

THE FOOD, BEVERAGE
AND COSMETICS
LAW REVIEW

SECOND EDITION

Editors

Kara L McCall and Elizabeth M Chiarello

THE LAWREVIEWS

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PREFACE

Food, beverage and cosmetic companies provide products that are beneficial to consumers, important to the economy and in high demand. Consumers are not only seeking high-quality products at reasonable prices but also increasingly considering sustainability, methods of manufacture and use (or omission) of certain ingredients. These demands require companies to not only be looking ahead towards the ‘next big thing’ in these consumer industries but also be considering how those attributes that are so important to customers (some of which have not been universally defined) can be communicated in a true and non-misleading way. What’s more, companies need to act in compliance with the regulatory schemes of the locations in which they sell, and also make sure that their products – some of which are quite cutting edge – are safe and effective.

Regulatory, legislative and civil litigation frameworks vary dramatically from country to country and from locality to locality within each country. These laws and regulations may be similar, or they may be directly contradictory. Some types of products may be subject to extreme scrutiny, whereas others seem to be of less interest (and where on that spectrum your product falls may differ from day to day). Each jurisdiction is different, and advice from local legal experts is absolutely necessary before operating in (including selling into) any jurisdiction. This guide, however, is intended to provide a general overview of both regulatory and civil legal frameworks in key countries for consideration by legal practitioners in these industries.

This is the second edition of *The Food, Beverage and Cosmetics Law Review*. It was developed because of the increase in class action litigation relating to claims, particularly health benefit claims, made in the labelling and marketing of food, beverage and cosmetic products. We have also seen an increase in concern about food safety and food tracing across the world – a result of food-borne illness outbreaks. This second edition covers 11 jurisdictions and includes a high-level overview of each jurisdiction’s legal framework for food, beverage and cosmetic products, and a year in review, followed by discussions of legal frameworks relating to food, beverage and cosmetic safety (including recalls); supply chain issues (including sustainability, anti-corruption, and labour and immigration); special legal issues relating to sales and marketing (including whether regulatory approvals are required); general product liability and intellectual property laws; the role of trade organisations (including certifications); and unique issues relating to financing and mergers and acquisitions in this space.

We hope that all readers find these chapters useful and informative. We wish to thank all of the contributors who have been so generous with their time and expertise. They have made this publication possible.

Kara L McCall and Elizabeth M Chiarello

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September 2022

SAUDI ARABIA

*Nabil A Issa and Saud Aldawsari*¹

I OVERVIEW

The Basic Law of Saudi Arabia, which serves as the Constitution of the Kingdom, provides that Sharia, consisting of the Holy Qur'an and the *Hadiths* (traditions) of the Prophet Mohammed, is the fundamental law of Saudi Arabia.² The Basic Law further provides that the King is the ultimate authority of the State³ and that regulations are enacted by Royal Decree and are effective upon their publication in the Official Gazette (*Umm Al-Qura*) unless another effective date is specified.⁴ Saudi Arabia applies the Hanbali school⁵ of Sharia.

The food and cosmetics sectors are governed by laws enacted by Royal Decrees. The two main regulations governing the sectors are the Food Act (Royal Decree No. M/1, dated 30 October 2014) and its Implementing Regulations (the Food Act Implementing Regulations). Cosmetics are mainly regulated by the Cosmetics Law (Royal Decree No. M/49, dated 7 April 2019) and its Implementing Regulations (the Cosmetics Law Implementing Regulations).

Since 2016, when Saudi Arabia announced Vision 2030, the country has experienced significant social and economic reforms. As a result of these reforms, the food and beverages (F&B) and cosmetics sectors have experienced a significant boom. Markets in both sectors have grown exponentially because of expanding urbanisation, significant developments in food services such as delivery and cloud kitchens, and an increasing number of young adults in the working populace.⁶

In 2018, the Saudi Arabian F&B industry produced US\$150 million in income, representing a 19 per cent increase compared with the prior year and accounting for 10 per cent of gross domestic product, which highlights the importance of the industry

1 Nabil A Issa is a managing partner and Saud Aldawsari is an associate at King & Spalding LLP LLP, which operates in cooperation with the Law Office of Mohammed AlAmmar.

