

Internal Trade Reforms

A Knowledge Work by FICCI

For

Ministry of Consumer Affairs, Food & Public Distribution

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Foreword

India's retail market is one of the most promising sectors of the Indian economy. It is estimated at US$ 500 billion as in 2013 and is expected to grow at 7%-10% over the next 10 years, reaching a size of US$ 1 Trillion by 2020. With rising consumerism, purchasing power and increasing aspirations, this sector is meant to further grow by leaps and bounds. With the opening up of FDI in Multi brand retail, various new opportunities in this sector have emerged which would further stimulate the Industry's growth.

In order to attain the full potential of this sector, apart from liberalizing this sector, it is also important to understand the current challenges faced and work out solutions to safeguard the interest of every stakeholder.

The high-level group on internal trade that has been formed under the Ministry of Consumer Affairs is working towards this objective and is bound to make some progressive reforms for this sector.

FICCI is extremely honored to be incorporated as a constituent of the high level group. It had worked and would continue to work thoroughly towards making the group's initiatives successful. FICCI has worked towards identifying various acts and laws that affect the entire retail chain and have suggested measures to make it more aligned and progressive with respect to today's needs.

This report lays down the initiatives that have been taken to analyze the internal trade structure, challenges and recommend appropriate solutions. We are confident that the high level group would deem it beneficial and we look forward to work together for the next phase of the activities of the group.

Dr. A. Didar Singh
Secretary General
FICCI

Acknowledgement

FICCI is extremely grateful to the Ministry of Consumer Affairs for the confidence bestowed upon us to prepare this critical report on the Internal Trade Reforms focusing on the Retail Sector in India.

FICCI would like to extend its sincere thanks to the FICCI Retail committee members who have always been very responsive and cooperative in providing necessary information. Without their support we would not have been successful in completing this project. Our Chair, Mr. Bijou Kurien and Co-chair, Mr. Jamshed Daboo and Mr. Sundeep Malhotra have guided the project all through.

We would also like to acknowledge the immense hard work put in by Khaitan and Co. especially by Mr. Sharad Abhyankar and his team. They are the legal consultants who gave structure to this effort. In addition TCS, especially Mr. Anil Rajpal and Mr. Kedar Mehta who have added immense value to this report deserve a special thanks.

We are hopeful that this report would be put to utility for the welfare of the industry at large and would help in ensuring smooth internal trade practices in the country ensuring a larger and an efficient consumer basket for the Nation.

Overview and Objective

India's retail market is estimated at US$ 500 billion as in 2013 and is expected to grow at 7%-10% over the next 10 years, reaching a size of US$ 1 Trillion by 2020. It is one of the most promising sectors in Indian economy with high potential for growth. Today with the opening up of FDI in Multi brand retail, various new opportunities in this sector have risen and it is sure to further grow by leaps and bounds.

However, in the midst of these policy reforms, it is important to understand the current challenges faced by this industry and work out solutions to safeguard the interest of every stakeholder. There are a number of laws/acts that govern this sector, which needs further deliberations and reforms for better alignment to current environment's need.

With this objective, a high-level group on internal trade reforms under the Ministry of Consumer Affairs had been formed in the year 2013. The group aims to interact with various ministries, state governments and traders to find out their difficulties following FDI in MBR and come out with solutions.

With an objective to work along with the Government towards the growth of the industry and protect the interest of every stakeholder, FICCI is extremely honored to be incorporated as a constituent of the high level group. It has and would continue to work towards making the group's initiatives successful.

Through this report, FICCI aims to bring out the current laws/legislations that affect the Internal Trade and the reforms required to make these laws more productive and beneficial to all. The exercise is planned to be executed in two phases. The current report encompasses the initiatives and workings of the first phase.

The output and recommendation of the report could be useful for the Ministry in developing a strong regulatory mechanism to ensure implementation as well as create an enabling environment at various stages for the Industry.

FICCI would further support the Ministry in promotion of any agenda or reform by way of seminar/conference or workshops.

Project Methodology

FICCI was designated by DoCA for doing a study on various hurdles in smooth operations of internal trade in India

FICCI consulted a Law firm and a Management Consultant for support in analyzing the challenges of the sector - Both at Macro levels and at Regulatory levels

FICCI organized 6 consultations with the Industry in Delhi, Mumbai, Andhra Pradesh, Kolkata to identify key acts that need Reforms. Knowledge partners were a part of every consultation for their technical inputs.

FICCI prepared the Summary report with suggestive action plans and recommendations based on various consultations

A final presentation prepared by FICCI, was also presented to the High Level Group constituted by the PMO under the chairmanship of Hon'ble Minister, MoCA

Publication and Submission of report to the Ministry

Meetings and Industry Consultations

1. **Industry Consultation - I, June 3, 2013, New Delhi, Delhi**

   Mr. Bijou Kurien, Chairman, FICCI Retail Committee welcomed the participants and suggested that a sub-group should be formulated to drive the policy related agendas like Shops & Establishment Act, Essential Commodities Act, APMC Act, etc.

   A study proposed on Model Shop & establishment Act- Understanding the current state and how could it be revised for making it more efficient, modern and effective.A survey was undertaken to understand the key pain areas of the Act. Members were of the view that a law firm may be hired for drafting the model act. The Law Firm Khaitan& Co. was hired to professionally do this for FICCI Retail Committee.

2. **Industry Consultation - II, July 5, 2013, New Delhi, Delhi**

   Post receiving the inputs on various provisions under Shops & Establishment Act for Delhi, Maharashtra, West Bengal, Tamil Nadu, Andhra Pradesh & Karnataka the members felt that there is a need to make a consolidated draft of the model act with revised provisions after due consultation with the industry. Mr. Sharad Abhyankar, Khaitan& Co. consulted on the same. They made a presentation on their understanding and asked FICCI members to help them analyze the gaps.Industry inputs were invited on the amendments needed in the acts identified - Shops & Establishment Act, Essential CommoditiesAct, Legal Metrology Act, Drugs& Cosmetic Act.It was suggested by the members that APMC and FSSA should also be included in the document. The suggestion was well accepted

3. **Industry Consultation - III, August 2, 2013, Bangalore, Karnataka**

   Mr. Sharad Abhyankarinformed the members that the draft model act was almost ready with him and he would soon share it with FICCI to garner industry views. Further to it a wider consultation would be organized to gather a holistic view on the proposed Model Act. Industry viewed that Internal Trade is a much larger issue. There were many areas where gap existed. It was felt that all states interpret Laws & Acts differently. Hence a large scale discussion with States & Surveys on pain areas has to be undertaken by FICCI. Tata Consultancy Services (TCS) was invited to discuss on various macro level issues that occur from Farm to Fork in terms of Smooth Internal Trade. Mr. Anil Rajpal & Mr. Kedar Mehta from TCS spoke to Industry Leaders and interviewed many members to understand the ground realities.

4. **Industry Consultation - IV, September 6, 2013, Mumbai, Maharashtra**

   Inputs from FICCI Retail Committee members were invited on the draft S&E act. It was suggested that since this act affects larger industry fraternity hence it should be shared with a wider target organizations. For this FICCI cantap various associations with whose members the draft can be shared and inputs can be invited.

Also it was decided that post incorporating the comments of the industry, an appointment to be seeked with Mr. Pankaj Agrawal, Secretary, DoCA to discuss and learn from his inputs.

5. Meeting with Shri Arvind Kumar, Principal Secretary, Labour, Government of Maharashtra, September 20, 2013, Mumbai, Maharashtra

FICCI delegation had met Shri Arvind Kumar, Principal Secretary, Labour with the proposed amendments in the Maharashtra S&E Act. In the beginning he was slight reluctant on the recommendations that FICCI had made. But after lot of persuasion and discussions, he agreed in principal to two suggestions that FICCI had made.

1) He agreed for one time registration under the S&E act and accordingly the fee would be increased. Thus there would be no need of renewal again and again as desired by the Industry

2) He also agreed that records could be maintained electronically and the Government could set up the necessary support base to make such electronic record maintenance possible.

He was quite supportive of few recommendations and very honestly told FICCI that practically it won't be possible to change the entire act in one go, hence he would start with few amendments in the beginning and will then move to others.

6. Meeting with Shri Ramesh Tiwari, Labor Commissioner (HOD), GNCT of Delhi, September 23, 2013, New Delhi, Delhi

FICCI delegation had met Shri Ramesh Tiwari, Labor Commissioner with the proposed amendments in the existing S&E Act.He was very progressive and supportive of all the recommendations and has advised FICCI to table the same to the CM, who would in turn send it to his department for implementation. FICCI had already written a letter to the CM- Delhi requesting Delhi to become a role model state in adopting these reforms so that the same can then be replicated by other states.

7. Industry Consultation - V, October 4, 2013, Mumbai, Maharashtra

With reference to Essential Commodities Act, it was observed that various Governments especially Maharashtra was not too flexible in hearing the industry on the issue of stock limits. However, if a common/publicly available platform whereat the information regarding the stock limits etc. is published and updated time to time can be provided, Industry would be benefited at large. FICCI had written to Chief Secretaries of various states and also to the Food & Public Distribution department to provide an easily accessible information platform about the provisions under ECA.

