The Future of EU and International Food Regulation: Which Role Should Public Authorities Play in Nutritional Issues?

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More often than not, controversy produces reform. Nowhere is this more true than in the regulations of the safe production of food. The publication of the White Paper on Food Safety in early 2000 marked the beginning of the modern era of food safety law. That paper promised enactment of a new fundamental law which ultimately became the General Food Law (178/2002). It also promised the establishment of The European Food Safety Authority (EFSA). EFSA was required to be an independent point of scientific reference for the European Union. EFSA has provided that function to a very high standard for the consumers of the European Union and for all stakeholders in the food chain.

My first brush with controversy occurred within two weeks of taking up office as Commissioner for Health and Consumer Protection in September 1999.

Despite laws recently enacted providing for the free circulation of British beef within the European Union under certain terms, France refused to allow British beef within its borders. France had recently established its national food agency – AFSSA – which had advised the French government to ban importation. This created a direct conflict between AFSSA and the scientific committee advising the Commission. Despite many attempts to resolve the differences, agreement was not achieved and I was compelled to institute proceedings against France in the European Court of Justice for failing to comply with EU law which was successful.

It became clear that the French government could not ignore this advice from its recently established food safety agency without serious political consequences. So it was that when I came to write the General Food Law, I insisted on the inclusion of provisions which created a forum for the resolution of disputes of this nature.

Article 60 of The General Food Law established a mediation procedure which gave a central function to EFSA to be the ultimate arbitrator. Article 30 also provided a mechanism for identifying and where possible resolving diverging scientific opinions between EFSA and another scientific body. EFSA and such other scientific body are required to collaborate to achieve a solution and must publish a document informing the public of the outcome of this collaboration.

I understand these mechanisms have been used on a number of occasions and have produced satisfactory outcomes.

This French crisis, sometimes referred to as the 'Beef War' produced a political and legal response thereby underpinning the value of the scientific method in risk assessment.

There was widespread public demand that EFSA would be established as an ***independent*** institution of the European Union. The Commission, Parliament, and the Council also shared that view. There was considerable concern to ensure that EFSA would not be subjected to undue pressure, which at that time was expected to come from the food industry. Article 37 provided that the members of the Management Board, the members of the Advisory Forum, and the Executive Director, would all undertake to act independently in the public interest and that the members of the Scientific Committee and Scientific Panels would also act independently of any external influence.

As expected, EFSA has come under criticism from the food industry, particularly following some of its decisions on applications under the Nutrition and Health Claims legislation. Sometimes this criticism has been strong. The response from EFSA has pointed to the failure of industry to properly substantiate the science supporting the claims being made. EFSA has published guidelines with detailed advice as to how such claims should be made. Commentators have criticised some food companies for claims influenced more by the marketing department than

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the science lab. It is also my opinion that even where there is some scientific substantiation for a claim, the company involved exaggerates the benefit beyond the point of sustainability thereby undermining the application.

What has been of much greater surprise to me is the level of criticism levelled at EFSA from some consumer groups and NGOs. Disgruntled stakeholders angry at risk assessments published by EFSA scientists not in support of their ideological world view have adopted the tactic of attacking the integrity of the scientists alleging conflicts of interest. The Executive Director of EFSA has convincingly rejected these allegations and welcomed any inquiry from the Court of Auditors.

It is particularly disappointing that some of this strident criticism comes from a small number of MEPs. In the world of football, these tactics are commonly referred to as: 'playing the man not the ball' and journalists call it: 'shooting the messenger'. Rarely if ever is the scientific issue in question properly addressed, and even when it is, it falls well short of expected standards of transparency and peer review analysis.

In stark contrast to these conflicting attitudes, some very good work has been done in recent weeks. The legislation on food information has achieved a good outcome, not least because of the excellent work done by the rapporteur Renate Sommer MEP who succeeded in bringing competing interests together and achieving a valuable consensus.

Another triumph was the achievement of the EFSA task force in identifying the source of the recent E-coli outbreak. When asked by the Commission to carry out this work, it was the EFSA Task Force that found the answer with considerable speed. Others had tried and failed.

This E-coli outbreak was arguably the most serious food safety crisis in the European Union since the BSE crisis. Failings have been identified in the traceability system. The Rapid Alert System cannot work properly if traceability is defective. 48 people lost their lives in Germany and France. This was a genuine food safety disaster of considerable concern to the public. It seems to me that those who have responsibility for the protection of public health and those NGOs who express concern on these issues should devote more time and attention to ensuring that traceability and rapid alert systems work effectively.

Neither GMOs nor Aspartame have caused death or injury. The strength of the scientific evidence all goes in the other direction. In fact, GMO insulin saves lives!

The food safety model of the European Union enshrined in law is based on risk assessment. This is turn is based on scientific opinion independently and transparently expressed. This task is carried out with integrity under the competent and dedicated leadership of Catherine Geslain-Lanéelle at EFSA.

It is the role and function of the EU Commission to initiate risk management measures. This often involves making new laws. This task has been undertaken by Paolo Testori Coggi (now the DG) particularly when she was Director of Food in DG Sanco. Much of the legislation now in place was written by her during the time and when I was Commissioner.

During his time as Director General of Sanco, Robert Madelin used his considerable skills in trying to bring consensus to competing interests. This was particularly true with his efforts in establishing the EU platform for Action on Diet, Physical Activity and Health.

All stakeholders in the food chain need to renew this spirit of cooperation and leave aside exaggerated pursuit of self-interest, even under the guise of consumer protection, and strive for consensus in the interests of all, especially the European consumer.