2 Basic Law, Article 1. Statutory 'laws' are regulations. When a 'regulation' is promulgated by Royal Decree or otherwise, such a regulation is ultimately subject to, and may not conflict with, the provisions of Sharia.

3 Basic Law, Articles 5, 6 and 44.

4 Basic Law, Articles 70 and 71.

5 The Hanbali school (*maddhab*) of Islamic jurisprudence (*fiqh*) is one of the four major schools of Sunni Islam, together with the Maliki, Hanafi and Shafi'i schools. The Hanbali school of Sharia is the predominant school in Saudi Arabia.

6 Food Industry in Saudi Arabia, Saudi Food Expo: <https://www.saudifoodexpo.com/food-industry-in-saudi-arabia>.

to the overall economy.⁷ The market size for bistros and cafes is generally US\$5.7 billion.⁸ Investment in the area was projected to reach US\$59 billion in 2021 – an expansion of around 64 per cent more than in 2013.⁹ For the restaurant business, positive results from Vision 2030 include more space for shopping, amusement and accommodation.¹⁰ This trend is expected to continue with the current expansion of the tourism and entertainment industry as part of the government's modernisation and economic diversification efforts.¹¹ Growth in the sector is also expected to increase, given the relatively young age demographic of the Saudi population, with 53 per cent aged between 15 and 44 years. This age group has a higher propensity to spend on F&B and is more open and exposed to the changing consumer trends being experienced globally.¹²

The contribution of the cosmetics and personal care industry to the Saudi economy is also booming as a result of recent social reforms. The target demographic's increasing self-consciousness about their appearance, combined with their ability to spend more, along with the increase in the middle-aged population and rising demand for men's grooming products, are the factors driving the growth of the cosmetics and personal care industry in Saudi Arabia. Furthermore, harsh climatic conditions, poor water quality and increased focus on personal well-being drive the need for increasingly sophisticated beauty and personal care routines and regular treatments.¹³ The Saudi Arabia cosmetics and personal care market was worth US\$3.7 billion in 2020 and is further projected to reach US\$7.6 billion by 2027.¹⁴

II YEAR IN REVIEW

The growth in the food and cosmetics sectors spurred by Vision 2030's push for urbanisation, liberation and social reform led to inevitable increased activity by the Saudi Food and Drugs Authority (SFDA). The SFDA is the government body with primary oversight over the F&B and cosmetics sectors. Both sectors have experienced a tectonic shift with a young population demanding novel food experiences and the latest trends in cosmetics products. Such circumstances have led the SFDA to increase its monitoring and enforcement activities. Public warnings by the SFDA have increased significantly since 2021, as evidenced by the SFDA notices on its website.

7 JLL Reveals Trends of the Food and Beverage Industry in Saudi Arabia, Gulfood: <https://www.gulfood.com/show-news/jll-reveals-trends-of-the-food-and-beverage-industry-in-saudi-arabia>.

8 Food Industry in Saudi Arabia, Saudi Food Expo: <https://www.saudifoodexpo.com/food-industry-in-saudi-arabia>.

9 Food Industry in Saudi Arabia, Saudi Food Expo: <https://www.saudifoodexpo.com/food-industry-in-saudi-arabia>.

10 Food Industry in Saudi Arabia, Saudi Food Expo: <https://www.saudifoodexpo.com/food-industry-in-saudi-arabia>.

11 JLL Reveals Trends of the Food and Beverage Industry in Saudi Arabia, Gulfood: <https://www.gulfood.com/show-news/jll-reveals-trends-of-the-food-and-beverage-industry-in-saudi-arabia>.

12 The Future of Food Services in Saudi Arabia, JLL: <https://www.ahic.com/content-library/the-future-of-foodservice-in-saudi-arabia-report>.