8. Meeting with Shri Amal Roy Chowdhury, Labor Secretary, Government of West Bengal, October 23, 2013, Kolkata, West Bengal

FICCI delegation had a detailed and fruitful meeting with Shri Amal Roy Chowdhury on the proposed amendments in West Bengal S&E act. During the meeting the Secretary informed us that the WB Government had already taken several steps with regard to the WB Shops and Establishments Act. We are confident that our recommendations would be considered by the West Bengal Government.

9. Industry Consultation - VI, November 8, 2013, Chennai, Tamil Nadu

Ms. Shilpa Gupta briefed the members about the meeting with Prof. K.V. Thomas, Hon'ble Minister for Consumer Affairs, Food & Public Distribution and Shri Pankaj Agrawala, Secretary – CA, Ministry for Consumer Affairs, Food & Public Distribution on Internal Trade.

The group decided that:

- A broader action plan to be laid down beginning with the meeting with Prof. K.V. Thomas followed by the meeting with other Ministries once the Inter-Ministerial Group (IMG) is formed.
- It was suggested that first the FICCI Retail Committee Sub-group on Policy Advocacy should meet the concerned key people with the recommendations. FICCI would try to focus on how to get the recommendations implemented
- FICCI had requested for ideas / suggestions on what all steps to be taken in order to accomplish a larger work-plan

Regarding the Shops & Establishment Act, the group agreed that we should go ahead with the final Draft S&E Act. The draft Act would be represented as Industry view. The action plan will be to have the draft modal act at the Center level and then similar one to one deliberations can be organized at the State level for implementing the model S&E Act.

10. Industry Consultation - VII, December 6, 2013, New Delhi, Delhi

FICCI shared with the committee members that the Ministry of Consumer Affairs has approved the proposal of FICCI to be the knowledge support to the high level group formed under the Hon'ble Minister for Consumer Affairs, Food and Public Distribution on internal trade reforms.

FICCI has already identified various acts which needs reform for the first phase. FICCI would like the members to list out other acts which should be worked on during the second phase. Some of the other acts that were discussed which affect retailers were Insecticides act 7 Drugs & Cosmetics Act which can be dealt in the second phase.It was also discussed that these acts affect other industries also like FMCG, Pharma Companies etc, hence suggestions from the respective committees would be taken before compiling all the recommendations.

FICCI also shared that DoCA wants to have a case study of the various laws and acts that a retail organization has to abide from farm to fork stage and the challenges experienced at every stage.

Committee readily agreed to provide information in this regard and is also willing to give a presentation to DoCA on the same.

FICCI shared with the committee members the data on the current average sale of essential commodities in 15 days and in 30 days per store in Maharashtra. It was felt that even the 15 days stock limit is enough to meet the desired requirement and especially there is a need to push for edible oil whose current limit is too low.

11. Meeting of High Level Group of Ministers on Internal Trade, February 12, 2014, New Delhi, Delhi

The First Meeting Of The High Level Group on Internal Trade held under the chairmanship of the Hon'ble Minister Of State (Independent Charge) For Consumer Affairs, Food And Public Distribution On February 12, 2014 at 9.30am at New Delhi.

The Additional Secretary, DoCA extended a warm welcome to all members of the High Level Group and requested the Hon'ble Chairman to deliver his welcome address. The Chairman, in his speech, briefly referred to the Cabinet directive leading to constitution to the High Level Group, the specific Terms of Reference (TOR) requiring examination and how the High Level Group's final recommendations will have to ensure that the interests of all stakeholders linked to the country's internal trade sector and in particular the small and unorganized traders are taken into account. The Chairman's welcome speech was followed by a presentation by the Senior Economic Adviser,DoCA in which all the likely issues under each of the TOR was highlighted for deliberation by the High Level Group. The presentation also focused on the specific suggestions received for consideration like revision of the Agricultural Produce Marketing Committee Act, evolving a regulatory framework for E-commerce/E-retailing, strengthening of consumer protection laws etc. it was emphasized that the points raised in the presentation are not exhaustive and therefore during the course of discussions the High Level Group may raise any issue/issues that has not been mentioned. Commenting on the presentation, the Chairman agreed that the sector was too vast and diverse and therefore, the issues raised under each TOR needed in depth examination.

The group has acknowledged the work that FICCI had done for the background notes, presentation and used the data from FICCI studies.

Amongst the acts/laws which need reform as suggested by FICCI, following were identified for immediate action– APMC (pushed by Ministry of Finance) , Essential Commodities Act, Shops & Establishments Act, Legal Metrology, FSSA, Drugs & Cosmetics Act (which is under consideration for amendments any which ways)

Apartfrom these, FDI In e-commerce was specially highlighted for discussion by DIPP and regulation on direct selling was pushed by Ministry of Commerce. In addition the need for a regulatory clarity for the Direct selling Industry was highlighted by the DFS.

12. Meeting with Mr. J.C. Sharma, Principal Secretary, Government of Andhra Pradesh, March 4, 2014, Hyderabad, Andhra Pradesh

FICCI delegation met with Principal Secretary, Govt of Andhra Pradesh regarding the Shops & Establishment Act. Secretary was very progressive and agreed to FICCI representation that some clauses of the act need to be amended. *FICCI has received a copy of the communication from Secretary to the Labor Commissioner to examine FICCI recommendations and propose suitable amendments.*

Industry Consultation - VIII, March 28, 2014, Gurgaon, Haryana

Tata Consultancy Services gave a presentation on macro issues hurdles that they compiled and the group agreed on the following key bottlenecks:

1. Training Institutions
2. Sourcing Hubs
3. Warehousing & Cold Storage
4. Distribution Hubs
5. Logistics Upgradation
6. Quality Standards
7. Retail Corporate Financing
8. VAT Collections
9. Real Estate Development
10. Retail Zoning
11. Traditional Retail Support
12. IT & Automation Investments

It was shared that FICCI had touch based and submitted representations to various Government departments on each of the identified acts and currently is in the process of following up with each Ministry and reaching out to different states and Government departments.

Ongoing Industry Consultations:

Several Industry Consultations took place on Consumer Protection Act, Legal Metrology Act and BIS which are under amendment currently. In continuation to FICCI's commitment to interface between Government & Industry, FICCI has submitted the above three separately to the Ministry.

PS: For any query on the above please write to shilpa.gupta@ficci.com

Key Acts identified for Reforms for Smooth Internal Trade

After various deliberations and consultations with the Industry and the Government, FICCI has identified 6 critical acts in the first phase that need immediate reforms for the growth of the Retail sector:

These are:

1) Essential Commodities Act
2) Legal Metrology Act
3) Shops & Establishments Act
4) Drugs & Cosmetics Act
5) Food Safety & Standards Act
6) APMC Act

Synopsis of Legislative reforms based on the Industry: Responses Received by FICCI

1) Essential Commodities Act, 1955		
No	Issue	Suggestions and Recommendations
1	(a) Each State passes an Order under the Essential Commodities Act prescribing the stocking limits for retailers and wholesalers. For instance, Maharashtra Scheduled Commodities Wholesale Dealers' Licensing Order, 1998 prescribes that the wholesale dealers in Mumbai-Thane Rationing Area, Nagpur and Pune Municipal Corporation areas, shall hold the maximum stock of one hundred fifty metric tonnes of wheat for a maximum period of ten days	(a) The regulations should be amended to introduce a separate category of 'Storage Location' apart from Wholesaler and Retailer and prescribe a separate stock limit for it. (b) Provisions should be made in the orders should be linked to the monthly sales and allow license free stocking of up to average 30 days' sale for a retailer and 60 days' sale for a wholesaler. (c) It is recommended to increase the stocking limits outside the Municipal Corporate Area, so that large DC's can be shifted out of the city and thus freeing up valuable space within the Municipal Corporation Areas.

No	Issue	Suggestions and Recommendations
	and shall also submit the fortnightly returns to the Licensing Authority. Such stocking limits of a retail hypermarket are extremely low and are limiting high volume staples to almost the daily sales of the stock. For servicing the large format super stores across the state or in some cases across the country, these quantities are grossly inadequate and are forcing companies to open multiple warehouses or have more frequent replenishments to meet their growing requirements which drive up operational costs. (b) The stocking limits of various commodities differ on the location of the DC. If the DC is located within the Municipal Corporation Area then the stock limit is higher as compared to if it is located in other areas of the State. Space in the city is costly and scarce. By keeping a low stock limit outside the Municipal Corporate Area, in order to meet their requirement of higher stocking limits, big retailers are forced to push their DC's further into the city. This is not beneficial for the infrastructure of the city. (c) There continue to be stock limits/licensing requirements etc. in respect of certain commodities (i.e. commodity	(d) It is recommended that Removal of (Licensing requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order of 2002 be made effective uniformly, and not be kept in abeyance any longer. (e) It is understood that wholesale retailers primarily operate on the principle of achieving economies of scale. Reduction in inflationary pricing and availability of such commodities can be far better achieved if Removal of (Licensing requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order, 2002 is effectively implemented. (f) **Note**: Under Section 97 of the Food Safety and Standards Act, 2006, with effect from such date as the Central Government may appoint in this behalf, the enactment and Orders specified in the Second stand repealed. This schedule includes all orders relating to food passed under the Essential Commodities Act. Thereby it can be inferred that the Centre has deregulated all food products under various existing orders passed by states/ centre. However, state governments may pass new orders in relation to the food commodities. It should be mooted to retain this position as the Food Ministry is now coordinating with the Cabinet Secretariat for removal of such orders from the schedule of the Food Safety Act as State governments are objecting to such repeal provision.

