



**INDUSTRY CHALLENGES
IN
FOOD REGULATIONS**

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Confederation of Indian Food Trade and Industry

(Food wing)

Federation of Indian Chambers of Commerce and Industry

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Contents:

Executive summary

Study and methodology

Findings

Chapter 1- Status quo

Chapter 2- Industry expectations: met or not met

Chapter 3- Challenges: Past Experiences

Conclusion and Recommendations

Survey questionnaire

Executive Summary

Around the world, governments perform three main functions: they tax, they spend, and they regulate. And of those three functions, regulation is the least understood. It should not be surprising that regulation can produce harmful effects when it is poorly designed or executed.

Regulation is also a major concern in food industries where, there are often extensive regulatory controls on minimum quality standards and other requirements. With the creation of Food Safety and Standards Act in India in 2006, we need to understand the effects of the actions of the regulators on the performance of food processing industry. It is important to remember that the basic motivation for creating the new Act was to establish an institution that would encourage and support stable and long-term safe food commitments and also the growth of the sector.

The aim of this survey is to assess how it will be possible to craft regulatory reforms that produce better outcomes, which are both economically desirable and politically feasible. These are identified and recognized through establishing status quo, learning's from past experiences and expectations from the Act.

Key findings of the survey include:

- About **one-third of the industry is unaware about the FSSA** and therefore ignorant about the rules there under. These will need to be mandatorily implemented in the near future.
- **86% of the industry appreciates the consolidation and unification** that has happened with FSSA Act.
- **10% of the respondents look forward to further unification** of duplicate requirements like BIS, Agmark, etc with FSSA
- **92% industry hopes for harmonization** of the new rules under FSSA with internationally accepted standards like Codex, amongst which the most important issues are food categorization system, food additives and labeling.
- **Industry feels that they are not adequately represented in the authority** and looks forward to increased representation.
- **25% of all the respondents felt that it is critical that FSSA issues guidance notes and FAQs along with legislations** for consistent interpretation and ease of implementation.

Study and Methodology

FICCI has been relentlessly working with the member companies and the government on Food Safety and Standards 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 garner responses on various issues and challenges that industry perceive and how it will be possible to craft regulatory reforms that produce better outcomes, which are both economically desirable and feasible.

The survey has gathered and collated a fairly extensive and complex set of responses about the Food Safety and Standards Act- awareness, challenges and expectations observed by the Food Processing Industries in India. More than 700 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 survey 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 survey was conducted with following milestones:

- Preparation of survey
 - Working out the strategy
 - Preparing questionnaire

- Test run for the questionnaire amongst a representative sample
 - Incorporation of comments and finalization of questionnaire
- Collection of data
 - Identification of companies
 - Mass communication to all players
 - Follow up for comments
 - Physical visits and interactions
 - Focused group discussions
- Analysis and interpretation of data
 - Qualitative
 - Quantitative
- Recommendations and suggestions

