

Eva van der Zee

Sustainability Labels in the Shadow of the Law

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For Bart and Willeke

Foreword

What's in a Label?

When we shop, we are exposed to food labels. The credence character of foodstuffs requires consumers to rely on the information contained by the respective label attached to food. But not only consumers need accessible, reliable, and encompassing information on the label to assess the value of the foodstuff. Along the supply chain, producers, retailers, and processing companies rely on the information of the food provided to them. The important role information plays in the food market has several effects: In B2B relationships, businesses compete to provide their clients with the best available information to acquire a comparative advantage over other businesses on the market. In B2C relationships, consumers trust products with specific on-pack information, such as a sustainability label, more than products without a label. That also opens opportunities for businesses to gain a comparative advantage by attaching a label to the product. Dr. van der Zee shows illustratively in Chap. 2 how many private labeling schemes exist, what is their regulatory structure, and how these can be used to increase consumer confidence. Unlike in B2B relationships, where professionals act in the chain, in B2C relationships consumers do not have the means nor the knowledge available to check for the reliability of the respective information. While for this reason on-pack information is in general heavily regulated in the EU, voluntary labels do not enjoy a comparable set of regulations. Using surveys Dr. van der Zee illustrates how consumers can be systematically misled into buying a foodstuff even if the label attached to the food is substantially meaningless. By doing that she justifies to our knowledge for the first time empirically that such pictograms would require regulation to protect consumers. But it is not only the consumer which needs protection by the law. Businesses, which may also want to control the image of their product via information, may be protected by freedom of speech rights. If these exist and to what extent they exist is subject to analysis by Dr. van der Zee's Chap. 4. Private standards are often the only effective regulation of global food supply chains. This provides standard setters

with a powerful position, namely controlling access to the respective supply chain. Consequently, Dr. van der Zee turns to evaluating whether private standards are or should be under scrutiny of EU competition law according to Art. 101 TFEU. After evaluating the state of the art, she introduces a human well-being test, which opens new possibilities to evaluate private standards under competition law.

The book provides a thorough, well-researched, and innovative approach to the regulation of private food standards. It is innovative as it uses a variety of methods, embracing doctrinal, empirical, and philosophical methods. The solutions presented are likewise innovative and go way beyond the state of the art. Yet, they are well-reasoned and grounded on solid research. All in all, a book worth reading for scholars and practitioners alike.

University of Bayreuth,
Bayreuth, Germany
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Kai P. Purnhagen

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About the Author

Eva van der Zee is a Junior Professor (Tenure Track) at the Institute of Law and Economics, Hamburg University. Her main research area is in international and EU law with a focus on behavioral law and economics. Before being appointed at Hamburg University, Eva van der Zee was a Postdoctoral Researcher at the Strategic Communication Group at Wageningen University and a PhD Researcher at the Law and Governance Group and the Marketing and Consumer Behavioral Group at Wageningen University. She has been a visiting researcher at New York University and the European University Institute.

List of Abbreviations

ACC	Advertising Code Committee
ACM	Autoriteit Consument en Markt
AICDP	Agreement on the International Dolphin Conservation Program
ASC	Aquaculture Stewardship Council
CAC	Command and control
CBA	Cost-benefit analysis
CECED	European Committee of Domestic Equipment Manufacturers
Cf	Compare
CFR	Charter of Fundamental Rights of the European Union
d	Effect size
DAC	Dutch accreditation body
E.g.	For example
EC	European Communities
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
EEC	European Economic Community
ETP	Eastern Tropical Pacific
EU	European Union
EVU	European Vegetarian Union
FDA	Food and Drug Administration
FIR	Food Information Regulation
GATT	General Agreement on Tariffs and Trade
GFL	General Food Law
GLOBALG.A.P.	Global good agricultural practice
GM	Genetically modified
HAP-LH	Human, animal, or plant life or health
i.e.	That is
ICJ	International Court of Justice
IEC	International Electrotechnical Commission

IGO	Intergovernmental organization
IIA	International investment agreement
ISEAL	International Social and Environmental Accreditation and Labelling
ISO	International Organization for Standardization
ITA	International trade agreement
KPMG	Klynveld, Peat, Marwick, and Goerdeler
LSD	Least significant difference
M	Mean
MSC	Marine Stewardship Council
n	Sample size
NCA	National competition authority
NGO	Non-governmental organization
p	Significance
PDO	Protected designation of origin
PGI	Protected geographical indication
PPM	Process and production method
SD	Standard deviation
SPS	Sanitary and phytosanitary measures
SWB	Subjective well-being
TBT	Technical barriers to trade
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TSG	Traditional specialty guaranteed
UCPD	Unfair Commercial Practices Directive
UK	United Kingdom
UN	United Nations
USA	United States of America
VSS	voluntary sustainability standard
WTO	World Trade Organization
WTP	Willingness to pay