No	Issue	Suggestions and Recommendations
	edible oils, edible oilseeds, rice and paddy) in certain States/Union Territories (i.e. Andhra Pradesh, NCT of Delhi, Manipur, Maharashtra, Tamil Nadu, Jharkhand and Andaman & Nicobar Islands). (d) The Removal of (Licensing requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order (**"Order"**) of 2002 was passed with the objective of abolishing the need for permit or license pertaining to stocking, selling or transporting certain commodities (i.e. commodity edible oils, edible oilseeds, rice and paddy) by wholesalers and retailers. However, provisions of this Order have been kept in abeyance since August 2006 for certain commodities (i.e. commodity edible oils, edible oilseeds, rice and paddy). This appears to have been done to enable State Governments to continue to take de-hoarding operations under Essential Commodities Act. The Cabinet had initially approved this only for a period of 6 months. However, The validity of this Order has been extended from time to time incorporating also some more essential commodities.	(d) It is recommended that Removal of (Licensing requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order of 2002 be made effective uniformly, and not be kept in abeyance any longer. (e) It is understood that wholesale retailers primarily operate on the principle of achieving economies of scale. Reduction in inflationary pricing and availability of such commodities can be far better achieved if Removal of (Licensing requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order, 2002 is effectively implemented. (f) Note: Under Section 97 of the Food Safety and Standards Act, 2006, with effect from such date as the Central Government may appoint in this behalf, the enactment and Orders specified in the Second stand repealed. This schedule includes all orders relating to food passed under the Essential Commodities Act. Thereby it can be inferred that the Centre has deregulated all food products under various existing orders passed by states/ centre. However, state governments may pass new orders in relation to the food commodities. It should be mooted to retain this position as the Food Ministry is now coordinating with the Cabinet Secretariat for removal of such orders from the schedule of the Food Safety Act as State governments are objecting to such repeal provision.

No	Issue	Suggestions and Recommendations
2	Display price list of **all** commodities (as has been read under Section 3(2)(c) of the Act) is not possible in case of super stores and hyper markets. Currently, failure to display price list and stock of shop attract penalty under Section 7 of the Act.	It is recommended that the price should be allowed to be displayed next to commodity on the shelf, as is generally the practice in stores of such nature.
3	Maintenance of registers is mandatory under the Act. Section 3(2)(i) of the Act requires persons engaged in the production, supply or distribution of or trade and commerce in any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business.	Maintenance of records in electronic form be permitted.
4	Every person who, at the time of contravention of an order (made under Section 3 of the Act), was in charge of, and was responsible for the conduct of the business of the company shall be liable to prove that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention. As per Section 10(1) of the Act, such persons are deemed to be guilty of the contravention.	Section 10 (1) of the Act may be amended to restrict applicability only to persons involved in day to day affairs of the company or the affairs of the company which have direct connection with the contravention of the order.

<table>
<tr><th colspan="3">2) Legal Metrology Act, 2009</th></tr>
<tr><th>No</th><th>Issue</th><th>Suggestions and Recommendations</th></tr>
<tr><td rowspan="3">1</td><td rowspan="3">1) Issue on units of weights of commodities to be packed (viz. g, kg, ml, and litre)

2) Issue on misinterpretation of soup mixes with fruits juices/nectar & vegetables juices concentrate.

3) Request to amend S.No. 16: "Aerated Soft Drinks & Non-Alcoholic Beverages" of the Second Schedule of the said Rules.

4) Issues on Application for Registration of Packers/ Manufactures etc

5) Issues relating to Free and Promotional Offers

6) Issues relating to sample picked up by the LM Officers Compounding notices being issued against all Directors despite there being a Nominee Director.

7) Insistence of the department to get the Compounding applications to be signed by the Nominee Director instead of Authorized Representative

8) Tea Bags Non-standard pack size issue

9) Insistence of Rule 6 declarations on Institutional packs after the 6th June amendment of the definition.

10) Retail packs being classified as Wholesale Pack because of the packaging

11) Whether extra quantity of any commodity being provided to consumer at no extra price also</td><td>(a) All squashes, fruit syrups, crushes, canned mango pulp etc. are falling under the Serial No.9 as per Rule 5 (Specific commodities to be packed and sold in recommended standard packages).

(b) The commodities such as Cordials, Squashes, Fruit Syrups and Sherbets which are sold in liquids are falling under S.No. 16 and the net contents to be declared are (ml) and/or litre (l).</td></tr>
<tr><td>I. However, the products Cordials, Crushes, Squashes, Fruit Syrups, Sherbets and canned mango pulp etc. are liquid beverage concentrates which are consumed only after dilution/constitution/reconstitution and therefore, should be considered under S.No. 9. The Serial No.9 of the Second Schedule shows UOM (Unit of Measurement) in g (gram) and kg for such liquid items instead of ml and litre. These liquid Items (commodities) cannot be packed in grams or kilograms (as quantities given in S.No.9), therefore, additionally the provisions to package these commodities on the v/v basis (ml, litre) under S.No. 9 should be included.

II. Most of the fruit processors are packing squashes, fruit syrups, and crushes in 700 ml (were actually packed and sold in the quantity of 700 ml since many years) and it is difficult to change to 500ml or 1 ltr. These commodities are also available in various quantities like 200ml, 500ml, 1 litre and in multiples of 1 litre. Therefore, 700ml quantity should be incorporated in S.No. 9 of Second Schedule.</td></tr>
<tr><td>The clarification is urgently needed on the confusion that is arising from the Second Schedule of the Legal Metrology (Packaged Commodities) Rules. Sr.No. 9 – "Materials which may be constituted or reconstituted as beverages" in Second Schedule is creating confusion between soup mixes and fruits juices/nectar & vegetables juices concentrates. As both of these products need constitution/ reconstitution before consumption, clarification is needed whether soups mixes are also to be packed in</td></tr>
</table>

No	Issue	Suggestions and Recommendations
	needs to comply with Standard Packaging mandates under the Legal Metrology? 12) Kitting issue-Whether products kitted together for ease of transportation need to contain declarations of wholesale / retail packs (depending upon the number of commodities kitted together)?	the same quantities/weights as provided in the Sr.No. 9 of Second Schedule for "Materials which may be constituted or reconstituted as beverages". S.No. 16 of the Second Schedule has specified certain weights/quantities for "Aerated Soft Drinks & Non-Alcoholic Beverages". However, at present 330 ml quantity is allowed in cans only. It is requested that it should be allowed in all packaging formats (types of packages) particularly tetrapaks, because tetrapacks are much cheaper and safer than the cans. Further, there are no chances of metallic contamination of a product in tetra packs.
		6. Registration of the manufacturer/ packer/ importer is prescribed under Rule 27 of the Legal Metrology (Package Commodities) Rules, 2011 but Section 18(1) of the Legal Metrology Act, 2009 from which the "Packaged Commodities Rules, 2011" have originated, does not require registration as a manufacturer or packer of the packaged commodities. b. Further, Section 52(2)(j) and (q) of the Act, under which the Rules were framed, also do not mention anything regarding Registration. Since, Legal Metrology Act, 2009 (i.e. the Central Act) does not make lack of registration offence under the Act, how Legal Metrology Package Commodities (Enforcement) Rules, 2011 / Legal Metrology Package Commodities Rules, 2011 (i.e. Rules) makes it an offence. It is settled law that Act should prevails over its respective Rules, therefore, the offence under Section 27 of the Act could be termed as bad in law and devoid of any legal validation. c. Moreover, there is no procedure for obtaining registration under Legal Metrology Act. Are there any guidelines which should be followed? d. Can different States provide different procedures for the Registration? If yes, then there should be uniformity in implementation of the rules strictly in line with the true spirit of Legal Metrology Act, 2009.

