

# Laying down the law

China's tough new legislation on food safety is a step in the right direction, but enforcement needs to improve if it's to make an impact, as Elly Earls discovers

**J**ust under 12 months ago China's toughest ever food safety law came into force, bringing with it tighter controls across the entire supply chain and greater penalties for violators. But despite the government's efforts to boost consumer confidence in the food industry, enforcing the new rules is proving a lot more difficult than putting them down on paper.

Food scandals in China have flooded the global media in recent years, hugely damaging consumer confidence in the safety of the sector and resulting in the introduction of the new food safety law in October 2015.

Made up of 10 chapters with 154 articles (that's 50 more than the original law, plus other revisions), it's designed to tighten control of every step of the supply chain, from food production to distribution, sale and recall, as well as addressing areas that have been the focus of food scandals in recent years, such as infant formula and health foods. It also takes into account new types of food trading platforms, such as e-commerce channels, and penalties have been significantly increased.

## Impact on foodservice

Several of the new articles are relevant for foodservice operators. For example, Article 55 stipulates that they must not purchase raw food materials that don't meet food safety standards and must disclose where they source their products, while Article 56 mandates regular maintenance of facilities and equipment for food processing, storage and display, as well as regular cleaning and calibration of heat preservation, cold storage and refrigeration facilities. Food producers and traders must also build food traceability systems under the new law.

As a result of both the stricter laws and growing consumer pressure for transparency, more and more restaurants are promoting 'open kitchen' concepts, according to Andrew Sim, an IP partner at multinational law firm Baker & McKenzie's Beijing office. "The consumers can directly see from the glass window of the kitchens how the raw materials are processed as well as the sanitary conditions of the kitchens," he says.

Laurel Gu, research manager at global market research firm Mintel, agrees. "Restaurants are paying more attention to monitoring the supply chains and the process of making and serving food in order to stay away from being drawn into any food safety scandals, which could bring detrimental impact to the business given what has happened to fast food restaurants such as KFC and McDonald's," she believes. Gu adds that restaurants are spending a great deal of effort emphasising food safety in their marketing communications, leaving them less room to promote other features of their brands.

## Intermittent enforcement

When it comes to government enforcement, however, things are patchy at best. The China Food and Drug Administration (CFDA) is the primary regulatory authority in charge of food safety, and other health-related ministries, commissions and departments under the State Council have been asked to formulate and issue national food safety standards together with the CFDA.

But it's the provincial branches of government departments that are actually dealing with enforcement on the ground, and there are huge disparities between different jurisdictions. "The national regulatory architecture might be up to



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Chefs cooking in open kitchen at T8 Restaurant, Xintiandi complex, Shanghai

standard, but the implementation of those standards and regulations at the provincial level is diverse and highly variable,” says Richard Gilmore, chairman of the Global Food Safety Forum. “You cannot categorically say that all foodservice outlets are subject to the same enforcement of the regulations.”

For example, there is no uniform and connected tracing system for food products; there are no standardised regional regulations that guarantee that each province applies the new laws in the same way, and the enforcement of the legislation in some provinces is constrained by their own economic and agricultural laws.

What’s more, many provinces don’t have the manpower, physical resources, funds or testing capabilities within the grassroots units of their local FDAs to enforce the legislation effectively.

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### Call for co-operation

According to Sim, there is a number of things that need to happen for the government to overcome these challenges, not least co-operation between different food safety regulators. “Regulation of food safety requires regulation of each step involved in producing the food – from the farm to the table.

It involves numerous government agencies, including those involved in public security, agriculture, environmental protection, health, quality control, and so on,” he explains. “Since different departments are responsible for different steps in the production process, co-operation and good communication are essential for effective regulation.”

Sim also advises the publication of more detailed national food safety standards and local regulations as well as the set-up of corresponding testing mechanisms.

“[The country needs to] consolidate resources and strengthen food testing capabilities by utilising local universities and research agencies and establishing third party pilot testing centres approved by the state,” he recommends.

### Step in the right direction

Gilmore agrees: “I think we’re going to continue to see fraud until compliance, enforcement and verification systems are tightened. That requires training and upgrading food safety technologies at the lab level and the tracing level, which is a long and complex process.”

All that said, the consensus among industry experts is that the new food safety law is certainly a step in the right direction. Although there has been no official report pointing to a decrease in the number of food scandals, there have been fewer stories in the Chinese media over recent months.

The next challenge, Sim believes, will be to maintain this momentum and continue to bolster consumer confidence in the food industry by establishing a strict, scientific supervisory and administrative system with the emphasis placed on prevention.

As he concludes: “We need to nip potential food safety risks in the bud.” ■