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**COMMITTEE NAME:** Foodborne Illness Investigation Committee

**DATE OF REPORT:**  Initial fall progress report  Spring progress report  Second fall progress report

**Date submitted:** [Click here to enter a date.](#) **Date amended (if applicable):** [Click here to enter a date.](#) **Date accepted by Executive Board:** [Click here to enter a date.](#)

**COMMITTEE ASSIGNMENT:**  Council I  Council II  Council III  Executive Board

**REPORT SUBMITTED BY:** Catherine Feeney and Adam Friedlander (resigned effective 3-7-2022) / Bob Brown (accepted effective 3-14-2022)

**COMMITTEE CHARGE(S):**

**Issue # 2020-1-015**

1. Determine if it would be appropriate to place language in the current Food Code to address regulatory authority for foodborne illness investigation and obtaining purchase history information. If appropriate, then;
  - a. Draft language for an amendment to the current FDA Food Code giving regulatory authorities authority for access during foodborne illness investigations
  - b. Draft language for an amendment to the Food code giving regulatory authorities access to consumer purchase history information.
  - c. Include maintaining customer data protection as confidential when managing a foodborne illness investigation.
2. Include methods to educate and collaborate with industry and regulatory authorities.
3. Report progress back at the next Biennial meeting and complete the charges by the subsequent Biennial Meeting.

**COMMITTEE WORK PLAN AND TIMELINE:**

**COMMITTEE ACTIVITIES:**

• **Dates of committee meetings or conference calls:**

1-6-2022  
1-26-2022  
2-9-2022  
2-23-2022  
Next meeting 4-6-22

• **Overview of committee activities:**

**1-6-2022**

Kick off meeting, Antitrust Agreement and charges reviewed. Attendees introduced themselves and an ice-breaker activity was done.

Discussion focused on 1. b. and committee members talked about the following:

- Ways purchase info can be tracked (e.g., cash or other payment) if not using a customer loyalty card.
- Cybersecurity issues with government and personal data
- Inconsistent requests from regulatory, need for best practice for needed data vs “data dump”.
- The need for a formal written request by some companies and customer consent
- Ensuring customer info is update-to-date
- Need to consider the implications for third-party delivery and language to address this platform.

**1-26-2022**

Antitrust Agreement and charges reviewed. New attendees introduced themselves.

Discussed the distinguishing the two charges 1a. and 1.b. and separating those in discussions.

CDC addressed need for charge 1a. due to impact of COVID on limiting or reducing regulatory authority to conduct investigations.

CDC presentation

- Use of purchase history during foodborne illness investigations (FBII). Specific circumstances were mentioned including requesting info when there is a culture confirmed clinical specimen and when there is a common shopping location associated with a foodborne illness cluster.

USDA FSIS presentation

- AFDO SHOP (Shopper History Outbreak Partnership) and the work done. Demonstrated website AFDO: Leveraging Good Purchase History to Solve Foodborne Outbreaks. Showed sections listing state regs around the issue, success stories, and the best practice document created.

Discussions followed regarding:

- FDA Food Code: discusses inspections and only talks about investigations under Chapter 8: preventing transmission diseases for employees.
- State and local jurisdictions adoption (or lack thereof) of Chapter 8.
- How authority is issued to agencies and how it is outlined.
- Standardizing how outbreak investigations are conducted and inconsistencies between states and local regulatory authorities.
- The differences between local and multistate investigations?
- Is 8-501.10 the right place to add language to give authority to conduct investigations?
- How do we define “investigation” vs “inspection”?
- Suggested that investigation is targeted and determine if/how establishment may have caused illness. Investigation is about root cause analysis to determine what went wrong.
- How to make sure there is fairness since some retailers are not using shopper cards or digital records.
- Alignment with FDA New Era of Smarter Food Safety blueprint (tech enabled traceability and smarter tools and approaches for prevention and outbreak response).

Next steps suggested:

- Voting on charges at next meeting. Then, if appropriate: begin drafting/developing acceptable language.

## 2-9-2022

Antitrust Agreement and charges reviewed.

Discussions included:

- FDA Model Food Code: Chapter 8 references that may impact outbreak investigation/inspection authority and collection of records from permit holders:
- Administrative law: food establishments (i.e., retail and restaurants) are regulated by state and local authorities and are not governed under the FDA Model Food Code per FDA.
- Discussion about the use of “Shopper Cards”, “Purchase History”, and “Records”.
- Discussion about applicability to this committee’s work to the FDA Voluntary National Retail Food Regulatory Program Standards Program Standards 5: Foodborne Illness and Food Defense Preparedness and Response.

## 2-23-2022

Antitrust Agreement and charges reviewed.

FDA CORE Presentation regarding CORE’s structure, functions, and the use of product purchase information in outbreak investigations.

Q&A at end of presentation.

## 3-14-2022

- Committee member roster changes: Local regulator (Diane Davis) replaced with alternate Sabrina Salinas who is also a local regulator.
- Co-chair Adam Friedlander resigned effective 3-7-2022.
- On 3-14-2022, Robert Brown of Whole Foods agreed to step up from a voting member status on the committee to help support Cathy as a Co-Lead for the committee. James Baldwin of Price Chopper was moved from an alternate voting member to a voting member.

## 3-23-2022

- Reviewed both charges
- Action item: Draft letter asking FDA for an interpretation to determine if the Food Code provides authority to conduct foodborne illness investigations.

- **Charges COMPLETED and the rationale for each specific recommendation:**

- a. None currently
- b.

- **Status of charges still PENDING and activities yet to be completed:**

- a. *Determine if it would be appropriate to place language in the current Food Code to address regulatory authority for foodborne illness investigation and obtaining purchase history information. If appropriate, then;*
  - i. *Draft language for an amendment to the current FDA Food Code giving regulatory authorities authority for access during foodborne illness investigations*
  - ii. *Draft language for an amendment to the Food code giving regulatory authorities access to consumer purchase history information.*
  - iii. *Include maintaining customer data protection as confidential when managing a foodborne illness investigation.*
- b. *Include methods to educate and collaborate with industry and regulatory authorities.*
- c. *Report progress back at the next Biennial meeting and complete the charges by the subsequent Biennial Meeting.*

## COMMITTEE REQUESTED ACTION FOR EXECUTIVE BOARD:

- Board Action is NOT required and therefore the report can be placed on the consent calendar for Board review and acceptance.**
- Board Action is required for some provision(s) of this report and therefore a verbal report needs to be presented at the Board Meeting.**

**ATTACHMENTS:**

**1. Content Documents:**

- a. **Committee Member Roster:**  **See changes noted above under "requested action"**  **No changes to previously approved roster**  
"Committee Members Template" (Excel) available at: [www.foodprotect.org/work/](http://www.foodprotect.org/work/) Committee roster to be submitted as a PDF attachment to this report.
- b. **Committee Generated Content Documents (OPTIONAL):**  **No draft content documents submitted at this time**

**2. Supporting Attachments (OPTIONAL):**  **Not applicable**