Nathan Gillispie

Pros and Cons of the Establishment of an American Food Safety Authority

After a series of E. coli outbreaks in spinach products in 2006, the authority of the FDA to regulate recalling was called into question (Yoke, 2007). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 grants the FDA the right to track potentially harmful foods from consumer back to producer. Title III of the act gives the FDA authority to detain food which it has jurisdiction over. A common critique of the law, however, is the length of time that it takes to detect an outbreak. According to Yoke, “…often, once an initial point of origin has been established, the field has already been plowed to make it ready for the next crop. Plowing hinders investigative efforts because researchers are left to speculate on the actual causes of the outbreaks due to simple lack of evidence.” (Yoke, 2007) The fact that both FDA and USDA are unable to force a food recall only compounds the problem. A hypothetical independent federal food safety agency (FSA) would ideally have the funding to not only impose mandatory recalls, but the funding to quickly investigate future outbreaks.

Additionally, the creation of the FSA would allow all previously outdated and inconsistent regulations regarding the plethora of organizations which manage our food to be revised upon and updated according to modern standards without completely uprooting the federal Food Drug and Cosmetic act of 1938 (FD&C). The existence of multiple federal agencies to control the food supply creates legal challenges. According to Hammonds, “This patchwork quilt creates inconsistencies, gaps, overlaps, and duplication of effort that are becoming increasingly unworkable.” (Hammonds, 2004)

The benefits to remaining with the current system, or otherwise work within the legal framework provided therein, are typically convenience driven. “Regulating the U.S. food supply involves dealing with an extraordinarily broad range of issues, of issues, including ensuring basic food safety, addressing human and animal nutrition, dealing with naturally-occurring foodborne pathogens, protecting the environment, monitoring the incidence of diseases, developing an effective program of research, and overseeing a wide variety of means of delivering information to consumers including labels, advertising, and education.” (Hammonds, 2004) This is a system that has been expanded upon for over a century.

Perhaps the clearest example of a pan-continental effort to implement a single food authority is the case of Europe. The European Union established the European Food Safety Authority (EFSA) in 2002 although many believe there are issues with its function (Collins, 2003). It has been shown that the EFSA does not always make scientifically and thoroughly informed decisions which is sometimes paired with conflicts of interest. This was shown in 2010 when “…12 out of 21 experts on the genetically- modified organism (GMO) Panel that issued a scientific opinion that was key to the approval of a GM potato had conflicts of interest as defined by the Organization for Economic Cooperation and Development (OECD).” (Robinson et al., 2013) According to Robinson, this eroded the public trust in the organization. In the possible establishment of an American FSA, care should be taken to not repeat these same mistakes.

Diets change, science changes and the knowledge on harmful chemicals changes. Although it is possible to continue to work within the current framework of “patchwork” laws as Hammons puts it to restrict or otherwise maintain standards for such foods, perhaps reform in the form of establishing a new federal agency would be beneficial. However, it is important to keep the public on board throughout the establishment and development of such an organization.

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