

NEW CHALLENGES IN THE EUROPEAN FOOD REGULATION: PARADIGM SHIFTS FOR SUPPORTING POST-CRISIS RESILIENCE TO ENVIRONMENTAL RISKS

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Food law is one of those systems subject to global regulation: when the first food crisis hit in the late 1990s, the response of the European Union was to build up a well-structured skeleton of regulatory tools in order to frame psychotic symptoms of a threat to our health. The crisis and the consecutive drops in consumption were the engine that powered a season of regulatory reforms. Particularly, the regulatory model is based on good administration principles, a set of actors (national and supranational) and a toolbox of global mechanisms worked as *laissez-passer* to the qualification of food law as a sector of the global administrative law. The ripple effects of the regulation on the economies connected to the European market witness this trespass from the regional problem-solution to a wider dimension.

After the global financial earthquake provoked by the 2008 financial crisis, a dramatic and even more pervasive wave of crisis engulfed Europe and the entire world. Since the financial crisis triggered an increase in unemployment, severe wage cuts and increased payments for loans, caused a decrease in the overall consumption of products worldwide. The decline in consumption consequently resulted in the decrease of the consumption of agro-food products, as people became more price-sensitive and were trying to reduce their expenditures. Because the overall household's disposal income decreased, the price contradiction became more noticeable for products with higher value added. As a result, the demand for more expensive products fell and nowadays many people choose to consume basic and cheaper products, leading thus to the decrease use of agro-food products. And once again the food law system had to be re-thought.

The decision to focus on safety and to build up a structured system around "safe food" - that worked so well as an anxiolytic response to the first (food) crisis - has to leave room to a more elaborate set of regulatory techniques, where the password shall be related to a concept of integrated sustainability, rather than on a vague concept of "consumers' health protection. Moving from a top-down regulatory perspective to a wider scenario, where the sharing economy offers proactive solutions to step forward, seems to be necessary.

It has been observed that the sharing economy is such a puzzle for governments¹. However, beyond the problem of the definition itself, this type of activities raises a number of important and controversial questions in the legal, economic, as well as in the social and environmental fields. In order to provide a comprehensive picture, this study addresses the need of re-thinking at the entire subject of food and sustainability, starting from a new epistemological approach and, secondly, tries to point out how crucial it is to re-organise the good administration principles in a perspective where the participatory approach plays a pivotal role.

§ 1 – ORIGINS AND RATIONALE OF EUROPEAN FOOD LAW

Food crises in the late 90s urged the European authorities to establish a legal system, when a number of highly publicised food-borne diseases outbreaks in the United Kingdom and then spread all over Europe.

The Bovine Spongiform Encephalopathy (BSE) was the watershed between the old and the new system². In the decades from the establishment of a common market to the crisis of the mid-1990s the regulatory needs in the food sector had been faced in a rather empirical and patchy way (food regulated as a good in the common market; horizontal legislation; general principles still in the realm of the European Court of Justice case law).

The reversal in the regulatory approach generated a quite well-structured regulatory system, with its own landmarks, identified in an “ABC”³, where the powers of the public Authorities, the duties of food Business operators and the needs to protect Consumers had been systematically and quite heavily regulated. With the approval of Regulation (EU) n. 178 of 2002, also known as the European General Food Law (GFL), the regulatory efforts were framed within a solid structure, in a holistic approach covering all

¹ Rachel Botsman, *Defining The Sharing Economy: What Is Collaborative Consumption – And What Isn't? Are Airbnb, Zipcar, Etsy, and Uber really all doing the same thing? Or do we need better definitions of this new economic force?*, in <http://www.fastcoexist.com/3046119/defining-the-sharing-economy-what-is-collaborative-consumption-and-what-isnt>. Accessed in December 2015.

² It has been observed that the BSE not only was the pivotal point for the establishment of a new regulatory system in Food Law, but also the triggering cause of the UK administrative constitutionalism, Elizabeth Fischer, *Risk Regulation and Administrative Constitutionalism*, Bloomsbury Publishing, 2007, 1-256.

