

The Maggi Order

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Indigestible noodle soup.

The eight-page FSSAI order (http://www.fssai.gov.in/Portals/0/Pdf/Order_Nestle.pdf) is an interesting document. It raises a number of loosely connected issues that point to the need for introspection not just on the manner in which regulations are constructed but also applied.

The recall order is based on the report from the government lab at Kolkata. Both the noodles and the tastemaker have been tested separately. And were found to violate, in each case (that is noodles and tastemaker), the permissible standard of lead of not more than 2.5 ppm. The analytic report submitted by Nestle at the time of initial approval had shown 0.0153 ppm of lead. The sample tested by Central Food Laboratories, Kolkata found 17.2 ppm.

Presumably, all the many other labs have tested the noodles and the tastemaker separately. And were found to contain more than 2.5 ppm.

FSSAI indicts Nestle on three grounds: (a) presence of lead detected in the product in excess of the maximum permissible levels of 2.5 ppm; (b) misleading labelling information on the package reading 'No added MSG', and (c) release of a non-standardised food product in the market, viz. 'Maggi Oats Masala Noodles with Tastemaker' "without risk assessment and grant of product approval..."

How much lead, ingested over a lifetime, is dangerous for the human body? At what rate does Maggie have to be cumulatively eaten to have serious effects of lead poisoning? Nobody really knows. The actual accretion of lead is quite likely complex. The order makes reference to a document published by the Food Safety Authority of Ireland on 'Mercury, Lead, Cadmium, Tin and Arsenic in Food' (Issue No.1, May 2009 in its *Toxicology Factsheet Series*) which succinctly brings out the adverse toxic effects of lead:

Short-term exposure to high levels of lead can cause brain damage, paralysis, (lead palsy), anaemia and gastrointestinal symptoms. Long-term exposure can cause damage to the kidneys, reproductive, and immune systems in addition to effects on the nervous system. The most critical effect of low-level lead exposure is on intellectual development in young children and like mercury, lead crosses the placental barrier and accumulates in the foetus. Infants and young children are more vulnerable than adults to the toxic effects of Lead, and they also absorb lead more easily. Even short-term low-level exposure of young children to lead is considered to have an effect on neurobehavioural development. Consumption of food containing lead is the major source of exposure for the general population.

More interestingly, the point in the FSSAI order about misleading labelling on the part of Nestle seems is puzzling and appears to be cockeyed. On the label, Nestle - even according to the FSSAI - notes 'no extra msg added'. This, according to the order, violates Regulation 2.2.1:1 as

it misleads the consumer and gives the impression of extra safety when in reality naturally occurring glutamates cannot be distinguished from artificially added ones. This is rich! To quote the order (p 4):

It is amply clear that the sub regulation prohibits any other information on the label other than what is otherwise provided for in the FSSR. It defies the common understanding as to why the Company has to make this assertion when it is not required to do so. The apparent reason for using such information on the label is driven by an undue commercial advantage/ benefit to create an erroneous impression in the minds of consumers regarding the character of the product.

In sum, volunteering information even truthfully may be construed as malafide!

The increasing harmonization with international norms like *Codex Alimentarius* will mean that India will be subject to more of these standards. In food standards, as is this case, the standard seems to be invoked more out of a spirit of precautionary principle. There is, clearly, a trade barrier element in enforcing these standards. If an Indian company were to be on the receiving side – surely there would have been a shrill reaction on those lines! Within India, the compulsion to adhere to these standards may be cited as an excuse for raising prices. As it often is in the case of pharma standards. In this case, Maggi has had the informal status of junk food – certainly among the nutritionally wise. So not many tears have been shed except perhaps by those who advance the spurious argument that “this type of harassment of foreign companies spoils the India story”!

Can Nestle be held liable for possible damage to an entire generation of children --- and children who have become mothers --- who have been consuming Maggi noodles? Perhaps. Lead poisoning is, after all, as the above extract points out, a serious business. But there is simply not enough case law on the subject.

All said and done, there is a need to closely examine the science behind the science of standard setting. Equally, we need to introspect seriously the socio-political construction and valorization of these ‘scientific’ standards. In the process, will justice be done to smaller players? Will the benefits accrue to consumers at large? Who, in fact, are the winners and losers in the short and the long term?