CHAPTER 1

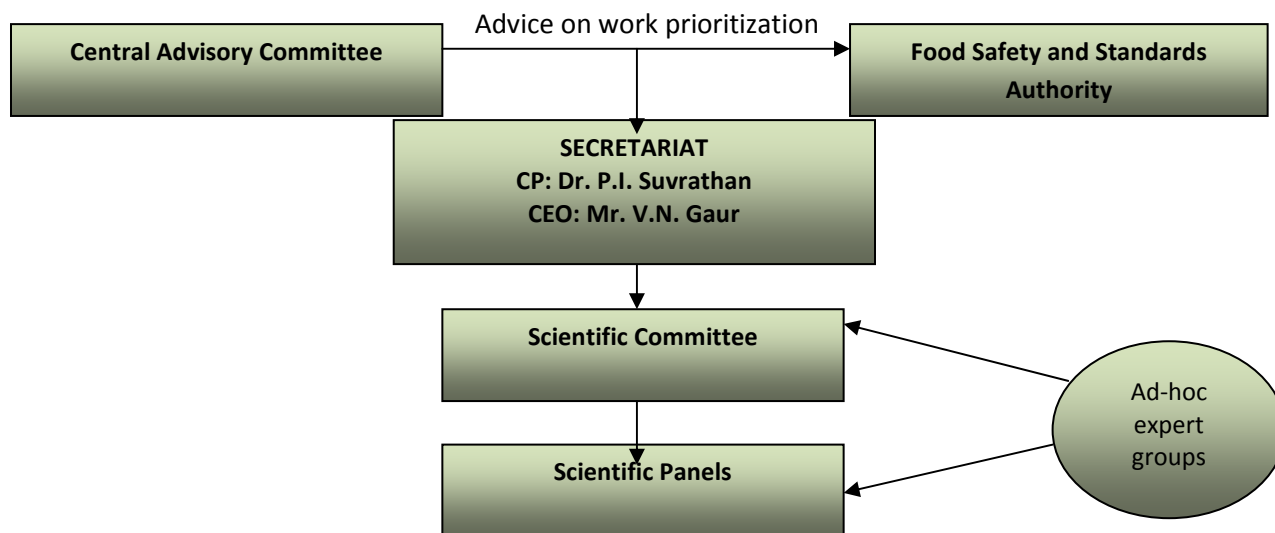
STATUS QUO

Question 1: are you aware of Food Safety and Standards Act?

Food Safety and Standards Authority of India has been established under Food Safety and Standards Act 2006 which is a statutory body for laying down science based standards for articles of food and regulating manufacturing, processing, distribution, sale and import of food so as to ensure safe and wholesome food for human consumption and for aligning with international food trade. Food safety and standards Act consolidated eight acts and orders to systematically develop the food processing industries in India.

Since its inception FSSAI has achieved several milestones:

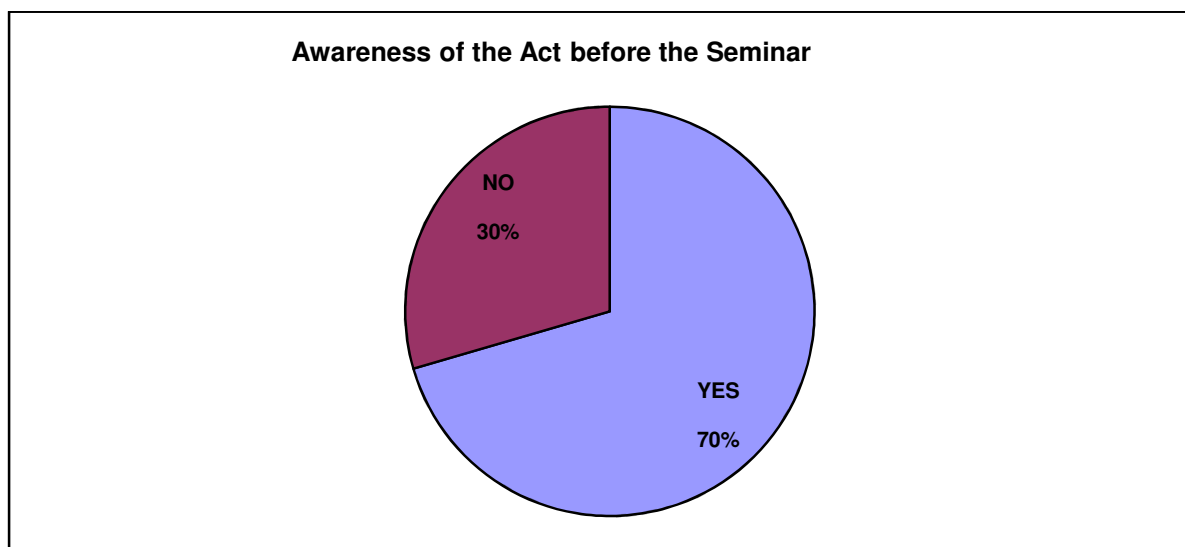
- The administrative structure of the authority, Central Advisory committee, scientific committee and scientific panels are finalized and notified. The structure being as follows:
Advice on work prioritization



- The offices of FSSAI are located at 9 places across India including Chennai, Mumbai, Delhi, Kolkata, Guwahati, Lucknow and Chandigarh.