³ The expression was used for the first time by Bernd van der Meulen, in *The System of Food Law in the European Union*, 14 DEAKIN L. REV. 305 (2009), 310: “The ABC of EU Food Law The ‘ABC’ of EU food law is its focus on Authorities, Businesses and Consumers. The three are, however, addressed in very different ways. While the protection of the life, health and other interests of consumers is the main objective of food law [...]; EU food legislation does not provide consumers with any specific rights or remedies. Consumers who want to take legal action must rely on general consumer protection law such as product liability legislation [...]. The key to food safety is in the hands of the businesses handling the food. The most important requirements regarding food are addressed to businesses. Obligations of public authorities - both at Community and at Member State level - are secondary to the obligations of businesses. Authorities have to ensure businesses’ compliance and they have to deal with situations of non-compliance”. *Id.*, *The Structure of European Food Law*, Laws (2013), 2, 69–98; doi:10.3390/laws2020069.

the stages in the food supply chain (“from farm to fork”). Thanks to a well-defined scope (protection of consumers’ health), to the drive toward the promotion of cooperation, harmonisation and standardisation, and to explicitly mentioned general principles (precautionary as the paramount, followed by legality, transparency, with all their corollaries), the European Food Law system has been elevated to the status of a sector subject to global regulation⁴.

The matrix of a regulatory system in the fluid global arena has constant features (Cassese defined them as “homogeneous patterns”⁵), as regards as its actors (traditional States; independent authorities, half private-half public; IGOs and NGOs; civil society), its common set of good administration principles (with transparency and participation at the forefront) and its monitoring mechanisms (administrative, judicial, quasi-judicial review).

A regulatory system in the global arena is, by definition, multi-layered (where the interconnection of levels recalls the image of an hourglass) and the different layers are in constant and mutual interchange (the image of a marble cake fits perfectly the theme). Food Law at European level, with its features of trans-territorial administrative activity, harmonising the different legal systems via common good administration principles and participatory standards, its own regulatory body (the European Food Safety Authority, established by Reg. n. 178/2002) and its network of cooperating actors, was a good example of good governance temple, whose structure could serve as a basis to withstand the fall of time and earthquakes. The weak aspect of this grandiose regulatory system was that it remained anchored to a top-down regulatory strategy, where essentially the legislator and the competent authorities played the lion-share in the decisions and very little room was left to the participatory approach of all the interested parties in the food supply chain, including the consumers. The following crisis did not delay to show that an urgent reconsideration of the whole functioning mechanism is today urgently needed. Keeping the good seeds of the old, nevertheless strengthening the bottom-up approach by effectively engaging the consumers in the decision-making process.

⁴ Among the founding fathers of global administrative law, it is worth mentioning, Benedict Kingsbury, Nico Krisch and Richard B. Stewart, *The Emergence of Global Administrative Law and Contemporary Problems*, Vol. 68, No. 3/4, *The Emergence of Global Administrative Law* (Summer - Autumn, 2005), pp. 15-61; Sabino Cassese, *Administrative Law Without the State? The Challenge of Global Regulation*, 37 N.Y.U. J. Int’l. L. & Pol. 663 (2004-2005).

⁵ Sabino Cassese, *op. cit.*, 665.

§ 2 – THE FRIGHTENED LEGISLATOR BUILT ON SAN, WHILE THE WISE COOPERATING EFFORT BETWEEN LEGISLATOR AND CIVIL SOCIETY CAN BUILD ON ROCK

As said in the introduction, the system established after the BSE threat was firmly anchored to safety, quality and hygiene standards, and seemed to be triggered by a collective psychosis rather than grounded on sound and reasoned systematic intention to provide long-term responses to the scarcity of natural resources and food supplies. It is not surprising that very little room was left to any reasoning connected to the concept of sustainability and limited resources. For this reason, the more pervasive financial crisis in 2008 burst into the system and threatened it like a house of cards, posing the civil society serious questions, diverting the scale of priorities, from the safety scares to the scarcity emergency.

This diversion, or –more softly- shift of paradigm has been studied by the scholars interested in sharing economies studies and in particular by Clive Hamilton, who used the term “Downshifting”, to describe the voluntary decision to reduce income and consumption. Hamilton defines this new category of aware individuals as “Voluntary simplifiers and cultural creatives [...]” that “Are not for the most part motivated primarily by philosophical concerns but by a desire to attain more balance in their lives”, choosing for moderation and frugality rather than for consumption and wealth. “Rich lives instead of lives of riches” is one of the mottos of the new self-creating “downshifter” (50 million of individuals according to the survey), who deliberately choose to earn less money and to attain more balance in their lives, preferring to devote more time to their families, health and hobbies.

