

Ms. Rita Teotia,
Chairperson,
Food Safety and Standards Authority of India
New Delhi

23 October 2020

Sub: Regarding Food Safety & Standards (Safe Food & Balanced Diets for Children in School) Regulations, 2020 (F.No.15(1)2016/School Children Regulations/Enf/FSSAI) and the 50-metre restriction on sale

***Honorable Chairperson,
Greetings!***

Retailers Association of India (RAI) is the unified voice of Indian retailers working with all the stakeholders for creating the right environment for the growth of the modern retail industry in India. RAI is the premier body of Retailers in India, having around 13667 member establishments, including large and small retailers in the country, having approximately 500,000 stores providing Direct and Indirect employment to 43 million Indians.

This is with the reference to the regulations, Food Safety & Standards (Safe Food & Balanced Diets for Children in School), Regulations, 2020, that has been gazette notified on September 4, 2020. It is heartening to know that after several years of intense discussion and debate within all the stakeholders in various forums, the regulations have been finally notified.

The Food Industry & Trade is fully aligned to have a such a guiding document that aims at promoting healthy eating habits as well as active lifestyle in schools and therefore fully supports the intent of the said regulations. However, we find the sub-regulation (1) of regulation 5 completely untenable, unscientific and unpragmatic and hence request an urgent consideration to remove the same from the regulations. The said sub-regulation reads, “No person shall advertise or market or sell or offer for sale including free sale, or permit sale of, food products high in saturated fat or trans-fat or added sugar or sodium in school campus or to schoolchildren in an area within 50 meters from the school gate in any direction”.

As it has been done on the various occasions in past, the Food & Beverage (F&B) Industry and Trade would like to once again ardently request your good self to kindly consider the below factors, owing to which we feel the above said clause is not only untenable but is extremely difficult to implement too.

Voluntary Actions from Industry:

As you may be aware, the nutrient profiling models developed in various parts of the world aim at restricting advertisement of certain foods to children and many of the food & beverage companies in India have adopted these criteria to develop their formulations. Further, many Food & Beverage companies have stringent internal policies for not advertising certain foods and beverages that don't qualify for being advertised to children, as per the nutrient profiling. Therefore, there is self-restraint and self-regulation by and within Industry that has already implemented the self-imposed

restrictions for a long time.

Further, as an initiative of FSSAI, many of the leading Indian F&B companies have joined hands with FSSAI for FSSAI's "Eat Right" initiative and signed the pledge to reformulate their products to gradually reduce the ingredients like fats, salt and sugar. Companies are consistently progressing in this area. There are certain regulatory hindrances for achieving it (e.g. minimum TSS requirements for a large category of products) which Industry is closing working with FSSAI to logically remove such hindrances.

You may also note that the forthcoming labelling regulation has provision for monochrome logos and once it is implemented, then entire F&B industry will be printing the same on the product labels that give required information to the consumers. We would like to submit that many of the F&B companies have already started printing these logos on the products.

It is therefore pertinent to mention that F&B industry is fully conscious of responsible marketing to children and is taking all care that growing children are not unduly influenced by the advertisements.

No Precedent anywhere globally:

There is no country or region, where any such restriction on sales of any foods or beverages are restricted outside school premises. There are several guidelines available globally that aim to address the requirement of foods in schools, some of them are mentioned below.

- i. United States Department of Agriculture Food's – Safe School Action Guide, 2014
- ii. New South Wales'. The NSW Healthy School Canteen Strategy, 2017 (Australia)
- iii. Dubai's Guidelines and requirement for Food & Nutrition in Schools in Dubai, Food Safety Department, Dubai Municipality, 2017
- iv. Food Service Europe's Model EU School Food Standard, 2017

However, all these guidelines dwell upon providing healthier nutritious foods to school children only within the School Premises. None of these guidelines recommend any restriction or ban, whatsoever, outside the school premises on sale of any kind of foods and beverages. Even in the developed nations, where there is a high incidence of obesity, there has not been adopted any such prohibitory regulatory approach.

