximately caused due to the seller's failure to exercise reasonable care in assembling, inspecting or maintaining the product, or failure to provide adequate warnings and instructions regarding the product's proper usage and dangers involved.

The CPA also prescribes several exceptions under which a product liability action cannot be initiated against the product seller and the product manufacturer, such as: product misuse at the time of the harm; availability of product warnings or instructions at the workplace or with the experts; presumption of knowledge of obvious or common danger; and the complainant being under the influence of alcohol or unprescribed drugs while using the product.

The procedure and timeline of the product liability action before the DCDRC is prescribed under the CPA. Upon establishment of the defect in the product, or claims for compensation for product liability action, the DCDRC may issue the following directions, among others:

- a* remove the defect from the goods in question;
- b* replace the goods with new goods of similar description and they must be free from any defect;
- c* compensate the complainant with the product price with interest;
- d* compensate the consumer for the loss or injury suffered due to the manufacturer's, seller's or service provider's negligence;
- e* cease manufacture, withdraw and prevent offering the hazardous or unsafe goods or services; or
- f* pay minimum compensation equivalent to 25 per cent of the defective goods' or services' value to the class of consumers suffered.

Laws governing food-borne illnesses/contaminants

The FSSAI Act prohibits food contamination with naturally occurring toxic substances, toxins, hormones or heavy metals above the prescribed limits under the CTR Regulation. The FSSAI Act also prohibits the use of insecticide or pesticide residues, veterinary drug residues, antibiotic residues, solvent residues, pharmacological active substances and microbiological counts above the prescribed tolerance limit, in food articles.

The FSO can carry out voluntary searches at any place, and seize any food article or adulterant, in the case of reasonable expectation of the commission of any offence relating to food under the FSSAI Act. Further, if a health risk condition exists in respect of an FBO, the Commissioner of Food Safety may impose prohibition of the food business, after serving an emergency prohibition notice to the FBO. Further, the FSSAI Act prescribes that the local medical practitioners must report all occurrences of food poisoning to the appropriate authorities.

Under the FSSAI Act, the manufacture, storage, sale, distribution or importation of food that is unsafe for human consumption is a punishable offence. If such failure or contravention results in injury to the consumer, the manufacturer, seller, distributor or importer is punished by six months' imprisonment and a fine of 100,000 rupees. In the case of non-grievous injury, the offender is punished by one year's imprisonment and a fine of 300,000 rupees. In the case of grievous injury, the offender is punished by six years' imprisonment and a fine of 500,000 rupees. For failure or contravention resulting in death, the offender is punished with life imprisonment and a fine of 1 million rupees.

VII INTELLECTUAL PROPERTY

India currently offers international standards in intellectual property protection and enforcement. Copyright registration and enforcement can be of significant help to the industry. Other than the routine challenges of infringements and passing off, an important concern in trademark matters is the inadvertent use of social media logos on third-party trademark labels. There has been a significant increase in trademark registration applications for packaging labels inadvertently containing social media brands' logos on the labels of food, beverage and cosmetics products (under classes 3, 29 and 30 of the Nice Classification).

Although the use of social media brands' logos is permissible to indicate the third party's business presence on social media (subject to the social media company's brand guidelines), the registration of labels containing other brands' trademarks may erroneously create false association, and result in brand dilution. Further, the Trade Marks Registry in India has been accepting such trademark labels for registration without objecting to the inclusion of third party-registered marks in the labels. Many such trademark labels containing other brands' logos have been registered in India. Therefore, there is a lack of awareness among both the applicants and examiners, resulting in registration of such trademark labels, which triggers time-consuming and expensive disputes between the brand owners.

VIII TRADE ORGANISATIONS

The following are some relevant trade organisations in the food, beverage and cosmetic industries, and their functions and objectives.