No	Issue	Suggestions and Recommendations
		6. Seeking clarification in case a pack is having non-standard weight i.e. 120g and provided with free offer i.e. 30g and in totality the net weight of the package is 150g, which is a standard pack size e.g. Net Weight : 120g (Non Standard) + 30g (free) = 150g (Standard Pack Size) b. In case two nonstandard packages are packed together and sold as promotional offer and total net weight of the both non-standard packs is equal to a Standard Pack, does this fall under non-standard package. e.g. Net Weight : 130g (Non-standard) + 120g (Non-standard) = 250g (Standard Pack Size).
		c. Need to seek the clarity on the sample picked up by the LM Officer It has been observed in several cases that the only one sample is being picked up by the LM Officer from the market and all his observation is based on the that sample only. d. In most of the cases LM officer doesn't apply scientific thought process as what and why happened in case of some violation. e. Litigation, court cases, law suits and or notices being served by the LM officer should not be based on the noncompliance reported for only in one pack, there should be some statistical approach on the sampling plan for the sample drawn by the LM officers. f. There are lot many factors which are responsible for non-compliances of the net weight against the target or declared weight such as g. High speed of the machine. h. Least count of the machine or rated capacity/efficiency of the machine designed by the machine manufacture which is never 100%. i. Environmental factors which may also affects the machine efficiency such as variable temperature, humidity and other conditions.

No	Issue	Suggestions and Recommendations
		j. Human inability to deliver results with 100% accuracy is also a bottom time even if we train them and retrain them continuously. k. 100% Inspection is also not possible in present day scenario of production volumes and machine speeds hence there could be a chance that the defective may pass through the statistically designed inspection criteria. Hence it is requested to establish some statistical sampling plan for the inspectors considering above bottlenecks
		Nomination of Director – At State Legal Metrology Offices, notices being issued to the Directors – Nominee to be changed to Plant Manager / QA Manager or Operations manager from Director since LM issues such as missing of Batch No.,MRP, Pkd. Etc. is pertaining to operational issues in respective units where the food products are being manufactured.
		All multiples of standard retail packs should also automatically qualify as a standard package. Eg. 125 x 3 for toilet soap should be considered as a standard package automatically

3) Shops and Establishments Act		
No	Issue	Suggestions and Recommendations
1	Opening and Closing Hours: No shop shall be opened on any day earlier than a given time stipulated by the State Government or closed on any day later than 10 p.m. Subject to the provisions, the state govt, may fix different hours for different shops or different classes of shops or different area or for different times of the year	**Recommendation in the draft of Model Act shared with FICCI ("Model Act") (Section 7):** No shop shall on any day be opened earlier or closed later than such hour as has been intimated by the employer to the Inspector in writing. Provided that a shop may remain open for twenty-four hours and seven days a week on prior written application to the Inspector and subject to satisfaction of provisions relating to total number of working hours for each employee. Such application shall be deemed to have been approved if no confirmation is received from the Inspector within a period of fourteen days from the receipt of such application. Further provided that no shop shall change its working hours without prior written notice to the Inspector. Also provided that any customer who was being served or was waiting to be served in any shop at the hour fixed for its closing may be served within reasonable time immediately following such hour.
2	**Weekly Off:** Every shops whether with or without employees, shall remain closed on **every Sunday** which shall be a holiday for every employee in the shop. Provided that the chief inspector may by notification specify in respect of any shop or class of shops, or in respect of shops or class of shops in any area, any day in the week instead of Sunday on which day such shop or class of shops shall remain closed. The company seeking exemption should have a minimum of 100 employees' on their rolls across all branches put together, in states like AP and should have minimum Four Branches."	**Recommendation in the Model Act (Section 12):** (1) No shop whether with or without employees, shall be required to remain closed on every Sunday or any other day: Provided that nothing in this section shall be applicable to shops that have obtained permission to remain open 24 hours a day, seven days a week. Provided that each employee shall be entitled to one day off in the week, which shall be determined by the designated officer together with the employees, such that no employee is required to work more than six consecutive days. (2) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (1) shall be specified by the employer in a notice prominently exhibited in a conspicuous place in the shop. (3) It shall not be lawful for the employer to call an employee at, or for the employee to go to his shop,

No	Issue	Suggestions and Recommendations
		or any place for any work in connection with the business of his shop on any day or part of the day on which it has remained closed. No deduction shall be made from the wages of any employee in a shop on account of any day or part of a day on which it has remained closed; and if such employee is employed on the basis that he would not ordinarily receive wages for such day or part of a day he shall nonetheless be paid for such day or part of a day the wages he would have drawn had the shop not remained closed or had the holiday not been allowed, on that day or part of a day.
3	**Maintenance of records**: Every employer of a shop or commercial establishment has to maintain various registers like a register of employment, a register of leave, a visit book, etc. as detailed in rules made under the Act. He has also to maintain certain records and display certain notices as per the Rules. The company seeking exemption should have a minimum of 100 employees' on their rolls across all branches put together in AP and should have minimum Four Branches	**Recommendation in the Model Act:** Subject to the control of the Government an employer shall maintain such registers and records and display such notices, as may be prescribed. All such registers and records shall be kept, and all such notices shall be displayed on the premises of the establishment to which they relate. Provided that every register and record required to be maintained under this Act and rules made thereunder, may be filed in computer readable electronic form, in portable document format (pdf). Provided that the concerned Government shall set up and maintain a website or portal which shall provide access to the secure electronic registry in which all the documents including registers and records filed electronically shall be stored. The electronic registry so set up shall enable public access and inspection of such documents as are required to be in public domain under the Act.
4	Prohibition of employment of women and young person's during night: No woman , or a young person shall be required or allowed to work in an establishment during night (exemption may be given to Information technology establishment)	Recommendation in the Model Act (Section 26, 27 and 28): **Special provision for young persons**:- No young person shall be required or allowed to work in any establishment before 6 a.m. and after 10 p.m. **Daily and weekly hours of work for young persons**:- Notwithstanding anything in this Act, no young person shall be required or allowed to work in any

No	Issue	Suggestions and Recommendations
		establishment for more than 7 hours in any day and forty-two hours in any week nor shall such person be allowed to work overtime. **Special provisions for women**:- No woman employee shall be required or allowed to work in any establishment before 6-00 a.m. and after 10 p.m. unless the employer makes necessary special arrangements for the safety of such women employees and arranges for and bears the cost of travel of such women to and from their respective place of residence.
5	Powers and Duties of Inspector: the inspector is entitled to enter establishments at any and all reasonable times with assistants to examine records	The concerned inspector shall inform the shop manager, in writing, 48 hours in advance on his visit to the concerned shop and also mention the record and Licenses which he would inspect and during his visit he shall produce documents showing he is the concerned officer appointed by the authority for that area. If the inspector finds any record not in proper format or order then he shall advice accordingly and gives an opportunity to the shop management 7 working days to rectify the problem and only after that he can issue the notice for imposing any penalty.
6	Display of name of the establishment and signage	All display names and signage shall be in English in all the cities in India.

Note: Model Shops & Establishment Act can be procured from FICCI. For Discussion / Consultation/ Deliberation, please write to Ms. Shilpa Gupta, Head – Retail / FMCG at shilpa.gupta@ficci.com

4) Drugs & Cosmetics Act, 1940	
Issue	Suggestions and Recommendations
The Drugs and Cosmetics Rules provide that the manufacturers as well as wholesalers and retailers have to obtain separate licenses based on categorization of drugs. Also, separate form and separate licenses are prescribed for import of drugs of different categories. *PS: Recommendations of drugs & cosmetics act are basis the consultations held over 1 year. Recently, a new drugs & cosmetics bill have been tabled in parliament. Final comments may vary depending on the new bill.*	Some of the provisions are archaic and need to be reviewed to rationalize and harmonize the licensing and regulatory procedures keeping with the contemporary developments. Definition of 'Agents' appearing in section 19(3) of The D& C Act 1940 should be provided in the Section 3. This is essential to obtain convictions against spurious drug suppliers, who take the defense under section 19(3). The law makers have classified 'agents', on par with the manufacturer. Thus it is essential to differentiate an ingenious 'agent' from an ordinary ignorant gullible dealer. Definition for 'agent' as a person who receives drugs/cosmetics/medical devices directly from the manufacturer or importer. This amendment will go a long way in controlling the spurious/ adulterated/or not of standard quality drugs/ cosmetics and medical devices. The words which need to deleted in the present Act 'sale to a hospital, dispensary, medical, educational or research institutions' included in the definitions of both retail and wholesale, vide Rules 2 (f) and 2(g) should be deleted. Spurious drug peddlers, supply to doctors and go scot free, under this clause. This amendment helps to stop the distribution of spurious drugs and also increases the turnover of the retail chemists. Rules 62(B) and 64(2) needs clear cut norms to grant sale licenses in the rules itself. This will help licensing authorities to exercise power without the fear of accusing of partiality. Uniform enforcement also is possible. In the section 36 AB referring to Special Courts, offences punishable under section 13 and 13A also must be included. The drugs control officers should be empowered to break open a locked premises, on par with the sec42 (1)(b) of The NDPS Act 1985.
Presently, the Drugs and Cosmetics Act contains various provisions for effective punitive action against the manufacturers and distributors of spurious drugs, but to curtail distribution of such spurious drugs more deterrent provisions are required to be included to benefit the genuine manufacturers and retailers.	(a) The Act should include a separate provision for speedy trials of offences pertaining to spurious drugs. The Drugs and Cosmetics (Amendment) Bill, 2005 also seeks to amend the Drugs and Cosmetics Act, 1940 to provide for special courts to try offences related to spurious and adulterated drugs.