- FSSA along with industry associations like CIFTI- FICCI has organized several Food safety consultation and sensitization programmes to create awareness among the stakeholders on working and functioning of Food Authority across the country like Mumbai, Guwahati, and Chandigarh from January to October 2009.

This question is aimed at establishing status quo on this mandatory food regulation.



Analysis: Results indicate that 30 % of the respondents, mainly the food industry that needs to mandatorily implement the act, are not even aware of the Food Safety and Standards Act. It is alarming to note that roughly one third of the key implementer is ignorant of the Act and the rules there under. These results highlight the need for conducting more capacity building programs and in-depth training programs to enable smoother transition from PFA to FSSA.

Further calculations in the survey are done basis the 70% responses wherein people were aware of FSSA, 30% of the responses were considered null and void for Industry expectations i.e. Q 2 and 3.

CHAPTER 2

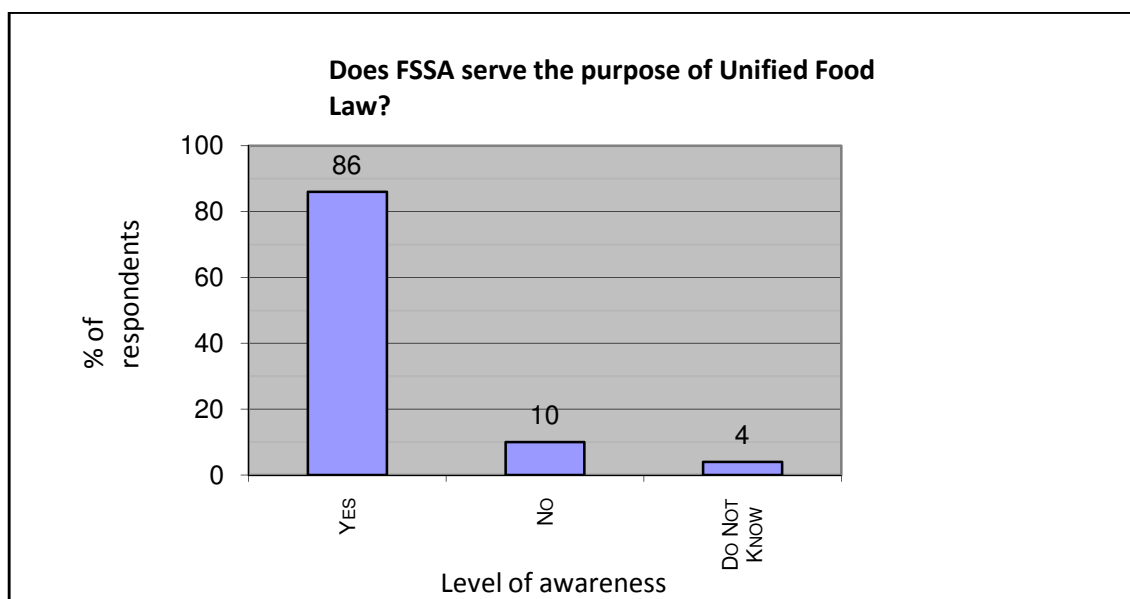
INDUSTRY EXPECTATIONS: MET OR NOT MET

Question 2: Does FSSA serve the purpose of a Unified Food Law?

The plethora of laws and multiple control points had led to a system which was over-regulated and under-administered. It was for this reason that the concept of Integrated Food Law was introduced and materialized as The Food safety and standards Act 2006. Unification and consolidation of regulatory procedures including obtaining license, undergoing audits, renewals, and approvals are viewed as the major benefits of the FSSA.