- a* The Indian Beverage Association (IBA) is an association of leading Indian food and beverage companies, including Dabur India Ltd, Red Bull India Pvt Ltd, Tetra Pak India Pvt Ltd, Pearl Drinks Ltd, Bengal Beverage Ltd, Jain Irrigation Systems Ltd, Coca-Cola India and PepsiCo India Holdings Pvt Ltd. The IBA aims to bring together all stakeholders to a common platform for promoting growth of the non-alcoholic industry. It acts as an interface between the industry, the government and the public for formulation of policies and rules to promote and protect the non-alcoholic beverage industry's interests. The IBA also aims to facilitate framing, development and dissemination of best practices related to environment, quality, manufacturing, and other relevant areas.
- b* The Indian Dairy Association (IDA) was established in 1948, and comprises members from cooperatives, multinational corporations, private institutions, educational institutions, government and public sector units in the dairy industry in India. The IDA functions closely with the producers, professionals, planners, scientists, educationists, institutions and organisations in the dairy industry. The IDA publishes periodicals with

technical and scientific information; organises conferences, workshops and seminars associated with the development of the dairy industry in India; undertakes consultancy projects; maintains an inventory of dairy scientists, research workers and dairy planners and professionals; and contributes to policymaking related to dairy products.

- c The Indian Tea Association (ITA) is one of the oldest organisations of tea producers established in 1881 in India. The ITA plays a multidimensional role towards formulating policies; initiates action towards the development and growth of the tea industry; and liaises with the Tea Board, government and other related bodies. The ITA has over 425 member gardens employing more than 400,000 people, and represents over 60 per cent of India's total tea production. The ITA also assists in the advancement of information and knowledge on tea through media campaigns, conventions, seminars, conferences, exhibitions, trade fairs and roadshows; acts as a representative body for tea producers before the governments, Tea Board, local authorities and public bodies; collaborates with the chambers of commerce and other trade bodies in India and abroad; undertakes beneficial projects by way of corporate social responsibility activities; and publishes newsletters, periodicals, leaflets and books related to the tea industry.
- d The Indian Beauty and Hygiene Association (IBHA) is a non-profit organisation registered under the Companies Act 2013, and consists of large, medium and small-scale companies in the cosmetics industry. The IBHA was established in 1937 and represents the cosmetics industry on various policy issues with the government authorities. The IBHA conducts seminars and conferences for education on anti-counterfeiting and collaborates with major cosmetics companies, non-governmental organisations and government bodies to spread awareness of plastic waste management.
- e The All India Cosmetic Manufacturers Association (AICMA) is one of the oldest associations of Indian cosmetic manufacturers, established in 1964. The AICMA focuses on promoting and protecting the small-scale cosmetics industry in India, ensuring cooperation and cordial relations among small-scale cosmetic manufacturers, representing small-scale manufacturers before the government authorities, collecting and disseminating knowledge and information on cosmetics and promoting quality cosmetic products manufactured by AICMA members in India.

Antitrust and competition issues

In 2016, the International Spirits and Wines Association of India (ISWAI) (a representative body of the international spirits and wines companies having business establishments in India) filed a complaint of abuse of dominant position against the Uttarakhand Agricultural Produce Marketing Board (UPMB) (a state-run agricultural company) at the Competition Commission of India (CCI). The state government had issued a Wholesale Liquor Order in 2015, under which the UPMB was the exclusive wholesale licensee, and Garhwal Mandal Vikas Nigam Ltd (GMVN) and Kumaun Mandal Vikas Nigam Ltd (KMVN) were the exclusive sub-wholesalers of Indian-made foreign liquor (IMFL) in the state of Uttarakhand, India. However, the Wholesale Liquor Order was subsequently revoked by the state government.

ISWAI contended that, under the Wholesale Liquor Order, UPMB, GMVN and KMVN had placed orders for IMFL in an arbitrary manner with no relation to the consumer demand, resulting in replacement of many IMFL brands of ISWAI in Uttarakhand, and a significant market share reduction. ISWAI also contended that UPMB had entered into agreements containing unfair and onerous conditions, with several IMFL manufacturers.