These actors have specific characteristics in the domain of food safety, as they foster the idea of a new paradigm, based on the active engagement of the participants of the food supply chain. Any reflection on sustainability involves a whole community, and this is the lesson that we learn from nature: the only way to sustain life is to build up and to nurture the community.

§3 – LABELLING AND CONSUMPTION PATTERNS

Well-informed consumers are at the core of a smart, sustainable and inclusive growth and thanks to their ability and confidence in buying goods and services, they can drive the internal market towards innovation and efficiency, helping the European Union to get through the economic crisis. Therefore, the Union should provide them with tools able to raise their awareness and promote their right to make free and cautious choices.

Especially when it comes to food consumption, purchasers find themselves in a position of weakness, intensified by the fact that food is not a choice whereas it is everyone’s necessity. As a matter

of fact, within the food sector, communication does not have the role of persuading people to purchase food - creating needs - while it has the function to drive their desires. Particularly, since consumers do not know features and properties of food products before consuming them, only information allows them to make conscious decisions. Indeed, many food products' elements - such as taste or quality of ingredients - are the so-called experience attributes⁶, in so far as people can find out about them only after consumption. In most cases the product itself is not enough to give a clear and immediate idea of its features, which, usually, depend on ingredients, place and ways of production and so on.

For these reasons, transparency is essential for consumers, in order to gain awareness, as well as for business operators, that have to meet consumers' preferences. We have to cope with the ambiguity of information as a tool for protecting consumers' health and to preserve economic interests: on the one hand, it meets consumers' needs not to be misled and, on the other hand, producers' necessity, to attract purchasers and make them loyal to the brand. This is why when the European Union decided to step in with Regulation (EU) No. 1169 of 2011, it looked for an instrument able to adapt to the different roles that information plays on the food market, both as a way to earn awareness, for consumers, and as a tool for advertising, for producers. Starting from a wide notion of food information, the mentioned Regulation takes into account that "Every other means including modern technology tools and verbal communication"⁷. Indeed, although information within the food sector is not ontologically free -as far as contents, procedures and methods are involved- nowadays a progressively higher number of means of information is available to purchasers and, this way, the European legislator guarantees that every circumstance, including, for instance, distance selling⁸ and marketing practices

⁶ Here I am referring to the distinction between *search* and *experience* goods, introduced by Philip Nelson, *Information and Consumer Behavior*, in JOURNAL OF POLITICAL ECONOMY, Vol. 78, No. 2 (Mar.-Apr., 1970), pp. 311-329. *Search products* or services have attributes customers can readily evaluate before they purchase, while *experience products* or services can be evaluated only after purchase. In the first case, well-informed buyers are aware of the substitutes that exist for these types of products and thus are likely to be more price sensitive than other buyers; in the second one buyers tend to be less price sensitive, especially if it is their first purchase of said product and they will pay attention to product's brand and reputation, due to consistency of quality and loyalty. Nelson makes the example of canned tuna fish: "To evaluate brands of canned tuna fish, for example, the consumer would almost certainly purchase brands of tuna fish for consumption. He could, then, determine from several purchases which brand he preferred. We will call this information process 'experience'. For tuna fish there is no effective search alternative open." (p. 312).

Michael R. Darby and Edi Karni, in 1973, added a third group of products, the credence goods, that have attributes buyers cannot confidently evaluate, even after one or more purchases. They include health care; legal consulting; advertising and IT services. For this kind of goods price sensitivity tends to be relatively low. See Michael R. Darby and Edi Karni, *Free Competition and the Optimal Amount of Fraud*, JOURNAL OF LAW AND ECONOMICS, Vol. 16, No. 1, (Apr., 1973), pp. 67-88. The example they refer to is the removal of an appendix, "which will be correct or not according to whether the organ is diseased. The purchaser will have no different experience after the operation whether or not the organ was diseased." (p. 69).

⁷ Article 2, Regulation (EU) 1169 of 2011.

⁸ Article 14, Regulation (EU) 1169 of 2011.

through digital media, falls into the new rules. It is true, though, that labels have a central function within the food market, since they seem to be the most flexible instrument so far. As a matter of fact, labels contain figures, certifications, commercial lures, so that they can give exposure to what business operators wish to highlight rather than to what purchasers need to know concerning allergens, expiration date, conditions of use and so on.