Livelihood Losses:

Considering there are a large number of schools, especially in metros and tier-2 and tier-3 cities in India, large portions of area in these cities and towns will fall within the "no sale region" if the proposed 50-metre restriction is implemented. The lakhs of hawkers whose livelihood is solely dependent on the foods and beverages sold by them on a daily basis, will turn unemployed instantly. Further there are many quick service restaurants (QSR) that fall within such restricted areas and hence will be forced to shut down their businesses, after making huge investments.

This 50-metre restriction will also bring under its purview all shops selling such restricted foods - such as Kirana shops, small shops or restaurants within a shopping complex that falls within 50 metres from school gates. There are many such establishments existing near schools across the country. Needless to mention, all these establishments and individuals are duly licensed or registered under FSSAI.

While it is difficult to report the exact numbers of such F&B establishments, as per a rough estimate, there **are 500 establishments of just 5 QSR companies alone falling with the 50-metre restriction. Adding the hawkers, vendors, small shops, Malls etc., this number may run in several thousand easily.**

As F&B Industry is seriously impacted due to COVID-19 pandemic, as many of the establishments big or small, are just initiating to make a come-back, the said clause of this regulation will seriously hamper the efforts as well as the economy of this sector. This will also impact the GST revenue collection from the food sector by the Centre as well as the States. The loss of employment up to few Lakh people is bound to happen due to this clause. As a rough estimate, the employees impacted in QSR companies alone will be to the tune of 30,000 across India.

No. of Stores to be Shut	Job Losses	Business Loss
500	500 X 40 = 20000 job loss	3160crores INR(in 1 year)

No Science behind 50-metre clause

There is no Scientific reference at all which can support that within 50 metres of School radius there are increased consumption patterns of foods rich in Fats, Sugars and Salt etc. which can further lead to non-communicable diseases in children.

In children, WHO FAO clearly indicated that for growth, an addition of 5 kcal (21 kJ) per g is allowed for the average daily cost of weight gain.^{2,3} Multiple Human studies on dietary fats have indicated role of fatty acids in the prevention of inflammation

WHO confirms that decrease in physical activity is also one of the fundamental causes of obesity. Hence, mere consumption of HFSS by itself is not adequate or appropriate to conclude that obesity will be caused, as maintenance of energy balance is critical. It has been observed that even with healthy food consumption, reduced physical activity will result in overweight in the human body. Promotion of physical activity and Yoga practice in school for children is the right approach in addition to restriction of sale of HFSS products within the canteen of school premises, thus helping children maintain good health.

The various mid-day meal recipes of food which are found to be high in sodium (chhole, upma, sambhar), high in sugar (Suji Halwa) are being served to school children for the many years. Hence, ban of sale within 50 metres outside the school gate is definitely not the solution. Industry is already working on various initiative to reduce HFSS and also to introduce various nutritive products.

Dealing with childhood obesity requires time commitment from a multidisciplinary team of health professionals and from the family involving: (1) behavioral motivation of the parents and the children for implementing the changes suggested in their daily routine, daily physical activity and daily nutritional habits; (2) education of the parents regarding the principles of healthy nutrition practices, related to the number of meals, the variety of nutrients and the age appropriate physical activity, duration, intensity and frequency.

The Comprehensive National Nutrition Survey (CNNS) India (ICMR NIN, CDC, AIIMS, UNICEF and MoHFW joint program) 2016–18 is the largest micronutrient survey ever conducted and included 112,316 children and adolescents interviewed with anthropometric measures over 30 states across India.

This survey included:

- **38,060 pre-schoolers aged 0–4 years**
- **38,355 school-age children aged 5–9 years**
- **35,830 adolescents aged 10–19 years**

It was observed that Malnutrition in school-age children (5–9 years) was much more prevalent.

- **22% of school-age children were stunted⁴.**
- **10% of school-age children were underweight⁴.**
- **23% of school-age children were thin⁴.**

Similarly, Malnutrition in adolescents (10–19 years) counted to 24% of adolescents were thin for their age.⁶

As per **Indian Academy of Pediatrics:**

- **Frequent (>2 times/week) consumption of fast foods is associated with higher BMI in children ; results are inconsistent in adolescents⁴.**
- **It is unclear whether fast food consumption is associated with childhood hypertension.⁴**
- **Limited data indicate association of fast food consumption with adverse cardiometabolic markers and insulin resistance.⁴**

As per the 2019 report of the National Restaurant Association of India, average QSR repeat visit of the consumer is approximately 4 times in one month. (Approximately). Average ticket size for QSR is high (Rs 698) and hence the frequency of visits is much smaller as compared to other restaurants.