13 Saudi Arabia Beauty and Personal Care Market – Growth, Trends and Forecasts (2020–2025), ReportLinker: <https://www.reportlinker.com/p05989451/Saudi-Arabia-Beauty-and-Personal-Care-Market-Growth-Trends-and-Forecasts.html>.

14 Saudi Arabia Cosmetics and Personal Care Market Report, Bluewave Consulting: <https://www.bluewaveconsulting.com/report/saudi-arabia-cosmetics-and-personal-care-market-report>.

The SFDA is now continuously updating its technical regulations and standards. To illustrate, since 2021, the SFDA has updated and implemented more than 150 technical regulations, likely in response to the exponential growth of the F&B sector in Saudi Arabia.

III FOOD AND COSMETIC SAFETY

Regulatory framework

Food establishments (which include all entities involved in the nutritional cycle) and the introduction of food products into commerce are governed by the Food Act and the Food Act Implementing Regulations. Cosmetics are mainly regulated by the Cosmetics Law and the Cosmetics Law Implementing Regulations.

The primary regulatory body governing the implementation of the Food Act and the Cosmetics Law is the SFDA. Both laws provide the SFDA with sweeping supervisory authority to regulate both sectors. Below we discuss some of the key elements of the Food Act and the Cosmetics Law.

The Food Act and Food Act Implementing Regulations

Objective and scope

Article 2 of the Food Act sets out the main objectives of the law. It states that the purpose of the law is, among other things, to ensure food safety and quality; protect consumers from harmful, adulterated or otherwise implicated foodstuff; and prevent any barriers to food trade.

Article 3 of the Food Act states that the Food Act applies to all the stages of the food chain. The Food Act defines the food chain as all stages in which food passes from primary production until it reaches the consumer, including importing, exporting, production, sale, resale and distribution.¹⁵

Technical regulations and standards.

Article 4 of the Food Act empowers the SFDA to issue technical regulations and standards for food products. In general, the SFDA will implement national technical regulations and standards that are based primarily on those of the GCC Standardization Organization (GSO). In the absence of local standards addressing a specific point, the GSO standards apply directly in Saudi Arabia as a member of the Gulf Cooperation Council (GCC)

If such regulations and standards are absent at the national or GCC level or are still in the draft stages, the SFDA will generally adopt equivalent international food standards and regulations from the Codex Alimentarius Commission, Food and Agriculture Organization, World Health Organization, World Organization for Animal Health, International Plant Protection Convention or International Organization for Standardization.¹⁶

15 Article 1 of the Food Act.

16 Article 2 of the Food Act Implementing Regulations.

Registration

All food establishments must register with the SFDA. The Food Act defines ‘food establishments’ as all persons in the food supply chain, including manufacturers, sellers, distributors, importers and exporters.¹⁷ All food establishments must also register their food products with the SFDA.¹⁸

Article 3 of the Implementing Regulations provides that registration is not required if the product meets SFDA standards and if the food samples are used for promotional purposes or used in fairs or festivals.

Licensing

All food establishments must obtain a licence to handle any food product. The Food Act defines ‘food handling’ as any operations occurring in the food supply chain, including manufacturing, selling, distributing, importing and exporting.¹⁹ The SFDA also requires all food establishments to obtain a licence for advertising any food products.

Importation

Article 7 of the Food Act provides that ‘imported food shall only be released [for circulation] after obtaining the approval of the SFDA as prescribed under’ the Food Act. The SFDA has published various guidelines on the procedures for importing food products,²⁰ including specific procedures for specialised categories of food products such as meat products, fruits and vegetables, and honey.²¹

The Cosmetics Law and Cosmetics Law Implementing Regulations

Scope

The Cosmetics Law applies to cosmetic products, including their factories and warehouses, as well as the circulation and trading of such products.²²

Technical regulations and standards

Article 2 of the Cosmetics Law provides that the SFDA shall issue the technical regulations and standard specifications for cosmetic products and their factories.