Despite this key role, labels are not easy to understand. If commercials are generally effortlessly readable, with front-of-pack clear sentences, able to catch consumers' attention, an increasing sophistication of mandatory "messages" often makes it harder for consumers to become fully informed. First of all, before information can be processed, it must, at least, gain consumers' attention. Nonetheless, mandatory information is usually on the back of the package and, despite sounding as a ludicrous element to point out, we shall consider that people always look for ways to save time, so that, from this viewpoint, even the action of turning around an item, no matter how simple it is, might require too much time⁹. Secondly, technical terms and abbreviations are used and, occasionally, the body type might be hard to read¹⁰. Not to mention that the complex and numerous information requirements may bring to an "information overload"¹¹.

A long list of product information might lead many consumers to disregard the label rather than to make it harder to order each piece of information according to importance¹². This way, what it is supposed to inform, might end up to confuse purchasers. As a matter of fact, the recent Eurobarometer findings on food waste and date marking¹³, show that the meaning of date marking on food products is generally misunderstood and consumers have difficulties in comprehending the terms "Best before" and "Use-by"¹⁴. The growing number of information provided to the

⁹ This is particularly true for nutritional labels, as BEUC members' research shows. See BEUC, *Informed food choices for healthier consumers. BEUC position on nutrition*, BEUC-X-2015-008 – 04/02/2015.

¹⁰ Even if it refers to American consumers we can mention the report by Bruce Silverglade and Irene Ringel Heller, *Food labelling chaos. The case for reform*, Centre for Science in the Public Interest, Washington DC, (2010), p. 45, where the authors underline that consumers find it harder to read capital letters, instead of upper and lower letters, as well as full justification, which tends to squish letters and words together. At the same time, it is not easy to correctly identify ingredients in the ingredients list. If we think of added sugar, for instance, because sugar has numerous names such as lactose, fruit juice concentrates, etc., consumers might not be able to identify them as a source of added sugars. Hence, it would be better to group them together in the ingredient list, so that consumers get a truer picture of how many sugary ingredients are actually in the product.

¹¹ Jacob Jacoby, *Perspective on Information Overload*, JOURNAL OF CONSUMER RESEARCH, (1984).

¹² Lars Noah, *The imperative to warn: disentangling the "right to know" from "the need to know" about consumer product hazards*, 11 (2) YALE JOURNAL ON REGULATION, (1994), mentioned in Elise Golan, Fred Kuchler, Lorraine Mitchell et al., *Economics of Food Labeling*, Economic Research Service, U.S. Department of Agriculture, Agricultural Economic Report No 793, (2000), at p. 14.

¹³ Flash Eurobarometer 425, *Food waste and date marking*, Fieldwork September 2015, Publication October 2015. The survey was carried out by TSN political & social network and it involved 26.601 respondents from the 28 Member States.

¹⁴ More precisely, only 47% of Europeans understand the meaning of "best before" and 40% the one of "use by". There are differences on the one hand at country-level, about

consumers could lead to a better protection only if they are able to shift from those indications on labels to actual knowledge. However, this learning process, when purchasing food, does not depend on how big or coloured notices are; rather it is connected with intelligibility issues.

Moreover, this area of research is made particularly complex by the fact that consumption behaviour and motivation have been continuously changing in the past years.

On the one hand, the economic crisis strongly impacted on families' budget for food, causing many changes in people's attitude towards consumption: some of them reduce the quantity, trying to waste a bit less, while others have been forced to reduce quality, finding easier and more affordable to purchase unhealthy food.

On the other hand, a new category of consumers arose, and their behaviour, besides availability and price, has been influenced by factors such as environmental and ethical concerns or social relations¹⁵. Actually, even if price remains an essential element, some consumers seem to select products more carefully, paying attention to the relation price/quality and price/ethics. As a matter of fact, the 2015 Nielsen multi-country survey on the "Corporate Social Responsibility and Sustainability", after 30,000 interviews in 60 countries, identifies an average of 66% respondents willing to pay more for social and environmental features of the products¹⁶. In the mentioned cases, the choice is a more reasoned process than an answer to irrational impulses and companies must adapt their communication strategies to this new dimension of consumption¹⁷, as these kinds of consumers "seek to satisfy complex preferences and their desire to buy goods which match their lifestyles"¹⁸.

The current system does not make the majority of consumers able to play their active role within the food market, since, very often, it looks as if they are overwhelmed by tons of information. We should shape the moment of purchasing food as something that start way before supermarkets' aisles, as only if we have provided

both awareness and understanding of this kind of labelling, and on the other hand at socio-demographic level.