This act aims to integrate the food laws in the country in order to systematically and scientifically help in development of the food processing industry and observe shift from a regulatory regime to a self-compliance system.

This question aims to understand, at its current state of implementation, how has the FSSA Act been able to match up with its mandate.



Analysis: While majority of the respondents (86 %) feel that FSSA has served the purpose of a unified food law, 10 % of the respondents feel that the Food Safety and Standards Act do not serve the purpose of a unified Food law because duplicate mandatory licenses under BIS,

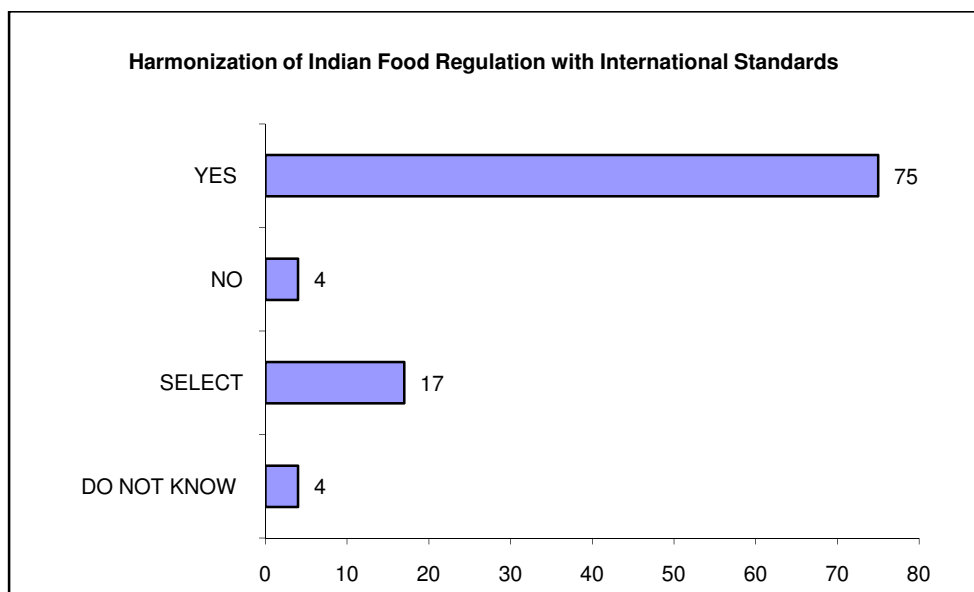
AGMARK, Packaged Commodity Rules, GEAC etc still need to be taken. Considering that FSSA was considered a one stop shop for all regulations on food, it was desired to integrate appropriate portions of the others into FSSA. Further 4% of the respondents did not have clarity.

Question 3: Will harmonization of Indian food regulations with internationally accepted standards like Codex help in growth of Indian food business?

Harmonization of Indian Food Regulation with internationally accepted standards like Codex is viewed as a prerequisite for protection of consumer health and allowing full facilitation of international trade. The principle of harmonization is also enshrined in the Food Safety and Standards Act under section 16 (3)(m) which states that the Food Authority shall *“promote consistency with between international technical standards and domestic food standards, while ensuring that the level of protection adopted in the country is not reduced”*.

In preparing domestic food regulations and standards, many countries including Malaysia, Indonesia, Thailand etc take full advantage of Codex standards and food safety lessons learned in other countries especially Codex categorization system, Additive approvals and risk management measures. Taking into account the experiences in other countries while tailoring the information, concepts and requirements to the national context is a preferred way to develop a modern regulatory framework that will both satisfy national needs and meet the demands of the SPS Agreement and trading partners.

This question aims at establishing the industry’s preparedness towards internationally accepted standards and their expectation from the Food Safety and Standards Act in doing so.



Analysis: 75 % of the respondents feel that there should be harmonization of Indian food regulations with internationally accepted standards to meet consumer aspiration of safe and healthy food at par with global standards and regulating and facilitating food trade by ensuring level playing field for all stakeholders inclusive of the entire food supply chain.

