FBI Exhibit No. 75: Regulatory capture of the FDA by the U.S. food industry

*Regulatory capture is a form of corruption that occurs when a regulatory agency, created to act in the public interest, instead advances the commercial or special concerns of interest groups that dominate the industry or sector it is charged with regulating.*

The idea of regulatory capture has an obvious economic basis, in that vested interests in an industry have the greatest financial stake in regulatory activity and are more likely to be motivated to influence the regulatory body than dispersed individual consumers, each of whom has little particular incentive to try to influence regulators.[[1]](#footnote-1)

FoodQuestTQ LLC alleges that the FDA has become a captured agency in the matter of FoodQuestTQ LLC by the U.S. food industry influencing the FDA to contain food safety costs at the expense of consumer safety to increase industry profits.

In the matter of FoodQuestTQ LLC, FDA coordinated the development of their competing Food Defense Plan Builder computer software tool directly with the same food companies they are charged to regulate. The use of FDA products by the food industry is widely recognized as an indicator of compliance with FDA guidance and regulations. The FDA itself has stated that their products are not as sophisticated as those of FoodQuestTQ LLC. A copy of the document describing the statement of the leader of the FDA Food Defense Team, Mr. Jody Menikheim, that FDA’s products to achieve the same or similar objectives as those of FoodQuestTQ are, in fact, inferior to those of FoodQuestTQ LLC appears at [FBI Exhibit No. 75 a.](FBI%20Exhibit%20No.%2075%20a)

Moreover, by duplicating products that achieve the same or similar purposes of commercially available alternatives, the FDA is engaging in conduct that makes them *defacto* an“entity engaged in commerce” within the meaning of the Sherman Anti-trust Act that is engaged in predatory and anticompetitive conduct that is directly harming the consumer by reducing the rigor of food safety standards and stifling the private sector innovation necessary to create a safer food supply.

1. http://en.wikipedia.org/wiki/Regulatory\_capture [↑](#footnote-ref-1)