Issue	Suggestions and Recommendations
	(b) Also, a specific provision in the Drugs and Cosmetics Act should be included that will allow persons indulging in spurious drug offences to be detained for a minimum period for the purposes of providing enough time for interrogation for a maximum period of say, six weeks. (c) It is required that some provision in the Act should be incorporated to remove the bottleneck for investigating agencies. (d) There should be provision of nomination of some person in charge of Factory who will be responsible for all compliances. Similar provisions are already included under Food Adulteration (Prevention) Act, 1954 and Factories Act, 1948. (e) There should be an agency for inter-state enquiry and investigation. Drugs inspector should have powers to interrogate the person who can give information regarding the offence. The Investigating officer should have power to make statement regarding his knowledge of offence. Bar coding of medicines – There is currently no practice of applying bar codes to medicines leading to mismanagement of medicines. This must be statutorily enforced to curb the menace of spurious medicines. Organised retail has enforced bar coding but at a huge additional cost since bar codes are affixed manually on each strip.
Import License only to manufacturers or agents: Under the Drugs & Cosmetics Rules, provide that an application for an import licence shall be made to the licensing authority either by the manufacturer himself having a valid wholesale licence for sale or distribution of drugs under these rules, or by the manufacturer's agent in India either having a valid licence under the rules to manufacture for sale of a drug or having a valid wholesale licence for sale or distribution of drugs.	The Rules may be amended to allow direct imports by the retailers who have obtained a valid license and who may/ may not be engaged in indulged in wholesale trade.

Issue	Suggestions and Recommendations
Single Licensing Authority	A single licensing authority for manufacturing, sale, export, import distribution or stocking of certain drugs and cosmetics should be formed for effective rationalization of the licensing procedures. While this was proposed under 2007 amendment, it is not yet implemented.
Section 18 I read with Rule 62- Sale or storage at more than one place requires different licenses. Supreme Court has held that storage even though for short spells and on ad-hoc basis even without intent to sell from that place comes within the ambit of "**storage for sale**". [AIR 1974 SC 517]	Unified license should be granted to stores intending to sell/ store at different places as they will be selling/ storing or storing for short spells at different places. Storage for short span should be made an exception. Also, in case of retailers, exception should be created for drugs kept as physicians' sample. As currently courts have held that a drug at a chemist store can be assumed to have been kept there for sale.

5) The Food Safety and Standards Act, 2006 / Food Safety And Standards (Licensing And Registration Of Food Businesses), Regulations 2011	
Issue	Suggestions and Recommendations
A. Manner in which new regulations (advisories) are being notified: Frequent notifications have been issued in the recent past by FSSAI without envisaging the impact on Industry. One such instance is on labeling where regulation in bits and parts is being notified when the original regulation on labeling (and packaging) is under amendment. 6. Notification of making mandatory to print the License embedded in FSSAI logo on all product labels – lead time given 6 months ii. Notification of making it mandatory to separately print Trans and Saturated fats on labels of packaged foods, lead time given 2 months Intermittent amendments in labeling require many changes in supply chain system and hence needs to be anticipated well in advance. Besides, the packaging materials are printed in bulk to cater the requirement for many months.	(i) This could be avoided by having a process wherein we consolidate the labeling requirements in one go, like once in a year. (ii) Pro-active Consultation with stakeholders: Timely consultative process on draft notifications, especially with Industry bodies, much of confusion and ambiguity can be avoided. The case worth mentioning here is the process for product approval.
B. Product Approval Issues - Product Approval Overall Implication · Product Approval Process was introduced by FSSAI in the month of January 2012, prior to that there was no such process which was existed and proprietary foods were being manufactured without approval except getting the manufacturing license. • FSSAI had to revise the product approval process more than nine	- Approval should be emphasized for only Novel Food and Novel Ingredients which does not have history of safe use in India or across the globe. - Lead time to be given for implementation of product approval advisory. - Consultation process with Industry associations needs to be improved with scientific processes, considering technological constraints and within the ambit of the law. This may be done for notifications which largely impact the industry. - Little ambiguity if TRADITIONAL FOODS required product approval even if no additive is used in the formulations.

Issue	Suggestions and Recommendations
times in 2012, and it still needs to be industry friendly process. • Lot of applications were pending at FSSAI and granting the manufacturing licenses were being denied in absence of product approval or NOC, hence IDMA/Vital Nutraceuticals filed Writ petition in Bombay high court. • Bombay high court put a Stay on Product approval advisory (Dated 11.05.2014) on 31 January 2014 and is further extended till 30th June 2014. • FBOs are unable to submit the PA applications for product which the application is yet to be submitted for approval, but licensing authorities are asking for PA or NOC without which the renewal or new licensing application is rejected by licensing authority. - Proprietary Products which have been granted Licenses earlier and being manufactured in India since more than 60 years are being asked to get the product approval post which licenses will be renewed or granted for manufacturing. - No clue on Product Approval applications already submitted for new products since last 6 months, even some of them are pending since 1 year as well. - Adverse impact on New Product Launches.	- Institutional products which are intermediates for other FBOs and do not consumed directly by consumer needs to be exempted from product approval. - Timelines for granting product approvals needs to be improved and defined. - Improving infrastructure to evaluate the product approval applications submitted by FBOs. Lot of delay is happening in providing the Product approval or suitable input. - Till the situation becomes in control Licensing should be delinked with product approval. Currently after getting product approval FBO have to apply for Central License for 1 year, thereafter migration to Central or State authority likewise. - Fresh applications/ multiple DDs (worth Rs 25000/- each) for similar products in same category need not be emphasized. In one application 5 different variants/formulations may be clubbed under the same product category (e.g. Biscuits). - Clarity is required if a PNOCs/NOCs already granted will be converted into the product approval or FBO has to apply again to convert PNOC/NOC in to Product Approval. - Minor change of ingredients in the formulation is not required to be applied for fresh product approval (e.g. if FBO want to increase or decrease 1 % of Sugar in the existing formulation of approved proprietary food).

Issue	Suggestions and Recommendations
- Confusion (both for Authority as well as Industry) and lot of re-work. - A list of commonly consumed food is to be prepared and exempted from product approval. **C. Import Issues** - Seeking Product Approval or NOC even for the products which are being traded since decades and which are of proprietary in nature. - Detention Charges due to delay in Sampling by the authority or Ambiguous interpretation of the labeling requirements such as Mfg or Importer Addresses, Ingredient list for Single Ingredient etc. etc.	
D. Interpretation of Regulations at FSSAI Central and Enforcement Divisions at States - Central authority and state enforcement authorities are having different opinions and interpretations of the standards defined under the food safety regulations (e.g. we have been issued a NOC for Cream biscuit approval but the same was considered misbranded by enforcement divisions at State level (MP). - A GRAS (Generally Recognized As Safe) additive allowed at several places within the FSS Regulations but not allowed for certain other products. - Similarly a lot of additives which are allowed in one products are not allowed in another product even when :	- More proactive clarification process needs to be established along with state enforcement agencies. - FBOs should be given an opportunity by state enforcement in case of any deviation and they may interact with Central authority to seek clarification before issuing notices to FBOs (Food Business Operators).

Issue	Suggestions and Recommendations
- Has safe history of uses. - For which safety risk is already conducted by CODEX and other international recognized body (e.g. Sodium citrate and Pectin are well accepted and allowed @ GMP in CODEX/JECFA, but Indian regulation does not allow them for use in Sugar Boiled Confectionery). - Have understood that the harmonization of FSS Regulations is going on with CODEX. It will take lot of time to harmonize as it has to go to law ministry, has to be discussed in both houses of parliament, gazette notification will be released for comments etc. No timeline when it will be completed.	