17 % of the respondents suggested selective harmonization with internationally accepted standards. Respondents in this category were of the view that harmonization at horizontal level including labeling, food additives, and food category system are enabling and straightforward. However sectoral standards may need review and adjustment to Indian conditions, wherever necessary. About 8 % of the respondents were not sure or did not believe in Harmonization.

CHAPTER 3

CHALLENGES: PAST EXPERIENCES

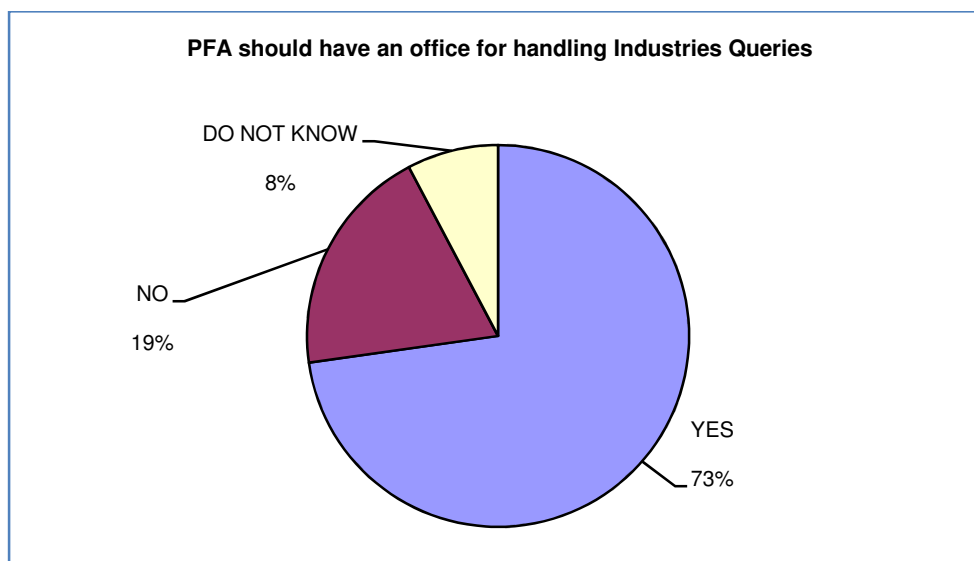
Question 4: Do you believe that PFA should have had an office for handling industry queries?

Transparency is an important principle of good governance - it is widely accepted that there should be the maximum possible clarity and openness in the operations of government and public administration. Transparency of regulations is also critically important to the performance of the economy, not least because it guards against special interests gaining undue influence in markets. It generates greater trust on the part of consumers. It assures and satisfies investors that there is a level playing field, and encourages new entrants to sectors. The concept of a dedicated office to handle industry queries is introduced under most modern food safety and regulatory structures to empower industry to implement the regulations consistently and effectively.

EU Commission has several regional and local offices including Agriculture (fields queries related to food and feed safety and imports), economic and financial affairs etc that directly interfaces with all stakeholders to enable better standards and also their better enforcement.

Similarly, USFDA has a dedicated Dispute Resolution Cell with an Office of Ombudsman. The Office of the Ombudsman is a resource for individuals and for companies when they are experiencing problems with the regulatory process or with the application of FDA policies or procedures. The Office of the Ombudsman provides assistance if there are problems or concerns that are not being addressed, or cannot be addressed, at the center or district level, or when there are concerns about raising an issue at that level.

This question aims at accessing the need for an industry query office within the food regulatory system to improve compliance.



Analysis: 73 % of the respondents feel that that there should be an office for handling of industry queries which should be a single reference point for uniform and consistent compliance with the standards.