¹⁵ BEUC, *Informed food choices for healthier consumers. BEUC position on nutrition*, BEUC-X-2015-008 – 04/02/2015.

¹⁶ Complete survey at <http://www.nielsen.com/ug/en/press-room/2015/consumer-goods-brands-that-demonstrate-commitment-to-sustainability-outperform.html>, visited in April 2016.

¹⁷ Mario Abis, *Which communication to consumers?*, 2 RIVISTA DI DIRITTO ALIMENTARE, (April-June 2011), at p.1.

¹⁸ Leonardo Becchetti, *Voting with the wallet*, AICCON WORKING PAPER, 2011, p. 12. As Professor Becchetti says in the mentioned paper:

"The vote with the wallet is a new, emerging feature of economic participation and democracy in the globally-integrated market economy. This expression identifies the pivotal role that responsible consumption and investment can play in addressing social and environmental emergencies which have been aggravated by the asymmetry of power between domestic institutions and global corporations". The most interesting example here is the "fair trade" one: these kinds of products are bounded with a social and environmental content, that satisfies consumers' needs for ethics. Hence, from this point of view, "the price premium should be perceived not as a distortion, but as a different portioning of value in the value chain between producers and importers".

consumers with education we can communicate with them¹⁹ and not simply give them information²⁰. The raising question then is: how can we address transparency in commercial practices and, by doing this, foster a new and sustainable model of consumption?

§4 – TOWARDS SUSTAINABLE CONSUMPTION

Sustainable consumption requires changes not simply from individuals but from communities. While some individuals have the ability, interest and resources to modify their behaviours independently, some others do not. However, this kind of shift, in order to be effective, must be brought to an audience as wider as possible: this is the role of law and public policies.

In order to promote a different model of consumption, it is necessary to endorse a new perspective on the food supply chain, developing real connections between consumers and producers. This means, for example, to educate consumers about production methods, environmental impacts of the food they purchase or its place of provenance. This low-impact, less processed and more local food system can be boosted in different manners but, in order to reach the widest audience possible, it requires official legal policies. For these reasons three ways might be of particular interest: education campaigns, transparency through labels about environmental impacts of food choices, direct selling from farmers. Starting from education, school programs for kids might be a good vehicle for spreading long-term understanding of food, within the community. Initiatives such as farm-to-school ones allow students to be engaged in activities related to agriculture, food, health or nutrition: on the one hand, kids will have the chance to learn from gardening, on the other hand farmers will gain the opportunity to purchase their food, strengthening the local economy. This kind of initiatives help kids - and through them their families - to raise awareness not only about healthy dietary habits but also about the environmental cost of the actual food system, rather than they improve the consumers-of-the-future's ability to read labels and understand them. In such a model, the introduction of informative labels on food products, increasing transparency, would have an effective role in explaining the consequences of the food choices we make everyday. Governments can foster eco-labelling programs in order to lead market forces towards the promotion of “more

¹⁹ This is particularly true if we think, for instance, of organic food. It is mostly displayed as more advisable but, at the same time, it usually costs more. If we want consumers to purchase it, the only thing we can do is to persuade them that the price corresponds to peculiar qualities that make it healthier and better for the environment. In order to do so, labels are not enough, by reason of we should firstly make consumers aware of this mentioned point of view, giving them the chance - this time for real - to buy what fits their needs the most.

²⁰ The difference between information and communication is underlined by Fausto Capelli, *Evoluzione del ruolo dell'etichettatura degli alimenti: dalle proprietà nutritive agli effetti sulla salute, alla luce della proposta di nuovo regolamento sull'informazione al consumatore di prodotti alimentari*, 4 DIR. COM. E SCAMBI INTERN., (2009), at p. 839.

environmentally friendly patterns of production”²¹. Public “official” eco-labels, rather than self-declared eco-labelling schemes²² and organic products labelling, might play a pivotal role in spreading knowledge and awareness about environmentally detrimental food, enabling consumers to make comparisons among the different food-production categories. Particularly, “Eco-labels would be based on a technocratic assessment of product’s life-cycle, providing consumers with a location of production and chemicals used in the production process”²³. Despite this, currently, the European eco-labels programs do not regard food, while it is about, *inter alia*, beauty care and cleaning up products, clothing, do-it-yourself items, electronic equipment and also holiday accommodation²⁴.