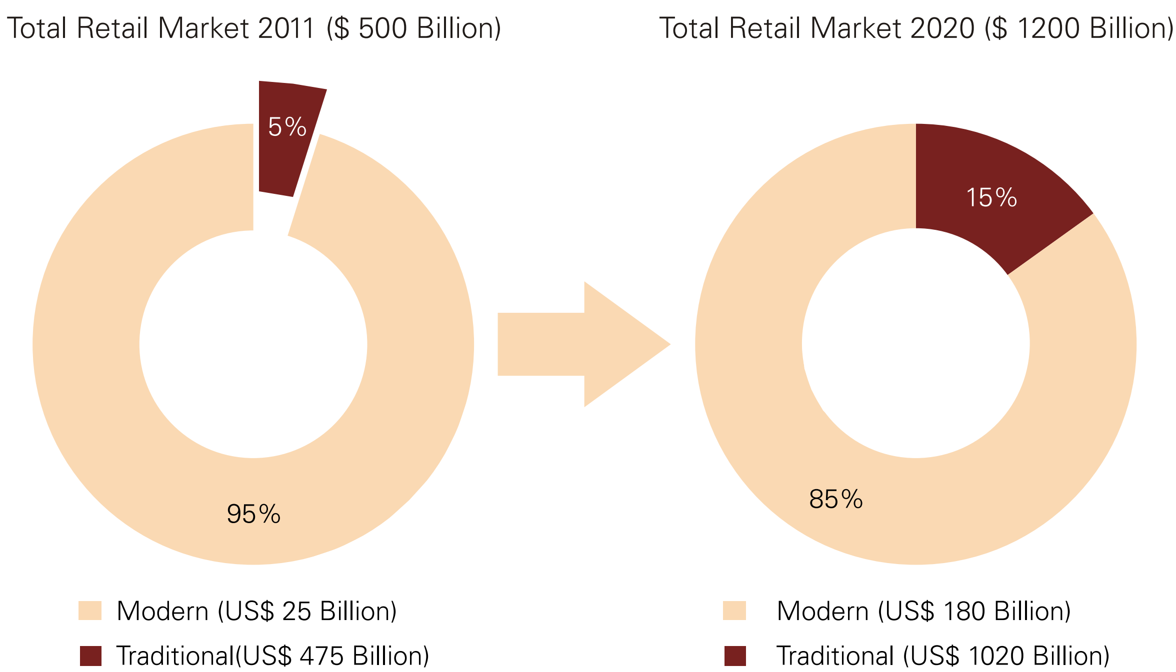
6) Model Agricultural Produce Marketing Act	
Key Recommendations	- Concept of APMC needs rethinking – The Act is based on few assumptions (stated or implicit) which have reduced importance now as compared to the time when it was envisaged. Firstly, the exploitation by village level middlemen has virtually vanished with the advent of information transparency. - Second, farmers are better organized through groups promoted under various government schemes and by NGOs leading to a reasonable level of consolidation of produce at village level. This has led to transport cost optimization to the extent feasible. - To meet the objective of "best possible price to farmer" , need to create a free, open market with permission to everyone to buy from farmers - Single levy of cess on goods purchased - Involvement of private players in the APMC as well as encouragement to set-up their own Markets. - Removal of fruits/vegetables/perishables from the ambit of the APMC Act and farmers/producers to be allowed to sell it to whoever they wish - Mandatory creation of processing/post-harvest facilities, cold storages, cold chains and creation of a farmer support module at the APMC. - Transparency in utilization of cess paid towards welfare of farmer community instead of administrative costs of market committees. - One regulatory authority for all states, instead of control by each APMC and each state

Macro-level Challenges on Ground faced by Retail Industry

Apart from analyzing the regulatory bottlenecks faced by Indian Retail Sector, FICCI has also identified some macro level bottlenecks faced by the sector. It is important to address these issues as well for the overall growth of the sector and for ensuring smooth Internal Trade.

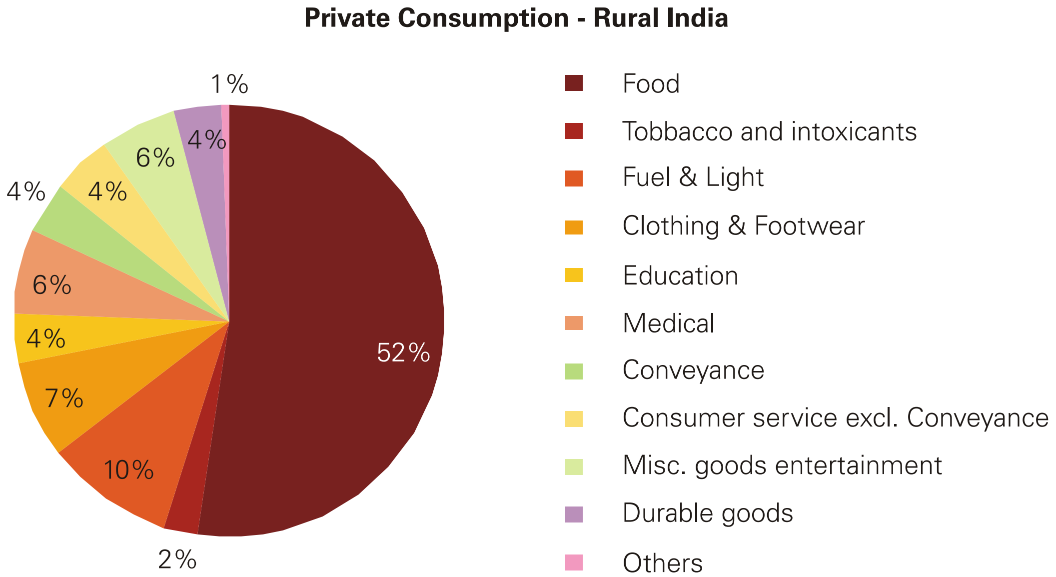
FDI In Indian Retail: Implications on Ground for Smooth Trade Flow

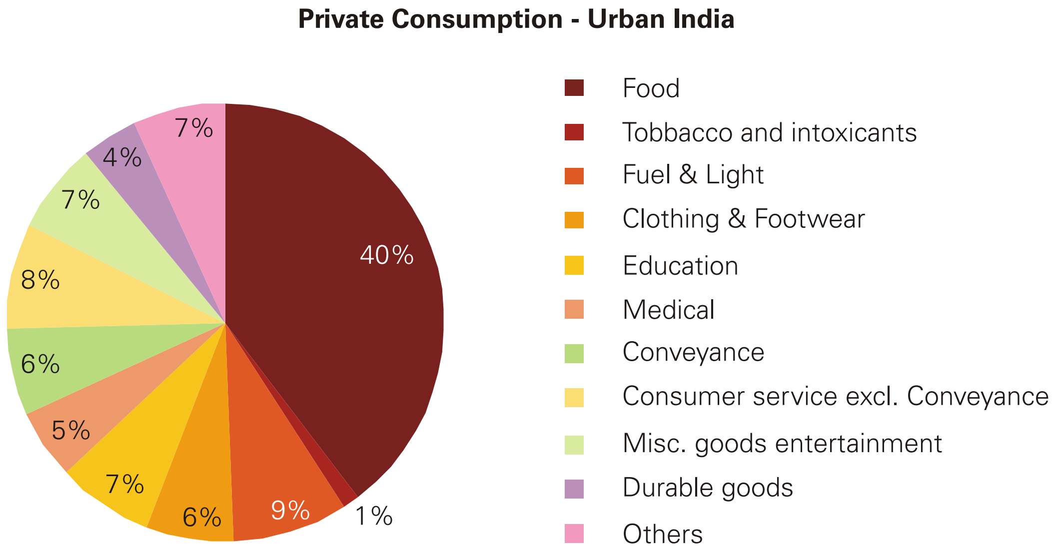
Indian Retail Market Overview: Size of the Market



By 2020, organized retail shall grow to 15 percent of the overall retail market from the current 5 percent penetration levels. This would translate to an addition of around US$ 150 Billion in the next 8 years and expect Modern and Traditional trade to co-exist

Indian Retail Market Overview: Category Overview

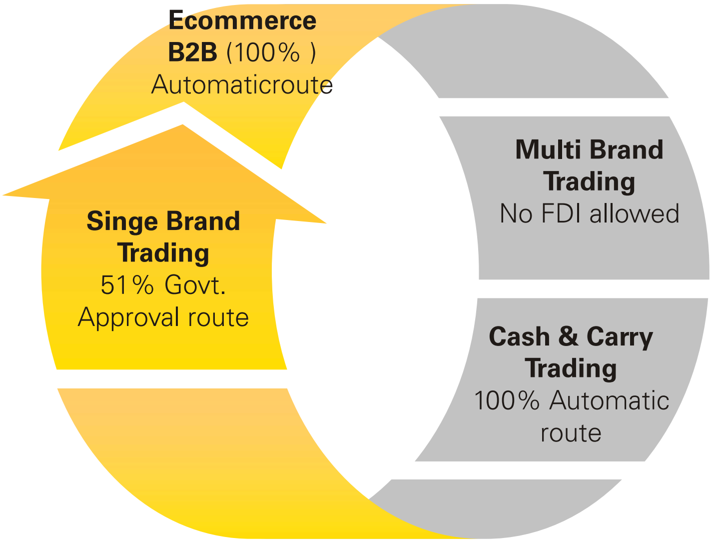




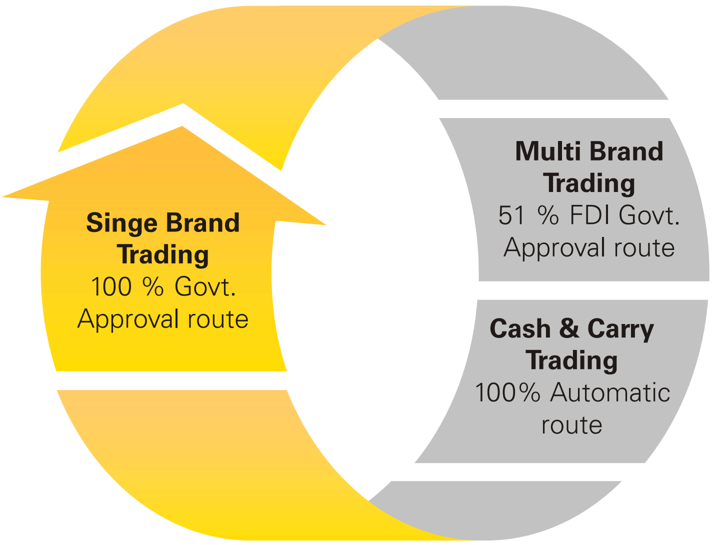
- More categories would be added and the consumption pattern shall evolve towards discretionary/lifestyle spending items
- This would mean not only intra category competition but a stiff fight for share of wallet among the indirectly competing categories. Travel, education and financial products for example, are some of the new emerging services which are rapidly growing and may impact the growth of some other categories
- F&G which occupies the largest share today would reduce to less than 35%