Similar to the Food Act, the Cosmetics Law Implementing Regulations provide that in the absence of Saudi technical regulations or standards, the SFDA shall apply any legislation, regulations or specifications relating to cosmetic products with the following priorities: GSO standards, international standards, regional standards, and standards and technical regulations in other countries.²³

17 Articles 1 and 8 of the Food Act.

18 Article 9 of the Food Act.

19 Articles 1 and 8 of the Food Act.

20 See, e.g., Conditions & Requirements for Importing Food to the Kingdom of Saudi Arabia, SFDA: <https://www.sfda.gov.sa/en/regulations/66195>.

21 See, e.g., A Guide to Fresh Fruit and Vegetable Registration and Licensing, SFDA: <https://sfda.gov.sa/sites/default/files/2021-08/GuideFreshFruitVegetableRegistrationLicensing.pdf>.

22 Article 2 of the Cosmetics Law.

23 Article 3-1-L of the Cosmetics Law Implementing Regulations.

The SFDA is also empowered to determine the conformity of cosmetic products with the technical regulations and standards and may use specialised companies to verify such compliance.²⁴

Listing

The Cosmetics Law provides that a cosmetic product may not be imported into or circulated in Saudi Arabia unless it is listed with, and a listing certificate is obtained from, the SFDA. The application for listing a cosmetic product must be submitted by the local factory or the manufacturing company of the product or their representatives.²⁵

Under the law, the lister bears the responsibility for the safety of the product and that the product does not cause any harm to consumers' health if, under normal circumstances, the product is used in accordance with the usage and disposal instructions indicated on the identification label.²⁶

Licensing

The Cosmetics Law requires all local factories and warehouses to obtain licences from the SFDA.²⁷

ii Food additives and contaminants

The SFDA implements various technical regulations and standards relating to food additives and contaminants. Additionally, as a member of the GCC, the technical regulations and standards issued by the GSO also apply. Both bodies have issued extensive standards addressing food additives and contaminants that food manufacturers must adhere to.

The primary technical regulation addressing contaminants in food in Saudi Arabia is the Contaminants and Toxins in Food and Feed Technical Regulation (SFDA.FD GSO 193:2021).²⁸ The technical regulation contains the maximum levels of contaminants and toxicants in food and feed. Other GSO technical regulations also apply, such as the Additives Permitted for Use in Food Stuff (GSO 2500:2022). The regulation lists the only food additives that are recognised as suitable for use in foods.

The SFDA and GSO have also implemented other, more specific technical regulations and standards relating to specific food additives, such as standards on limits on salt (e.g., Salt Limits Guidelines in Food Products (SFDA.FD 2612:2022))²⁹ and the type of sweeteners permitted in foods (Sweeteners Permitted in Food (GSO 995:2021)).³⁰

24 Article 5 of the Cosmetics Law.

25 Articles 6 and 7 of the Cosmetics Law.

26 Article 9 of the Cosmetics Law.

27 Articles 13 and 19 of the Cosmetics Law.

28 SFDA.FD GSO 193:2021, SFDA: <https://mwafah.sfda.gov.sa/MyStandards?sortTypes=&searchTerm=193> (summary only).

29 Salt Limits Guidelines in Food Products, SFDA: <https://mwafah.sfda.gov.sa/MyStandards?sortTypes=&searchTerm=2612> (summary only).

30 Sweeteners Permitted in Food – General Requirements, GSO: <https://www.gso.org.sa/store/standards/GSO:781265/GSO%20995:2021> (summary only).

In relation to cosmetics, the primary technical regulation addressing additives and contaminants is the Cosmetic Products – Safety Requirements of Cosmetics and Personal Care Products (GSO 1943:2021).³¹ The regulation includes the list of substances prohibited in cosmetic products and the maximum amounts of certain other substances.

iii Recalls

Recall procedures for food and cosmetic products are set out in the Food Act and the Cosmetics Law and their Implementing Regulations. Both regulations contemplate voluntary and involuntary recalls.