Hence to come to a scientific credible figure, the consumption of 1 visit needs to be divided by 6 to get impact on RDA levels with respect to Salt, Fat, Sugar etc.

The 50-metre restriction ought not to be affected. The QSR sector may please be granted hearings in person as a critically important stakeholder before any further progress is made in the direction of this restriction.

Further, as schools/creches can be opened by anyone and even without any board affiliation (like play schools, crèches) in any area. In future, if schools are opened within 50 metres of already existing QSR stores, we will have to shut down these stores, so it is not practically feasible. Also, amid COVID - 19, business is already suffering and if this restriction is enforced, then it hampers the very spirit of ease of doing business.

Since the onus is on the FBO to not sell such products, we wish to seek a clarification from you as to how the FBOs running these shops and restaurants will be seen to be compliant. Closing down all these shops and restaurants is clearly not an option.

Difficulty in Implementation and Potential harassment:

We would also like to invite your attention towards difficulties for implementing the said clause of 50-metre restriction owing to the below facts. We are afraid that this clause may give rise to unwanted harassment across the country. The said restriction will be very difficult to implement considering below facts.

- i. Most of the traders (hawkers) within the school premises are mobile – they may be within the 50 metres at some point of time but outside the same at others.
- ii. School children are exposed to vendors/shops only during entry/exit or during recess, all other times, there are only consumers other than the school children. This restriction will deprive the consumers other than school children also to purchase their daily needs
- iii. In cities and big towns, considering the mushrooming of schools, a good part of these cities and towns will fall within the ‘no sale region’ if the 50-metre restriction is implemented
- iv. It is very difficult for shops/vendors to segregate the restricted foods from other foods and beverages.

Usually the vendors and small to large shops that keep food and beverages also offer many other grocery, personal and home care items. It would be practically impossible to select and segregate or weed out the items that are not to be sold within the no sale region, and keep only those that can be sold, considering the complex supply chain involved in the Food & Beverage trade. Not keeping the Food and beverage products is bound to impact the sale of other items of the affected shops/vendors.

Further, since schools/creches can be opened by anyone and even without any board affiliation (like play schools, crèches) in any area, in the future, if schools are opened within 50 metres of an already



existing establishment that sells F&B products, the establishment will have to stop business and close down. This will create a huge acrimonious situation and may give rise to needless litigation.

Lastly, the 50-metre regulatory restriction undoes the spirit of Atmanirbhar Bharat, and will compromise the viability of the food industry already reeling under the effects of the COVID-19 pandemic.

PRAYER

Industry, therefore, humbly requests FSSAI Leadership to kindly withdraw the 50-metre restriction in the said regulation. Certain supporting articles and papers are enclosed. RAI will be more than happy to discuss the matter further with your good self, at your convenience. We request an appointment in this regard, for which we shall be obliged.

We look forward to your positive response on the same.

Warm regards,
For and on behalf of Retailers Association of India (RAI),

Gautam Jain,
Director – Finance & Advocacy, RAI

Enclosed: Annexure

References:

1. Dencker M, Thorsson O, Karlsson MK, et al. Daily physical activity related to body fat in children aged 8-11 years. *J Pediatr.* 2006;149(1):38-42. doi:10.1016/j.jpeds.2006.02.002
2. D W Spady, P R Payne, D Picou, J C Waterlow, Energy balance during recovery from malnutrition, *The American Journal of Clinical Nutrition*, Volume 29, Issue 10, October 1976, Pages 1073-1088, <https://doi.org/10.1093/ajcn/29.10.1073>
3. Energy and protein requirements recommendations by WHO FAO
4. Comprehensive National Nutrition Survey (CNNS) India Report(2016-18)