Retail FDI Policy: The Journey

Old FDI Policy



New FDI Policy



Single Brand Retail: FDI Policy Compliance

The Government of India has decided to permit 100% FDI , under the Government approval route, in Single Brand Retail Trading, subject to specified conditions as noted below

1. **Single Brand Criteria**
   - Products to be sold must be of Single Brand only
   - Products should be sold under the same brand internationally (One or more countries other than India) and would only cover products which are branded during manufacturing
2. **Ownership**
   - Only one non resident entity whether owner of brand or otherwise is permitted to undertake single brand retail trading for that specific brand
3. **Sourcing**
   - In respect of proposals involving FDI beyond 51% ,sourcing of 30% of the value of goods purchased will be done from India, preferably from MSMEs, Village and cottage industries, artisans and craftsmen, in all sectors
4. **Ecommerce**
   - Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of single brand retail trading

Multi Brand Retail: FDI Policy Compliance

The Government of India has decided to permit FDI, up to 51%, under the Government approval route, in Multi-Brand Retail Trading, subject to specified conditions as noted below

1. **Investment**
   - Multi-brand retailers must bring a minimum investment of US$ 100 million, 50% of which must be invested in back-end infrastructure facilities
2. **Sourcing**
   - At least 30% of the value of procurement of manufactured / processed products purchased shall be sourced from Indian 'small industries'.
   - Fresh agricultural produce may be unbranded, however the Government shall have the first right to procurement of agricultural products
3. **Geography of operation**
   - The implementation of the policy would be the sole discretion of the local State Governments/ Union Territories

4. **Location**

- Retail sales outlets will be set up only in cities with a population of more than 1 million as per 2011 Census in the states willing to implement the policy

5. **Ecommerce**

- Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of multi brand retail trading

Implications on Ground for Smooth Trade Flow

1. Training Institutions
2. Sourcing Hubs
3. Warehousing & Cold Storage
4. Distribution Hubs
5. Logistics Upgradation
6. Quality Standards
7. Retail Corporate Financing
8. VAT Collections
9. Real Estate Development
10. Retail Zoning
11. Traditional Retail Support
12. IT & Automation Investments

1. Training Institutions

- In addition to large Indian retail groups that employ store staff in thousands today, the entry of Foreign Retailers could further establish 30-40 Large Groups in a 10-year Period with hundreds of Stores. Expert estimates suggest that the industry would need additional manpower of 15 to 30 million in a 5-10 year period, depending on the pace of Reforms and Development (China retail employment numbers rose from 30 million to 55 million between 1991 & 2001). The industry currently employs around 35 million people across India – directly and indirectly

- Jobs are expected to be created across Retail Functions like Operations, Merchandising, Distribution, Marketing, Sourcing and Support Services. As per typical current estimates, Store Operations employ 75-80% of the Retail Workforce, Merchandising 5-8%, Marketing 5-8%, and Others around 10-15%

- In order to meet this demand smoothly, a Public-Private Partnership needs to be developed to build fully functional Retail Training & Development Programs, similar to the way ITI Schools helped do it for the Manufacturing Industry in the 1990s
- NSDC initiatives can also be focused on this Industry as priority for the next 5 Years

2. Sourcing Hubs Development

- Today, an Indian farmer gets only a third of what the end-consumer pays for his produce. In times of bumper harvests and distress selling, he gets just a sixth. The windfall gains are for a series of intermediaries only. Organized retail provides farmers greater security
- A 2008 ICRIER study of impact of Indian-owned organized retail found that average price realization for cauliflower farmers selling directly to them is 25% higher than their proceeds from sale to regulated Government Mandi. Bharti Walmart's direct purchase from Punjab farmers is also believed to have augmented their incomes by 7-10%
- Also, when they build their long-term relationships with farmers and set up a network of warehouses and cold chains, International Retail Companies are expected to look beyond selling to merely Indian consumers. They will have to integrate the Indian farmer with their global Supply lines
- To facilitate this Transformation, the Government must begin to plan and develop a complete ecosystem – Sourcing Hubs – where these suppliers can converge and Buyers can connect with them at one location directly. Already such formal & informal clusters exist through hotspots like Tirupur&Bhiwandi for Apparel Formats, NCR region for Electronics, Punjab, Haryana, Maharashtra & Gujarat for Food and so on
- These hubs need to be formalized in the form of Policy Framework, Collaboration Councils, Pricing Mechanisms, Operational Guidelines and Infrastructure Support

3. Warehousing & Cold Storage

- Inadequate warehousing is one of biggest bottlenecks in India: At 108 Million Tonnes (MT), present agriculture warehousing capacity is short by about 25 MT. A major portion of this is with Food Corporation of India (32 MT), Central Warehousing Corporation (10 MT) and State Warehousing Corporation (21.30 MT)
- CII estimates that the shortfall in Warehousing Capacity for next 5 years is expected to be about 40 MT at current rate of production. However, Government is targeting to create about 35 MT of new capacity in next 5 years, involving an investment of Rs.14,390 Crore

- The shortfall is even more acute for Cold Storage Facilities. There are an estimated 5,400 cold storages with total capacity of about 25 MT. Nearly 80% of this is used for Potatoes alone. Further, these are available in only 9% of the markets. It is estimated that to expand cold chain facilities to handle 40% of Food & Vegetables in next 5-6 years, it would require an investment of a whopping Rs. 55,000 Crore
- To make this happen, the Government must look to incentivize this sector to attract Private Players and it is validated by the fact that in last 10 years hardly 35 MT capacity has been created by the private sector
- In this context, the Andhra Pradesh Government has taken an initiative to bring out a separate Agri-Warehousing Policy as part of the State Government's initiative to have an additional 50 Lakh MT of warehousing capacity in the next 3-4 years through Public-Private Participation. Such a structured initiative needs to be done at a National Level and for all Retail Formats

4. Distribution Hubs

- When number of stores in a given Retail Chain grows, there is a shift from a fragmented single store replenishment system to a Distribution Center (DC) serving several stores in a given catchment. The catchment of a DC usually starts as the zone (such as Delhi NCR) and then widens to several DCs representing a centralized system for Procurement
- This de-fragmentizes, integrates and centralizes the Procurement System and comes with fewer Procurement Agencies and increased use of Centralized Warehouses
- More Retailers mean a shift from reliance on traditional wholesale to use of non-traditional – specialized/dedicated Wholesalers and Logistics Firms
- Towards this effect, the Government can look to establish Dedicated Distribution Centers and Special Economic Zones (SEZs), across various geographies in India, where these Warehousing & Logistics Companies can establish their Infrastructure – on lines of Multi-modal Distribution & Cargo Hub that is envisaged for Nagpur in Maharashtra

5. Logistics Upgradation

- Different studies have indicated that Logistics Industry in India is valued at about 13-14% of the GDP, while in developed nations, especially in the US, it ranges between 7-8% of their GDPs. This is a clear indication that Indian consumers are forced to pay avoidable costs for more Logistics Expenses and post-harvest Losses

- Current patterns indicate that approximately 75% of estimated $1 Billion (FY10) spend on logistics is outsourced to Logistics Services Providers (LSPs) by organized retail sector. This quantum of outsourced logistics spend is expected to grow at 30% over next 4-5 years and will result in a demand for large modern warehouse formats, with retail warehousing commanding a larger share than the current 6% of the total warehouse pie

- The increased share of organized retail would also offer significant opportunity to LSPs. The 1st wave of service-related opportunity would be linked to the import of store fixtures required to set up the front-end infrastructure sourced from China and Southeast Asia. The 2^{nd} and sustained wave would include merchandise imports mainly from China and Southeast Asian countries from established vendors and farmers currently supplying to the retailers in other geographies

- Indian Logistics Landscape may also witness an influx of many global LSPs driven by retail giants who may prefer carrying forward their foreign relationships with world class LSPs to India

- A dedicated Freight Corridor, Tax rationalization with respect to Movement of Goods and Fleet Financing are some initiatives that need a Government impetus on this front

6. Quality Standards

- When there is a shift from dependence on traditional wholesale markets and brokers towards specialized/dedicated Wholesalers, they will cut transaction, coordination, and search costs, and enforce private Standards and Contracts with suppliers on behalf of the Retailers. This Retail Procurement System change shall see the rise of standards both in Quality and Packaging and also enforcement of Public Standards

- For instance, in Food & Grocery format, Retail Chains will have to work with agricultural scientists and farming communities and determine the Type and Quality of Produce that will be appropriate for their Markets. There will be a process of mutual learning between both entities. As it happened in Gujarat, the sourcing of certain types of potatoes by McCain Foods, using contract-farming arrangements, is an indicator of such opportunities

- These Quality Policy & Retail Delivery Standards need to be developed by the Government in association with the leading retail industry bodies like RAI & FICCI, for various categories of Retail – Food, Electronics, Apparel, Etc. and covering multiple Formats – Convenience, Hypermarket, Specialty, Etc.