Food establishments must have in place a food recall system as per SFDA regulatory guidance for recalling and withdrawing food and feed or packing and packaging materials.³² The Food Act requires voluntary recall of products if food operators have doubts or reasonable belief that food is non-compliant with the SFDA requirements and conditions.³³ In such circumstances, the food operator must immediately notify the SFDA and commence the recall process all the way to the end consumer. If the SFDA deems it necessary, the operator must also publish the recall announcement in at least two official newspapers.³⁴

In relation to involuntary recall, Article 22 of the Food Act empowers the SFDA to inspect food establishments and facilities and, if necessary, may seek assistance from security agencies. Article 27 of the law also empowers the SFDA to withdraw food samples free of charge to ensure the extent of compliance of the product with the applicable regulations and standards. If the SFDA investigators determine that the food products are in violation of the Food Act, the SFDA may seize the food and take the necessary actions, including mandatory confiscation of unsafe food.³⁵ SFDA inspectors also may order shutting down the business, disposal of the violating products at the expense of the establishment or the re-export of violating products.³⁶

In respect of cosmetics, the Cosmetics Law requires listers to immediately and voluntarily report to the SFDA if there is any damage caused by an unsafe cosmetic product.³⁷ The SFDA also has the right to inspect factories, warehouses, sale locations, consignments and shipments of cosmetic products and to determine whether a product is detrimental to public health.³⁸

If the SFDA proves that the cosmetic product is unsafe, unhealthy or not listed, the SFDA may take any of the following actions: cancel the listing of the product, ban its trading, withdraw it involuntarily, request the operator to recall it or suspend its trading for a period of time.³⁹ If the SFDA decides to withdraw or recall the cosmetic product, the lister is obligated to do so, and if the lister does not comply within the period specified by the SFDA, the lister will be obligated to withdraw and destroy it at the lister's expense.⁴⁰

31 Cosmetic Products – Safety Requirements of Cosmetics and Personal Care Products, GSO: <https://www.gso.org.sa/store/standards/GSO:781231/GSO%201943:2021> (summary only).

32 Article 56 of the Food Act Implementing Regulations.

33 Article 20 of the Cosmetics Law.

34 Article 55 of the Cosmetics Law.

35 Article 25 of the Food Act.

36 Article 60 of the Food Act Implementing Regulations.

37 Article 10 of the Cosmetics Law.

38 Article 11 of the Cosmetics Law.

39 Articles 24 and 25 of the Cosmetics Law.

40 Article 26 of the Cosmetics Law.

IV SUPPLY CHAINS

i Labour and immigration

To the best of our knowledge, there are no labour law rules specific for the food and cosmetics sectors. Employment in Saudi Arabia is governed by the Saudi Arabian Labour Law (Royal Decree M/51, of 2005) and its Implementing Regulations, which are generally applicable to all sectors.

ii Processing and certifications

Depending on the type of the food products and their country of origin, certain certifications may be required for food clearance of the products at the point of importation. In general, the following certifications will generally be required.

Health certificates

All consignment products of animal or plant origin must be accompanied by appropriate health certificates issued by the competent authority in the exporting country.⁴¹

Halal slaughter certificates

Meat and poultry consignments must be accompanied by halal slaughter certificates.

Certificates of conformity

Certain products from certain countries may require a certificate of conformity (CoC) (e.g., red meats from Sudan and milk and dairy products from Egypt). A CoC is a certificate issued by an authorised third party for products, operations and systems, etc., that states that the product meets the local standards. A CoC is optional for countries that are not on the mandatory certification list.

iii Anti-corruption rules

There are no specific anti-corruption rules relating to the food or cosmetics sector. Anti-corruption in Saudi Arabia is primarily governed by the Anti-Bribery Law (Royal Decree No. M/36, dated 30 June 1996, as amended) which applies to all sectors. In 2019, the Anti-Bribery Law was amended to make private sector bribery a crime.

iv Due diligence and monitoring

Diligence on suppliers in the food or cosmetics sector primarily requires investigation of three main areas: (1) whether the supplier is registered with the SFDA, (2) whether the supplier has registered its products with the SFDA and (3) whether the supplier has the necessary permits to conduct its activities.

