

Regulation, Certification & Consumer Protection

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“ILLEGAL LABELLING AND SALES OF HALAL
MEAT AND FOOD PRODUCTS” (2008) 72
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Halal and domestic law

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- “Tayyib” = ‘good’, ‘pure’, ‘wholesome’
- Positive concept/ not prohibitory
- Capable of setting a quality standard
- Concept of Tayyib fits precisely with domestic UK food law and EU General Food Law

Wholesomeness: s.14 Food Safety Act 1990

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Offence:

“to sell to the purchaser’s prejudice any food that is not of the nature, or the substance, or the quality demanded”

- consumer protection offence dates from 1875

Food and Drugs Act

- “nature”, “substance” or “quality” could engage Halal and Tayyib

False description: s.15 Food Safety Act 1990

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- Section 15 FSA 1990 makes it an offence to “falsely describe the food” [s.15 1(a)] or to give a description which “is likely to mislead as to the nature...of the food” [s.15(1)(b)].
- These provisions do not require a sale
- Section 15(3) makes it an offence to: “sell...any food the representation of which is likely to mislead as to the nature...of the food...”

European Union Food Law

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- EC Regulation 178/2002 – General food law
- No internal trade barriers to food industry
- Governs food production, distribution and sales from “farm to fork”
- No specific Halal laws in EU food law framework
- Jews and Muslims can derogate from UK Stunning Regulations
- No evidence that specific Halal laws (eg in US) have much effect on sales of fake Halal meat

{Source: *Sound Vision*}

Article 8, EC Regulation 178/2002

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- Consumer protection a key object of European General Food Law
- Food law “should seek to prevent deceptive and fraudulent practices and enable consumers to make informed choices about the food they eat”
- Applies to quality, nature and substance of the food as well as to labelling
- Trend towards full labelling, including how animals slaughtered

Food Standards Agency

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- Set up by UK government in response to food scandals and enhanced requirements of EC law
- Protecting consumer interests?
- Captured by industry/international food companies?
- Government wants to abolish it anyway?

First Law of Food Thermodynamics

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Is very simple:
Junk in = Junk out

Second Law of Food Thermodynamics

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The more the food is processed,
the more likely it will be
turned into junk

Illegal Processing: The “Smokies” Scam

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- = organised food crime to turn elderly ewes unfit for human consumption into a delicacy
- Serious health risks
- Involves Muslim middlemen selling on mainly to Muslim traders, shopkeepers and restaurateurs
- Food authorities not having much impact on these types of crime?

Smokies

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“Hot meat”

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- Old ewes destined for rendering down for pet food
- Widely slaughtered as “Halal”
- Transported without chilling
- Unfit for human consumption

Legal Processing: Junk Chicken

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- Background to chicken problem:
 - cheap food policy
 - tight profit margins
 - all frozen chicken imported, from sources difficult to monitor from within EU/UK
 - generally poor industry standards in EU/UK
 - chicken detritus can be turned into “chicken nuggets” [Britain’s favourite dish]
 - how low can a “wholesomeless” standard go?
 - “Halal” chicken likely to be junk

Food Standards Agency Survey 2003

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- “Halal” chicken processed in EU by respectable food firms was:
 1. Mislabeled over the meat content
 2. Plumped up with water to make it palatable
 3. Tenderized by including proteins derived from pork and beef
 4. Mislabeled by forgetting to mention additives, including the said proteins

What is Kentucky Fried Chicken?

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- Respectable, legitimate food firm
- “A Blackburn KFC branch was fined £5,000 in 2005 for selling under-cooked crispy strips; a Sandwell KFC was fined £6,000 for selling under-cooked chicken burger in 2006; a Dudley KFC was fined £7,000 for selling under-cooked popcorn chicken in 2006; and a Plymouth KFC was fined £10,000 for selling under-cooked crispy strips in 2007.”
- 11 similar food safety prosecutions in UK: 1991-2008
[Source: *Environmental Health News*, 26/9/2008]

Kentucky Fried Chicken

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- Attempting in 2009-10 to promote “Halal” chicken in Lancashire outlets, London & elsewhere
 - With cheap, mass-produced chicken?
 - Can it be wholesome?
 - Can it be Halal?
 - Claim their chicken is certificated by Halal Food Authority

Obesity

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- Obesity rates in many developing countries rival those of USA
- In under a generation, shift from under-nutrition to over-nutrition
 - sugary drinks
 - junk food: fats, salt, sugar
 - displacement of traditional eating culture
 - continual grazing
 - addiction to junk food
 - rise of diabetes, heart disease

Obesity

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- Have for years been dumping junk food on children, young people, poor people, poorly educated people
- Many food companies, backed by their governments, dump sweeteners, oils and poor quality meat on developing economies
- Mexico: 1989 - <10% overweight
2006 – 69% overweight or obese
15% suffer Type 2 diabetes

{Source: *Scientific American*, Sept. 2007}

Obesity

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- Obesity increasingly a problem of poverty in developing countries
 - In rural as well as urban areas
 - Where US influence less apparent:
 - Egypt: 59% overweight or obese in 1998
- {Source: *Scientific American*, Sept. 2007}

Trade Mark Offences in UK

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- Involve deception of consumers
- Threaten rules of trading/ commercial culture
- Therefore taken very seriously in legitimate business sector and government
- So quite severe criminal penalties available to courts
- Counterfeiting a huge global problem

Section 92(1) Trade Marks Act 1994

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“A person commits an offence who with a view to gain for himself or another, or with intent to cause loss to another

...

(a) applies to goods or their packaging a sign identical to, or likely to be mistaken for, a registered trade mark, or

(b) sells or lets for hire, offers or exposes for sale or hire or distributes goods which bear, or the packaging of which bears, such a sign, or

(c) has in his possession, custody or control in the course of a business any such goods with a view to the doing of anything, by himself or another, which would be an offence under paragraph (b).”

Section 92 Trade Marks Act 1994

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“A person guilty of an offence under this section is liable—

(a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment to a fine or imprisonment for a term not exceeding ten years, or both.”

A Halal trademark?

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- Probably not possible to register “Halal” as a trademark
 - no single meaning
 - not specific enough
 - so not enforceable
- But Halal words could form part of a brand trademark
- Needs a public or private corporation to control production of food and to protect its mark

Conclusions

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1. Tayyib needs to be seen as a central concept of Halal
2. Halal certification needs to be robust
3. EU/ global wide consensus over precise meaning of Halal would be enormously helpful
4. Attitudes to food and nutrition need to change