7. Retail Corporate Financing

- Retail works successfully on Economics of Scale. Expansion of the Retail Footprint is therefore a logical first step in any retailer's Business Plan and financing that expansion is typically a retailer's first Business Requirement
- However, courtesy the first wave of debt-laden retailer struggles as well as the lack of 'industry-status' to Retail Sector in India, there is dearth of conventional Financing Options through Banks, Equity and Private Funding to even the biggest Retailers today
- According to Industry Estimates, a total of $10 Bn can enter India's Retail Sector over the next 5-10 Years post-FDI, with other Inbound M & A maybe around $8-10 Bn. This will not only create opportunities for inducting Fresh Capital in the business but also for retiring High-cost debt, for many Retailers
- To facilitate these developments in future, various Retail Bodies & Government Entities need to outline and define the Policy & Norms related to Retail Corporate Finance and Competition:
  - Fund Raising Process, Capital Form, Deployment
  - M & A Guidelines, in sync with Competition Commission Norms
  - Eligibility, Provisions, Approvals
  - Fees & Taxes
  - Financial Restructuring Process

8. VAT Collections

- The estimated 1188 Mn Sq. Ft. of organized retail space mentioned earlier will have revenues of about Rs. 11,40,000 Crores, which translates into Rs. 126,600 Crores in annual VAT Collections and almost Rs. 12000 Crores in additional Income Tax Revenues to the exchequer
- Considering the enormity of this activity and the potential to use these earnings for sustained retail eco-system development, Government Agencies need to streamline this process with simple Guidelines and easy Transaction Systems

9. Real Estate Development

- The initial focus of Retailers is expected to be in developing the front-end and it would include earmarking, identifying and establishing store foot print across various formats. This front-end expansion would primarily be witnessed in key urban centers given the ruling that FDI will only be allowed in cities with a population of over 1 Million

- Urban India alone will need Hypermarket &Supermarket space of over 567 Mn Sq. Ft. in the next 5-Years, for an estimated total urban population of 567 Mn (45% of the then total population of 1260 Mn) based on a conservative ratio of 1 Sq. Ft. per Person (West Avg. – 2.7, South Asia Avg. – 1.65. Additionally, about 851 Mn Sq. Ft. of Retail Space is required in Non-food Categories, estimated at 5 Sq. Ft. per Person
- Out of this 1418 Mn Sq. Ft. of Total Organized Retail Space, 230 Mn. Sq. Ft. already exists, so an additional 1188 Mn Sq. Ft. needs to be developed it means there will be Infrastructure Investments of Rs. 535,000 Crores at the rate of Rs. 4500 per Sq. Ft. for Building Construction & Shop Fit-outs
- There are 2 implications arising from these observations:
    1. Retail Estate Development needs to be synchronized with Residential Development across Urban India and a systematic Balance needs to be achieved
    2. Local Construction & Store Infrastructure Companies need to be Developed & Promoted to reduce Indian Retail's dependency on Foreign Competency

10. Retail Zoning

- The contours of Retail Estate Development in India are quite outdated with Pro-tenant Laws and Retail Zoning Laws which vary from State-to-State. Add to the complication that there is little availability of Government Land and fragmented Private Land Holdings which make it very difficult for Retailers to acquire Land
- Also, the development of Exclusive Retail Spaces across India is hindered by the fact that the Government is the largest owner of Land in the country and the current Urban Land Ceiling Act is archaic. Besides, the Stamp Duty & Registration Charges are fairly high, compared to International Markets, and again these vary from State-to-State make it difficult for Retailers to fine-tune their pan-India Business Plans for multiple years
- A comprehensive and a standardized Retail Zoning Policy & Standards Document needs to be developed at a National Level and facilitate the development of Dedicated Retail Zones within each City – covering Highstreet, Traditional as well as Mall Retail Spaces – similar to the likes of Orchard Street in Singapore or Bond Street in London. And, these can be tested out as pilots in prominent shopping destinations like Linking Road in Mumbai and MG Road in Bangalore
- As this practice matures and we develop quality Retail Zones across India, it could even lead to a Tourism boost, as seen from the experiences of Singapore & Dubai

11. Traditional Retail Support

- Japan has legislation to protect small & medium stores from impact of large stores. In 2007, their government revised three pieces of legislation — City Planning Law, Large-scale Retail Location Law and City Centre Revitalization Act — to control the expansion of large-scale stores. A new large stores law gave powers to local authorities to regulate retail outlets sized between 500 & 1,500 Sq. Mts. and could insist on changing the size of the store, working hours and even the number of holidays in deference to small stores

- Similarly in Indonesia, government passed 2 regulations in 2007 & 2008 to protect Traditional Retailers. The new rules established categories of stores based on sizes, stipulated a minimum distance between large and small stores, permitted hypermarkets only on arterial roads, prevented supermarkets in local neighborhoods and regulated their working hours. Another important rule prevented large stores from selling select goods at prices lower than in the nearest traditional market

- These Asian countries have regulations on size, location, working hours, pricing and other aspects of large retailers – local & foreign. That is because, by default, they poach on clientele of Traditional Stores and their deeper pockets give them an advantage to mobilize Resources and acquire Prime space for their high-volume, low-margins Business Model.

- Asian governments have tried to provide a level playing field, framing regulations to balance everyone's interests. India must develop a similar Support Mechanism for its Traditional Retailers, in sync with the Modern Retailers

12. IT & Automation Investments

- It is difficult to build modern& durable Retail Value Chain Ecosystem without proper Enterprise Resource Planning, Inventory Management, Sales Management & Warehouse Management Systems. It is critical for them first to develop an Automated Supply Chain, to predict demand and manage supply without Logistics and Policy Disruptions

- Technology used in Indian Retail industry is largely obsolete and does not meet with global Best Practices, resulting in poor efficiency at Supply-side and average consumer experience on the Demand-side

- It is important to put in place an efficient system for all the steps of Retail Value Chain: processing Sales Transactions, or optimizing the Merchandizing & Assortment, or managing Customer Loyalty. All of this needs investment in sophisticated software like ERP & POS and others thus providing huge opportunities for IT Suppliers

- The likely retail revolution arising from this new FDI policy could drive IT spending up dramatically, to over $500 million by 2016. This will bring immense opportunities for both the domestic software and services players like IBM, Accenture, TCS and Wipro, as well as global vendors like SAP, Microsoft and Oracle that already have a significant local presence in the Indian Market – while improving Operations at an industry-level

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Glimpses

of the Industry Consultations

About FICCI

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A non-government, not-for-profit organisation, FICCI is the voice of India's business and industry.

FICCI draws its membership from the corporate sector, both private and public, including SMEs and MNCs; FICCI enjoys an indirect membership of over 2,50,000 companies from various regional chambers of commerce.

FICCI provides a platform for sector specific consensus building and networking and as the first port of call for Indian industry and the international business community.

Our Vision: To be the thought leader for industry, its voice for policy change and its guardian for effective implementation.

Our Mission: To carry forward our initiatives in support of rapid, inclusive and sustainable growth that encompass health, education, livelihood, governance and skill development.

To enhance efficiency and global competitiveness of Indian industry and to expand business opportunities both in domestic and foreign markets through a range of specialised services and global linkages.

About Khaitan & Co.

Khaitan & Co, first established in 1911 in Calcutta, is an Indian law firm with offices in Kolkata, Delhi, Bangalore and Mumbai.

Khaitan & Co completed a century in November 2011 making it one of the oldest firms in the country. The firm has continuously reinvented itself at every step in order to survive this long period. Particularly the 2001-established Mumbai office has lifted Khaitan & Co into one of the few corporate law firms regularly competing on big ticket work - Legal 500 has ranked Khaitan Mumbai's corporate and M&A practice in Tier 1.

The founder of the firm, Debi Prasad Khaitan, was a member of the Constituent Assembly, making the history of the firm an illustrious one, as documented in a 500-odd-page coffee table book biography of the firm that was launched on its centenary.?

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Global Consulting Practice (GCP) is a key component in how TCS delivers additional value to clients. Using collective industry insight, technology expertise, and consulting knowhow, we partner with enterprises worldwide to deliver integrated end to-end IT enabled business transformation services.

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