The SFDA operates public searchable databases for food and cosmetic products registered with the authority. The databases, however, do not show the name of the suppliers (e.g., importers, exporters or distributors). As such, when doing due diligence on potentially regulated entities, it is essential to ensure that the entities involved have the appropriate licences from the SFDA.

⁴¹ Conditions & Requirements for Importing Food to the Kingdom of Saudi Arabia, SFDA: <https://sfda.gov.sa/sites/default/files/2022-03/SFDAFood4654E.pdf>.

V SALES AND MARKETING

i Regulatory framework

As is mentioned above, the sale of food and cosmetics products is regulated by the Food Act and the Cosmetics Law and their respective Implementing Regulations.

In respect of food products, Article 11 of the Food Act prohibits any advertisements of food products without obtaining the prior consent of the SFDA. Article 21 of the Implementing Regulations of the Food Act also imposes additional restrictions on advertisements of food products, including, but not limited to, the following: (1) the advertisement must not contain any information or elements in contravention of Sharia (Islamic Law) or common decency; (2) the advertisement must not encourage any bad dietary habits or unhealthy lifestyles, especially in children; (3) for advertisements whose target group is young children, it is strictly prohibited to show any scenes that involve violence or dangerous actions; (4) the advertisement must not use the logo of the SFDA either directly or indirectly in the advertisement; (5) the advertisement must not, either expressly or implicitly, offend any other food products; and (6) the advertisement must not bear any nutritional or health claims contrary to the technical regulations and directives issued by the SFDA.

In relation to health claims, the SFDA implemented the Saudi Technical Regulation Requirements of Food Products with Nutritional and Health Claims (SFDA.FD 2333). The regulation is based on European Union Regulation (EC) No. 1924/2006 and on the EU Register on nutrition and health claims and assessments of the European Food Safety Authority and Codex.⁴² The regulation addresses claims such as high fibre, protein source and high protein.

In respect of cosmetics, Article 21 of the Cosmetics Law sets certain restrictions on the promotion and advertisement of cosmetic products. According to the provision, '[c]osmetic products may not be advertised or promoted prior to their listing [with the SFDA]'. Advertisements must also comply with the following conditions:

- a* they must not contain anything contrary to Islamic Law and public morals;
- b* advertisements that are directed to children shall not contain aggressive, violent or dangerous scenes;
- c* the advertisement's information shall be reliable, accurate and honest and can be proved;
- d* the advertisement shall not carry an allegation that is contrary to the technical regulations;
- e* the advertisement shall not carry written information, images, scenes or any other form that would mislead the consumer;
- f* the name or logo of the SFDA shall not be used directly or indirectly in the content of the advertisement;
- g* the product's image and data used in the advertisement shall be identical to the image and actual data of the product listed by the SFDA;
- h* the advertisement shall not offend any other product directly or indirectly; and
- i* all advertisements must be in Arabic (other languages may be used on condition of conformity with the Arabic content).

42 A Guide to Nutrition and Health Claims, SFDA: <https://www.sfda.gov.sa/sites/default/files/2021-04/AGuidetoNutritionClaims.pdf>.

Consumer protection and false advertising

Consumer protection principles are addressed in both the Food Act and the Cosmetics Law. Additionally, the Saudi Arabian Ministry of Commerce recently completed the public consultation on new draft consumer protection regulations (the Draft Consumer Protection Regulations), which include topics relevant to both sectors once these regulations come into force.