However, effective communication needs education, as every element in this system is deeply interconnected. Although informative labels would be useful instruments even nowadays, surely their impact would be diminished by the fact that, as we pointed out in the previous paragraph, the majority of consumers do not pay so much attention to labels or, in the worst case scenario, do not understand them. Nonetheless, eco-labelling on the one hand can provide “more sensitive” consumers with objective data obtained by technical life-cycle analysis and, on the other hand, can prompt less-engaged consumers to wonder which are the differences among the different products on the shelves, stimulating their curiosity and eventually persuading them to look for more information about their food choices. Therefore, it should be easier, even in the current food system, to gain knowledge about health and nutrition as well as about chemical and fertilization techniques and their impacts, food miles and food carbon footprint, place of production and the supply chain.

Finally, public policies, should endorse direct marketing by farmers that will provide local food. In order to do so, both local governments and state laws are necessary: the formers, as they can concretely impact on farmers’ markets viability -having markets in convenient and trafficked areas, maybe close to places where people live and work-, the latter as they can encourage regular grocery shopping at farmer’s markets, for instance providing low-income seniors or families in needs with coupons exchangeable for food, or including local farmers in public sector catering.

In conclusion, the current globalised food system does not fit sustainable consumption since it separates economic transactions

²¹ Surya P. Subedi, *Balancing International Trade with Environmental Protection: International Legal Aspects of Eco-Labels*, 25 BROOKLYN J. INT. LAW, (1999), 373.

²² The proliferation of self-declared eco-labelling schemes has caused consumers’ confusion and scepticism over the reliability of environmental claims, leading to the so called greenwashing phenomenon. See Jason Czarnecki, A. Homan, M. Jeans, *Creating order amidst food eco-label chaos*, DUKE ENVIRONMENTAL LAW AND POLICY FORUM, Vol. XXV:281, p. 282, and Jason J. Czarnecki, Andrew Homan and Meghan Jeans, *Greenwashing & Self-Declared Seafood Ecolabels*, 28 TUL. ENVTL. L.J. 37, 38–39 (2014).

²³ Jason J. Czarnecki, *Everyday Environmentalism. Law, Nature and Individual Behavior*, ELI PRESS, (2011), p. 81.

²⁴ For a complete list See <http://ec.europa.eu/environment/ecolabel/eu-ecolabel-products-and-services.html>, visited in April 2016.

from social and environmental context²⁵. Hence, we should start designing a different food chain, going beyond the traditional antithesis between producers on the one side, and consumers on the other side. Indeed, Regulation (EU) No 1169 of 2011 itself points out that “This Regulation will both serve the interests of the internal market by simplifying the law, ensuring legal certainty and reducing administrative burden, and benefit citizens by requiring clear, comprehensible and legible labelling of foods”²⁶. Undoubtedly, if we compare the past perspective - based on the Directive 79/112/CEE²⁷, which considered consumers’ protection worthy only if it helped the implementation of competition - with the new one, we can state that there has already been a step forward towards a more collaborative food chain, but it cannot be deemed enough. The new target should be to erase the continuous tension between the opposite poles of consumers and producers; and we might be able to reach this goal through bottom-up participation, as it’s been already shaped, even if only in rough draft, in Articles 3 and 4, Reg. 1169/2011. The aim is not to destroy the past system, whereas to harvest its positive elements as seeds for a sustainable new model.

As a starting point, Article 3, of the mentioned Regulation, tries to reconcile these parties requiring food information to pursue a high level of protection of consumers’ health and interests, while taking into account producers’ legitimate need to be protected, in order to achieve the free movement of legally produced and marketed food within the European Union. Although, currently, the goal of a more participated decision-making process seems far from being reached, Articles 3 and 4 introduce a sort of democratic criteria, when referring to consultations and attention to consumers’ need. Particularly, paragraph 4, Article 3, requires an “open and transparent public consultation”, directly with stakeholders as well as through their organizations, during “preparation, evaluation and revision of food information law, except where the urgency of the matter does not allow it”. Similarly, paragraph 2, Article 4, Reg. (EU) 1169/2011, about mandatory food information, establishes that how the majority of consumers values some information should be taken into account.

Thanks to this sort of democratic criteria, we might begin thinking of consumers as co-producers or pro-sumers, able to address production towards sustainability. In such a system we can imagine

²⁵ Gill Seyfang, *Ecological Citizenship and Sustainable Consumption: Examining Local Organic Food Networks*, JOURNAL OF RURAL STUDIES 22, (2006) 386.

