

**FICCI Representation on Essential Commodities Act
To
Shri Anil Vasantao Deshmukh
Hon'ble Minister of Food, Civil Supplies & Consumer Protection
Government of Maharashtra**

**06.11.2012
Mumbai**

Essential Commodities Act- Issues & Recommendations

Background

The Essential Commodities Act, 1955 was enacted to ensure the easy availability of essential commodities to consumers and to protect them from exploitation by unscrupulous traders. The Act provides for the regulation and control of production, distribution and pricing of commodities which are declared as essential for maintaining or increasing supplies or for securing their equitable distribution and availability at fair prices. Exercising powers under the Act, various Ministries/Departments of the Central Government and under the delegated powers, the State Governments/UT Administrations have issued orders for regulating production, distribution, pricing and other aspects of trading in respect of the commodities declared as essential. The enforcement/implementation of the provisions of the Essential Commodities Act, 1955 lies with the State Governments and UT Administrations.

The ECA, relevant 30 years back, had been enacted at a time when the country was faced with severe food shortages and scarcity and cautioned that it could hamper productive/commercial activity in the market in an era of self-sufficiency/surplus in food grain output and in other primary commodities.

Modern Retail has come up in recent times as one of the most efficient mechanism for public distribution of the essential commodities to consumers at affordable prices. Large retailers operate on a “everyday low price” strategy, which is driven by passing on scale benefits to consumers. However, the regulation that governs essential commodities, mainly the ECA and the host of licensing, storage control orders issued by the central and state government has not changed its face and the tools used for regulation and control are the same as being envisaged decades ago.

There are several clauses in this act, which hamper both wholesalers as well as retailers. The Clauses which were designed to tackle problems faced in the past and are hampering the growth of the retail industry include provisions on stock limits, maintenance of various physical registers, display of price lists, etc.

Key Concern Areas

A) Stock limits

According to the Department of Civil Supplies and Rationing of the Government of Maharashtra, following are the stocking limits prescribed:

	Rice & Other Food Grains	Pulses	Sugar	Edible Oil	Edible Oil Seeds
Wholesaler	Municipal Corporation Areas 350 tons Other Areas - 200 tons	Municipal Corporation Areas 350 tons A Cities: 250 tons Other Areas - 150 tons	200 tons. Maximum 30 days stock	Municipal Corporation Areas 100 tons Other Areas - 30 tones	Municipal Corporation Areas 200 tons Other Areas - 80 tones
Retailer	Municipal Corporation Areas 20 tons Other Areas - 10 tones	Municipal Corporation Areas 250 tons A Cities: 150 tons Other Areas - 150 tones	200 tons. Maximum 30 days stock	Municipal Corporation Areas 4 tons Other Areas - 2 tons	Municipal Corporation Areas 20 tons Other Areas - 10 tones

Issues:

- 1) The 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.
- 2) 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.

Recommendations:

- a) Introduce a separate category of 'Storage Location' apart from Wholesaler and Retailer and prescribe a separate stock limit for it.
- b) If at all there are to be licensed quantities, they should be linked to monthly sales and allow license free stocking of 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. More so, as the warehouses areas are typically located in rural / town areas.

B) Price List:

Requirement:

One of the Conditions of License is that the licensee shall exhibit at the business premises, the price list of the commodities held by him for sale, such price list shall be legibly written in Marathi/or in the principal language of the locality concerned. It shall indicate separately, the selling prices of different varieties of commodities.

Issues:

1. For Wholesalers:
Wholesalers in general are usually merely suppliers of commodities to the retailers. As such, no one actually goes to the DC or godown personally to look at the prices.
2. For Retailers:

The abovementioned clause provides for the display of a price list at the premises of the store in Marathi or any other principal language of the locality. This is a difficult provision to follow, as it demands for the price list to show every commodity available at the store. In the case of large retail hypermarkets, this is not a simple task as there are a large number of various commodities available along with their different varieties.

Recommendations:

- 1) In the above matter, it is recommended that a large retail hypermarket should have an option of either keeping a board showing the price list of every commodity, or simply placing a price on each commodity or next to them on the shelf upon which they sit.

- 2) Similarly, for Wholesalers, there is no need for a price list to be displayed as nobody really goes down to the DC or godown to inspect the prices of goods. It is therefore recommended in this case that the provision for displaying a price list at a DC or godown be removed.

C) Lack of Clarity about the law & its Provisions:

The departments issue notifications and amendments with ineffective methods of circulating them to those who need to abide by them, causing unintended errors and non-compliance. The notifications and amendments are distributed in such a manner that it becomes difficult to understand which notification is applicable at any given time. Not only is the method of distribution ineffective, but the notifications and amendments tend to contradict one another.

Recommendation:

We recommend that a system be put in place to carry out timely and effective distribution of notifications and amendments so that those who need to abide by them do not unintentionally cause errors, which result from any non-compliance. It would also be beneficial if all the notifications and amendments were released in a uniform manner so as not to cause any confusion on the part of the complier.

D) Maintenance of Registers:

Requirements:

Clause 12 of the R.D.L Order, clause 13 of the W.D.L Order read with the License conditions provide for:

1. Maintaining a register to show separately opening stock of each day, quantities received on each day, the quantities delivered or otherwise removed on each day and the closing stock on each day. These accounts must be updated and kept tallied on a day-to-day basis.
2. The Licensed wholesale dealer must file in form D, the true record of inward, outward and stockpile of the scheduled items every fortnight, alongwith showing the purchase price, sale of each scheduled item and stockpile limit of each scheduled item. Similarly, a licensed retail dealer must also file every fortnight, in form C, showing the details specified above.

The Stock Registers are required by Departments of the State to be maintained in physical form.

Issues:

The requirement to maintain the registers for the various varieties of essential commodities is difficult owing to different units of measurements used. It is also not possible to maintain the

registers manually due to large volume of transactions in the various varieties of essential commodities.

Most of the modern retailers are using ERPs like SAP to manage their inventory, supplies and business operations. The records are available at any point of time on a real time basis.

Recommendations:

Maintenance of stock register through computer systems should be an acceptable compliance where the various details can be made available through the ERPs like SAP.

Representations from:

Mr. Bijou Kurien, Reliance Retail

Mr. Jamshed Daboo, Star Bazaar

Mr. Deepak Gupte, Future Group

Mr. Rajan Arora, D-Mart

Mr. Rakesh Ratra, Hypercity Retail

Mr. Nimesh Shah, Sahara q shop

From FICCI

Mr. Bijou Kurien, Chairman FICCI Retail Committee and CEO, Reliance Retail

Ms. Shilpa Gupta, Head – Retail & FMCG, FICCI, Shilpa.gupta@ficci.com

Ms. Surabhi Pant, Assistant Director, FICCI, Surabhi.pant@ficci.com, +91 9619119128