In respect of food products, Article 16 of the Food Act prohibits the handling of products in the following circumstances:

- a* if it violates Islamic law (e.g., contains components that are not halal or are mixed with non-halal components through any stage of the food chain);
- b* if it is harmful to health or unsafe for consumption;
- c* if it violates the technical regulations or food standards;
- d* if the product is adulterated or involves deceptive methods, means or other practices that may mislead consumers;
- e* if it is not packed according to relevant regulations;
- f* if it lacks the required nutritional labelling or information; or
- g* if it is not registered with the SFDA.

The Food Act Implementing Regulations further clarify what is considered (1) harmful to health (e.g., contains contaminants exceeding the limits set by the technical regulations, is spoiled or is derived from sick animals), (2) adulterated (e.g., labelled inconsistently with the actual content of the product, contains substances that might undermine its nutritional value, or contains pork or pork products, lard, alcohol or any forbidden (not halal) ingredients) or (3) misleading to consumers (e.g., contains incorrect descriptions or contains health or nutritional claims that are not allowed by the SFDA or are produced by irradiation technology, genetic modifications or other modern technologies without indicating that on the food label as per technical regulations requirements).

The Food Act imposes statutory penalties on violators of the law. It also allows consumers who have suffered damages from any violations of the Food Act to recover damages arising from the failure of food operators to comply with the Food Act.

Statutory penalties under the Food Act include monetary penalties not exceeding 1 million riyals, banning food operators for a period not exceeding 180 days, and suspending or revoking their licenses. In addition to the aforementioned penalties, the handling of harmful or adulterated food could also result in imprisonment or a monetary penalty not exceeding 10 million riyals.

In respect of cosmetics, Article 31 of the Cosmetics Law provides that whoever commits or attempts to commit one or more of the following acts shall be considered in violation of the law:

- a* counterfeiting cosmetic products;
- b* circulating a cosmetic product that is counterfeit, spoiled or expired or is in violation of its listed details;
- c* using false information in the advertisement of the cosmetic product or on the product itself for promotion purposes;
- d* bringing packages or containers for the purpose of counterfeiting a cosmetic product;
- e* manufacturing, printing, possessing, displaying or selling packages or containers for the purpose of counterfeiting a cosmetic product; or

f obstructing the work of SFDA inspectors by preventing them from entering the factory, warehouse or sale location or from collecting samples of the cosmetic product.

Engaging in any of the aforementioned activities will lead to seizure of the products and their destruction, at the violator's expense, and criminal prosecution. Additionally, Article 34 of the Cosmetics Law also includes statutory penalties for violations of the law. Statutory penalties under the Cosmetics Law include monetary penalties not exceeding 1 million riyals, closure of the offending factory or warehouse until the violation is rectified, cancelling the licence of the factory or warehouse, and imprisonment for a term not exceeding five years. If the violation is repeated, the penalty may be doubled.

Although the Cosmetic Law appears to be silent on the ability of consumers to bring claims in connection with violation of the Cosmetic Law, Saudi law does not prevent consumers from bringing claims in tort or potentially under the Draft Consumer Protection Regulations, which we discuss below.⁴³

Lastly, the Draft Consumer Protection Regulations provide consumers with various fundamental rights, including the right to be protected from threats to life, health and safety. Consumers, jointly or severally or through class actions, may apply to local courts to recover damages arising from the violation of economic operators of the law or any of the consumer rights under the Draft Consumer Protection Regulations.⁴⁴

VI PRODUCT LIABILITY

Please refer to the section above.

VII INTELLECTUAL PROPERTY

To the best of our knowledge, there are no special rules governing intellectual property issues relating to foods and cosmetic products. The Saudi Authority for Intellectual Property is the official government body responsible for the protection and support of intellectual property in Saudi Arabia irrespective of the sector. Saudi Arabia is also a member of the World Intellectual Property Organization.

VIII TRADE ORGANISATIONS

Trade unions are not explicitly prohibited in Saudi Arabia, but they do not exist in practice. However, the Labour Law permits the establishment of worker councils for Saudi nationals only. Additionally, the Council of Saudi Chambers of Commerce authorises the establishment of Major National Committees, generally defined as 'a group of working business owners and

⁴³ Article 4 of the Draft Consumer Protection Regulations.