²⁶ Whereas No 9, Reg. (EU) No 1169/2011.

²⁷ Protection of health was not at the core of the Directive 79/112/CEE, as the harmonization of the rules about food information to consumers was considered, at that time, an efficient instrument to prevent Member States from setting rules that, justified by health protection interests, actually hid an attempt to favour the national markets. The Union’s main target was to create equal conditions of competition for all business operators, thus the first European rules concerning accuracy and transparency of information introduced only bans, in order to avoid that unfair messages could wrongly persuade consumers to buy a product instead of another. The above-mentioned Directive aimed at guaranteeing that false information to consumers did not lead them to misrepresent reality, causing obstacles within the internal market.

a different and round food chain, where every link influences the others, as they are all interconnected. Talking about consumption, then, would not gather the essential elements of this model: a language shift, as well, is required, in order to describe these ecological citizens, who prefer sharing goods rather than consuming them.

§5 – THE SUPPORTIVE SHARING SYSTEM

Our take it that the introduction of a sharing economy model in the food sector might offer a complementary solution to the lack of effective participation of the involved parties (and mostly of the consumers), which in the end was one of the co-factors of the relatively weakness of the system to resist the crises. Though we are conscious that it is currently highly challenging for the European Union to deal with the disruptive innovation that the sharing economy has been causing²⁸, we believe that some accommodating efforts could be undertaken in order to include the logic of sharing within the tissue of the food regulatory framework. The logic of sharing implies that less services and goods are produced and wasted. An amazing achievement, that connects us to the times of the bartering system, with a set of at least five benefits. First, bartering helps to save money, for unwanted assets and extra time can be bartered. Second, it curbs consumerism, with its core idea to shift from the shopping mentality to the swapping advantages. Third, it has a social impact, since it fosters the idea of connecting people and helping each other by exchanging skills and services. Fourth, it helps, through the geo-location system in technological devices, to leave a smaller environmental footprint and to get maximum utility out of unwanted possessions. Last but not least, it contributes to a general feeling of cleanliness.²⁹

§6 - LEAVING BEHIND THE TOP-DOWN MENTALITY AND SHIFTING TO THE NEW HYBRID PARADIGM OF THE SHARING ECONOMY

When studying the regulatory tools adopted in a multilayered system (as the one of the financial markets, as well as the environmental protection and food safety), we have supported the idea of a participatory democracy through networks, ascertaining how the development of our global village has required the developments of new rules, based on networks rather than on hierarchical systems, grounded on transparency and efficiency rather than on top-down approaches. This way, the world could be

²⁸ Florin Zubascu, *The sharing economy is bringing disruptive innovation to Europe*, in Science Business, published on 2nd July 2015 at:

<http://www.sciencebusiness.net/news/77109/The-sharing-economy-is-bringing-disruptive-innovation-to-Europe>.

²⁹ See the booklet *The Sharing Economy* at:

<https://www.pwc.com/us/en/technology/publications/assets/pwc-consumer-intelligence-series-the-sharing-economy.pdf>.

defined in terms of global village as a beautifully fitting oxymoron, suggesting that the community, united by the speed of trade and communication, takes on the dimensions of a village.

The International community, and European society are, in fact, societies of individuals, or simple citizens in a supranational public place, perceived as an extension of the private domain. Nations, like individuals, do likewise. Hence the future of globalisation depends on the cooperative effort of both individuals and nations in contributing to the opening up of choices and of integration.

Rethinking the system in terms of sharing economy where the consumers play an active as co-decision maker – and consequently were top-down regulatory approach and the bottom-up participatory dynamics merge into one comprehensive system, clearly show that the decision-making process is no more only in the hands of the public authorities (at the top of the pyramid of the decisions), but it is rather the result of a participatory methodology which uses the network system at its best. The reasoning in terms of network is at the basis of the definition of collaborative economy, as the economic system of decentralised networks and marketplaces that unlocks the value of underused assets by matching needs and haves.

This way, the old paradigm of the ABC focused on the regulation of roles and responsibilities of the three categories of actors (Authorities, Business, Consumers), can be replaced by an ABC rather focused on the players' features and on the regulatory mechanisms. Awareness, Bartering system and Collaborative economy shall be the new key words that can trigger the change. Likewise, the old set of good administration principles shall be adapted and revised in order to guarantee an effective participation for all the members of the food supply chain, which could shift from a linear model to a circuitry, where all the parties are actively involved and contribute to the final decision.