After a detailed investigation and hearing, the CCI observed that certain IMFL manufacturers' sales volume had declined, whereas GMVN's and KMVN's sales volume had increased during the effectuation of the Wholesale Liquor Order. After the Order was revoked, the CCI observed that the IMFL manufacturers' sales volume had increased, whereas, GMVN and KMVN's sales volume had declined. Further, UPMB had not maintained minimum stock requirement, and not communicated about it to the excise department.

In view of the above, the CCI held that UPMB had abused its dominant position under the Competition Act 2002, and imposed a penalty of 1 million rupees on UPMB.

IX FINANCING AND M&A

India's exchange control laws restrict overseas financing for acquisitions in certain cases. Some of the structures that have been followed are private equity-driven buyouts, acquisition finance structures backed by supply agreements, financing by non-banking finance companies, asset purchases, financing outside India by the buyout funds based on pledge of shares, etc. Similarly, there has been an increasing trend of distressed asset acquisitions since the introduction of the Insolvency and Bankruptcy Code of 2016.

Some of the recent transactions are:

- a* acquisition of a 100 per cent stake in the Horlicks brand of GlaxoSmithKline Consumer Healthcare by Hindustan Unilever Ltd, which closed in April 2020 for 30,450 million rupees;
- b* acquisition of a 100 per cent stake in the Heinz India business by Zydus Wellness for 45,950 million rupees;
- c* Modern Food Enterprises Pvt Ltd, which has a pan-India presence in the bread and bakery segment, was acquired by Grupo Bimbo SAB DE CV and its Indian subsidiary Ready Roti India Private Ltd, from Everstone Capital's bread and bakery platform Everfoods Asia;
- d* MTR Foods, wholly-owned subsidiary of Norwegian consumer major Orkla, acquired a majority stake in the south India-based Eastern Condiments; and
- e* US private equity firm KKR acquired a controlling stake in the Vini Cosmetics group, which makes the popular Fogg brand of deodorants and other consumer brands, for US\$625 million.

X SPECIAL ISSUES FOR CERTAIN PRODUCTS

i Alcohol

Alcohol falls under the purview of the state governments, and, therefore, one of the major issues in the alcohol industry is the increasing excise duty in different states. Additionally, additional taxes, including sales tax, imposed on alcohol products are also increasing, which burden the end consumers with paying 100 to 160 per cent above the alcohol's original price.

ii Cannabis

The Narcotic Drugs and Psychotropic Substances Act 1985 (NDPSA) allows the cultivation of cannabis plants for industrial purposes, but only for obtaining fibres and seeds and for horticultural purposes. However, for all other purposes, the NDPSA prohibits the cultivation, use, production, manufacture, possession, sale, purchase, transportation, importation and exportation of cannabis in India.

iii 'Cosmeceuticals'

Currently, cosmeceuticals are not recognised or governed under any Indian laws.

XI OUTLOOK AND CONCLUSIONS

The Indian food, beverages and cosmetics markets are some of the largest FMCG sectors in India. Considering the health and safety of the 1.3 billion population, the Government of India, the FSSAI and the CDSCO recently implemented several regulations, schemes and initiatives to ensure safe food and cosmetics, healthy eating, cruelty-free cosmetics, plant-based alternatives and organic food for human use.

India's food, beverages and cosmetics sector is moving towards a healthier, sustainable and digital approach. The FSSAI's new regulations and amendments focus on food safety and transparency, including by reducing trans-fatty acids in food products, mandatory declarations on labels, such as declaring allergens, nutritional content, manufacturer's details, etc., among other things, which FBOs must comply with by January 2022. The FSSAI is incorporating a Central Sector Scheme for Strengthening of Food Testing Ecosystem to strengthen the network of laboratories across India, and provisioning mobile food-testing labs and related equipment.

In the cosmetics sector, manufacturers, importers, distributors and sellers are required to comply with the mandatory registration, licence, self-declaration on compliance with good manufacturing practices and specific labelling requirements under the Cosmetics Rules of 2021. FBOs and cosmetics manufacturers are also required to comply with the updated BIS standards, including Eco Mark certification, wherever applicable, under the new rules and regulations.

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