⁴⁴ Article 73 of the Draft Consumer Protection Regulations.

specialists in a major economic sector, who carry out activities and tasks that serve the interest of the sector which they represent',⁴⁵ and Special National Committees, defined as 'committees formed to take care of an economic activity subject or issue of a special character'.⁴⁶

National Committees are established to represent the interests of a particular sector or cause, including acting collectively to communicate with government authorities. However, all National Committees must be under the umbrella of the Council of Saudi Chambers and are subject to the supervision of the Secretary General of the Council of Saudi Chambers. The purpose of such supervision is to ensure avoidance of any antitrust violation between the members.

IX FINANCING AND M&A

M&A activity in the food and beverage industry has experienced a significant boom over the past three years. Notable deals include the acquisition by the food delivery company Jahez of The Chefz, a gourmet food and sweets delivery platform, and the acquisition by The Gulf Japan Food Fund of a controlling stake in the Al-Faris Food Group, a leading sauces and condiments manufacturer in Saudi Arabia.

In 2021, REEF Technology, the largest operator of delivery kitchens, logistics and proximity hubs in North America, fully acquired iKcon Restaurant LLC, a leading Dubai-based tech-enabled delivery kitchen operator with multiple locations in Saudi Arabia. The transaction was awarded the Cross-Border Deal of the Year and the UAE Deal of the Year by the Islamic Finance News Law Awards.

X SPECIAL ISSUES FOR CERTAIN PRODUCTS

i Alcohol

Under Sharia law, all food products containing alcohol are prohibited. Nevertheless, the sale of non-alcoholic wines, malts and other alcohol-free liquors is becoming popular in Saudi Arabia. To address the trace alcohol content in such beverages, the SFDA adopts the GSO technical standard that sets the trace alcohol limit in such products, the Maximum Limits for Residual of Ethyl (Ethanol) in Food (GSO 2538:2021).⁴⁷

ii Cannabis

Under Sharia law, all food products containing cannabis are prohibited.

45 Article 1 of the Regulations of National Committees under the Council of Saudi Chambers: <https://csc.org.sa/wp-content/uploads/2018/02/%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D9%84%D8%AC%D8%A7%D9%86-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9.pdf>.

46 Article 1 of the Regulations of National Committees under the Council of Saudi Chambers: <https://csc.org.sa/wp-content/uploads/2018/02/%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D9%84%D8%AC%D8%A7%D9%86-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9.pdf>.

47 The Maximum Limits for Residues Of Ethyl Alcohol (Ethanol) in Food, GSO: <https://www.gso.org.sa/store/standards/GSO:793177/GSO%202538:2021> (summary only).

XI OUTLOOK AND CONCLUSIONS

Saudi Arabia's F&B industry is the largest in the Middle East region and has a valuation of about US\$45 billion.⁴⁸ The Ministry of Investment of Saudi Arabia forecasts that by 2024 the expenditure on food services is expected to grow by 6 per cent per annum.⁴⁹ Moreover, the cosmetics industry in Saudi Arabia is also experiencing growth at a fast pace, and the standard of living for many in the country is virtually incomparable with any other country in the world, increasing the demand for premium products.⁵⁰ Given the continuous social reforms the country is currently experiencing, coupled with Saudi Arabia's push to attract more tourists, we do not expect the trends to plateau any time soon.

48 Top Trends in the F&B industry of Saudi Arabia, inresto: <https://inresto.com/blog/top-trends-in-the-fb-industry-of-saudi-arabia/>.

49 Top Trends in the F&B industry of Saudi Arabia, inresto: <https://inresto.com/blog/top-trends-in-the-fb-industry-of-saudi-arabia/>.

50 Saudi Arabia Cosmetics Market Overview, Goldstein Market Intelligence: <https://www.goldsteinresearch.com/report/saudi-arabia-cosmetics-market-size>.

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