

EU Food Bans Or Creeping Controls?

BY DOMINIC STANDISH

The food industry is buzzing with rumours that the Commission is considering action against certain disfavoured goods even more aggressive than prior proposals to limit marketing claims. This begs an open debate over the necessity, and propriety, of government restricting consumer choice in dietary decisions.

Commission policy goals have been trending toward increasing regulations aimed at limiting such choices in the name of reducing obesity. In the non-regulatory area, via the EU Public Health Programme, the Commission is funding a major project on child obesity and is working closely with the WHO. The World Health Organisation (WHO) Global Strategy on Diet, Physical Activity and Health, finally agreed in May 2004 after considerable opposition and revisions, is likely to impact European policy. This pronouncement emphasises the need to limit consumption of certain fats, sugars and salts, while increasing the intake of fruit and vegetables.

A Strange Analogy

While the Strategy is non-binding for WHO member states, the EU Commissioner for Health and Consumer Protection David Byrne welcomed it, analogizing preferred foods to tobacco in claiming "obesity may be to the 21st century what smoking was to the 20th century."

In general terms, current EU "obesity policy" focuses on three areas; providing data and analysis across the EU, directing EU food labelling laws and public health policies. The most active area for extending controls over food and drink products is through labelling law.

Clampdown

Witness the clampdown on food product health claims. In July 2003, the Commission presented a draft law banning phrases like as "90% fat free" and "reduces your caloric intake." In addition, the strict new rules would limit terms like "no added sugar," "fat free" and "high fibre". Endorsements and references to recommendations by doctors or health professionals will be forbidden.

Although the draft law stalled last session it remains possible, even likely, that Parliament and Council could finalize it next year. Byrne's parting comments included, "Any information about foods and their nutritional value used in labelling, marketing and advertising which is not clear, accurate and meaningful, and cannot be substantiated will not be permitted."

Usurpation of Choice

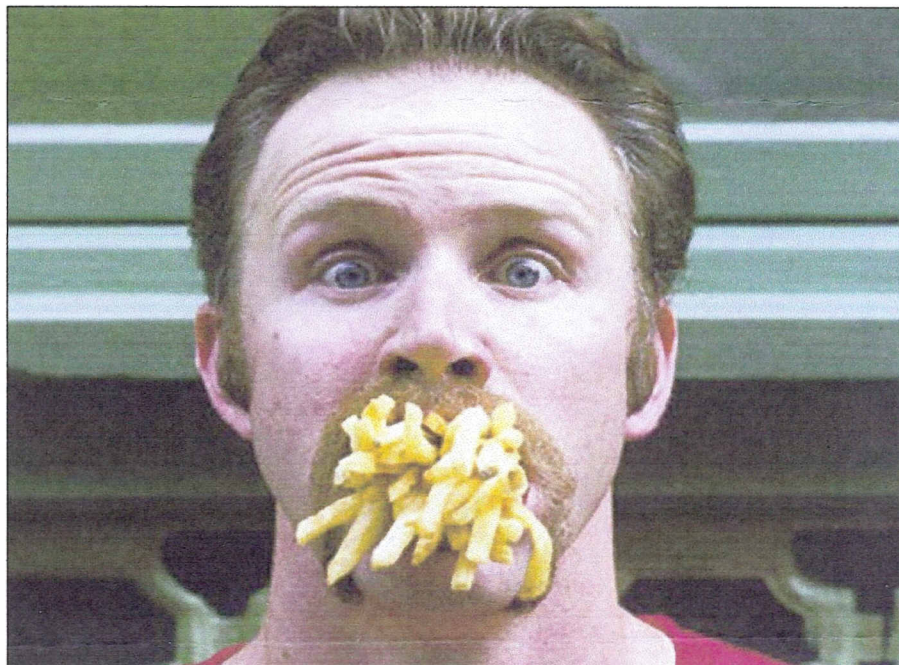
Many of these restrictions will apply to a wide range of food and drinks, although they seem to target those promoting healthy consumption. But having applied such regulations to – and substituted Commission judgment for the consumer's regarding – so-called 'healthy' foods in this first round, who will oppose expanding restrictions for foods considered to be less healthy? Such usurpation of choice is a powerful precedent.