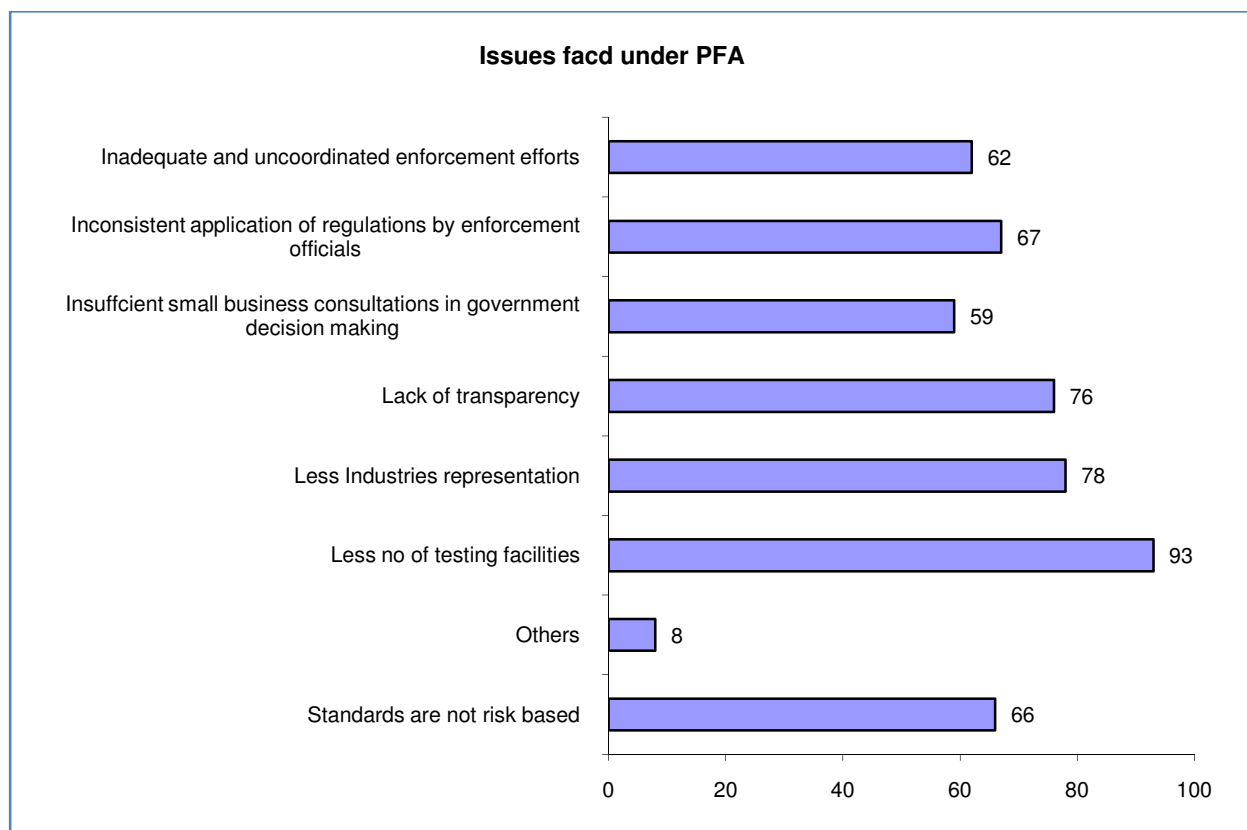
Only 19 % of the respondents do not feel the need of a separate office for handling industry queries. 8% of the participants are not sure of it.

Question 5: Issues faced under PFA

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.

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.

This question aims to identify the areas of concerns and issues faced by industry with the PFA Act and Rules there under. These could form an important piece of recommendations for rectification under the implementation of Food Safety and Standards Act.



Analysis: Top three issues faced by the industries are lack of testing facilities, less industry representation, lack of transparency.

About 18 % of the respondents feel that lack of testing facilities is the most relevant issue faced by the industries under PFA regime. Availability of laboratory facilities both in terms of quantity and quality is a key issue identified. There is an urgent need to upgrade the current infrastructure and to create more to meet the needs of the growing sector. Therefore the quality assurance labs should be upgraded with all scientific instruments for the proper testing of raw and finished products.