The Commission would also face the problem of identifying certain foods as healthy or unhealthy. "Just because a product contains fats or sugars does not mean that it has nothing in it which will benefit the consumer," explained a spokesperson from the UK Food and Drink Federation in response to the draft health claims law. The measure could restrict the marketing and availability of some foods considered to be unhealthy. In reality, eating the occasional sweet or fatty food will not harm us.

Unbalanced Diets

It is well-established, if contrary to conventional wisdom, that it requires a diet of such foods unbalanced by other choices that leads to health effects, such an imbalance which was illustrated in the film 'Super Size Me'. By eating three McDonald's meals a day for a month, filmmaker Morgan Spurlock experiences numerous (predictable) health effects. As many experts have pointed out, he would also have been in a bad state had he only eaten fruit for a month. There seems to be a prevailing cultural acceptance of the myth that some foods are intrinsically unhealthy.

With such cultural misunderstandings underpinning public policy, no wonder companies in the food and



A deadly diet - any diet can be deadly!

drink industries are running scared. McDonald's restaurants have been removing 'super size' options from their menus. In Denmark, McDonald's have been forced to change their oil for fries. This was because Denmark last year ordered a virtual end to the use of artificial trans fats in processed foods. Denmark's Food Minister at the time, Mariann Fischer Boel, urged other EU countries to adopt similar laws. Boel has since been proposed as the EU's new Agricultural Commissioner.

Boel may be encouraged to push for EU laws on trans fat following developments in the USA. The US Food and Drug Administration this year ordered food manufacturers to list trans fat alongside saturated fats on product labels, starting from 1 January, 2006.

Greater Restrictions

The direction of EU policy towards ever more restrictions on food and drink in the name of reducing obesity is clear. Food and drink companies are increasingly modifying their practices, often attempting to pre-empt legislative reforms. With such actions and ever more restrictive EU proposals,

an outright ban on specific foods appears both unlikely and unnecessary, though of course not impossible.

If the EC learnt anything from the problems it encountered with its now aban-

doned five year moratorium on new genetically modified products, it is that attempts to impose general bans provoke big reactions and are likely to be undermined. Instead of banning certain

foods, EU food regulation by stealth appears to be the order of the day.

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"Snus, You Lose?"

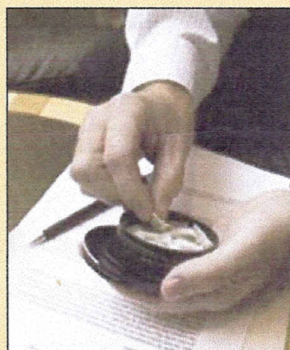
Sweden entered the EU with an exception from the ban of selling moist oral smokeless tobacco, known as 'snus'.

Advocate General Leendert Geelhoed at the European Court of Justice said the ban on selling snus in the rest of the EU should remain in place, out of public health concerns.

Regardless, it continues to appear that this hostility towards snus is medically ungrounded. Harm reduction effects shown in Sweden indicate that when people switch from cigarettes to snus, they switch to a less dangerous alternative.

Therefore, the ban on 'snus' is in stark contrast with the rest of the EU's tobacco policy. More harmful forms of smokeless tobacco are sold. Taxpayers' euros are paid to subsidize European tobacco farmers.

The principle of free trade also suffers under such bans, consistent with a broader Commission agenda to usurp consumer choice, along with the curious logic of a product being permitted in only certain EU states. The Commission continues to dismiss the public health argument when it comes to another one of Sweden's exceptions: the restrictive policy on the



A smokeless alternative to cigarettes

selling of alcohol. The Commission therefore risks its credibility by using the same argument to ban snus.

Expect debate over this anomaly as the new Commission takes office, and arguments to lift the ban on snus.