15% of the respondents feel that industry representation is limited and needs to be increased with the transition from PFA to FSSA. Industry looks forward to the FSSA Act to resolve this concern with increased industry participation in Food Safety and Standards Authority, Central Advisory Committee and other committees there under.

14% of the respondents feel that lack of transparency was a major issue of concern under PFA. Transparency is an important principle of good governance - it is widely accepted that there should be the maximum possible openness in the operations of government and public

administration. It also assures and satisfies investors that there is a level playing field, and encourages new entrants to sectors. Therefore industry looks forward to a paradigm shift in terms of availability of documents, reports, and issues under discussion, major decisions and opinions of the regulator. Industry also looks forward to more interactive sessions on the transition from PFA to FSSA to enable them with this shift.

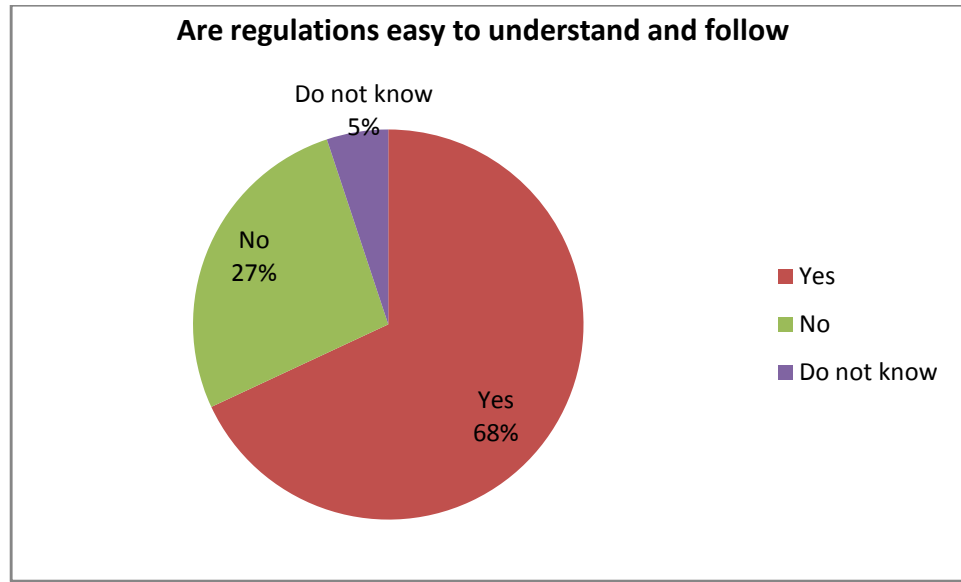
Question 6: Are regulations are easy to understand and follow?

High quality regulation is essential for the appropriate functioning of society. How the regulation is explained to affected parties is critically important if it is to be effectively implemented, accepted and supported. The objectives and implications of the regulation and the responsibilities of those involved should be plainly set out and easily understood.

Internationally, explanatory memoranda and guides are made available along with the legislation to enable interpretations in a user-friendly, accessible form. By informing citizens of their rights and entitlements, such guides will help promote greater compliance and reduce the burden of enforcement on the Exchequer. This will also complement the drive for customer-centered delivery of public services. US FDA issues FAQs and FSA issues guidance notes to make their legislations more explicit.

GFSI guidance document published in six languages sets out the requirement of food safety management schemes and provides a framework for complying with the food regulations. The guidance document is reviewed every three to five years depending on the market needs and to ensure that it remain the driver of continuous improvement in the food regulatory framework.

Food Standards Agency also issues a guidance notes to the food industry representatives as a result of new food regulations coming in to the force. Guidance notes are published on food packaging, hygiene, additives, and food incidents.



Analysis: About one quarter of the industry i.e. 27 % of the respondents feel that the regulations are not easy to understand and follow. Therefore guidance notes or guidelines should be prepared for such an audience for making them understand the food regulation as well for better compliance.