

2003

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Recommended Citation

Jean Halloran, *Regulating Genetically Modified Foods: Is Mandatory Labeling the Right Answer?*, 10 Rich. J.L. & Tech 12 (2003).
Available at: <http://scholarship.richmond.edu/jolt/vol10/iss2/7>

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REGULATING GENETICALLY MODIFIED FOODS: IS MANDATORY LABELING THE RIGHT ANSWER?

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Cite As: Jean Halloran, *Symposium: Remarks on Regulating Genetically Modified Foods: Is Mandatory Labeling the Right Answer?*, 10 RICH. J.L. & TECH. 12 (2003), at <http://law.richmond.edu/jolt/v10i2/article12.pdf>.

{1} Thank you. Consumer Union, which is the organization that I work for, favors labeling genetically engineered food. At the base of our view on this issue is the view that genetically engineered food is different than regular food. I know some of our previous speakers have spoken about how this is all just one big continuum from conventional crops, but when you look at spider-silk goats, which are goats genetically engineered to produce spider silk in their milk that do in fact exist already on a test farm, the ordinary person sees something different. To the ordinary person, a spider-silk goat is significantly different from an ordinary goat. The question will arise at some point whether animals that are producing industrial chemicals in their milk, including cows, goats, and so forth, can be allowed in food supply. This is something that we need to consider.

{2} Should genetically engineered foods be labeled or not? Of course, we're already having corn and soybeans in our food supply without labeling. The industry says this is just a continuum of conventional crops. Discussing conventional crops, it's an interesting kind of semantical debate I think. To me, it's like saying nuclear power is an extension of conventional power production. While it is true that there are a lot of things that are similar between conventional power plants and nuclear power plants, there are certain very significant differences that also cause one to look at the safety issues dealing with this issue. These differences are what cause people to have different attitudes about it.

{3} We've had some discussion about polling, and indeed when you ask consumer directly, "Do you think that there should be labeling on genetically engineered food?" you invariably get 95% to 98.5% positive response. On the other hand, it is fact that people are not very sophisticated about the concept of genetic engineering and don't know much about it, so a lot of their response does depend on what you tell them. You can get negative responses also. For example, in the recent Oregon referendum, where the vote was on whether or not there should be mandatory labeling of genetically engineered foods, initially before the vote, the polls were running about 70% to 30% in favor of labeling, but the industry rolled out a five million dollar campaign against the referendum, compared to I think \$500,000 for the supporters, and the industry told people that a labeling requirement would raise their food bills by \$500.00 and put farmers out of business. This turned their public opinion around.

{4} Even though there were some studies that contradicted the \$500.00 increase in your grocery bill, in the end, the referendum failed. However, at this time there are thirty-five countries in the world that have mandatory labeling of genetically engineered food. These include many of the eastern European countries, Australia, New Zealand, Japan, Korea and China.

{5} Well, should we label these foods? What is the basis of labeling? Now, I'm going to start to get into legal issues, which I find a little bit daunting and more for lawyers since I'm not a lawyer, so I'll



start to bring this up and I'm sure others will have lots of comments and will all be really be able to discuss these issues better than me. Let me start by raising some of the questions.

{6} To answer whether there should be mandatory labeling turns on part of the Food, Drug, and Cosmetic Act that says that something should be labeled if it's a material fact to consumers. So what's this material fact? Well I certainly didn't know, and I looked it up and tried to get some opinions. I discovered that it is not a crystal clear concept in the law. As near as I can figure it out, a material fact is something that consumer care about. This includes things like, whether food is frozen, whether it's from concentrate, and whether it's irradiated, which is another process.

{7} Consumer Union argued to the FDA that genetically engineered foods should be labeled because it's like these other processes that affect the food; therefore, it's a material affect. The FDA responded as said there has to be something that is an organoleptic change. I didn't even know what the word organoleptic means, but it means there's a change in the taste or smell or mouth feel of the product, and if you didn't have ones of these properties then you couldn't label the food. The response was that since none of these occurred in genetically engineered foods, the FDA wasn't going to label the foods.

{8} I think we can argue that sometimes frozen food is fairly indistinguishable from fresh food, and sometimes frozen food even tastes better than fresh food, but that's the FDA's reasoning and that's where we pretty much are today in terms of FDA's ruling on labeling. However voluntary labels are permitted and there's some, a lot of discussion and debate going on, on how that should be done.

{9} I want to raise one more point that came up in earlier discussions. There's an issue that labeling would be helpful if an unanticipated problem arose. If that problem arose, you could identify the problem. This is a safety-related issue, although we all think that nothing should go on the market if we know that it's unsafe. I think this relates to some of the discussion previously. In fact in the Brazil nut case, our previous speaker suggested that the developers of that product were unaware of the allergic properties of the food – that it didn't occur to them that the Brazil nut allergy could be transferred into soybeans. My understanding of this story, from discussions I've had, is that the developers were aware it was a potential problem. These were breeders with pioneer seeds and pretty experienced people, and they thought that they had avoided the problem when they transferred that protein, since they thought it didn't carry with it the gene that led to the allergic response.

{10} Now, the developers were very conscientious and went the extra mile and did the tests with serum of people who were actually allergic to Brazil nuts, and they discovered the problem and took the product out of development, but there was an unintended and unexpected effect there. Had they been less responsible, and had this gone to market, this could have been something that would have only been identified if we had labeling. Just imagine if you're allergic to Brazil nuts and you eat something one day that contains a soybean additive. After eating the food, you suddenly have an allergic reaction to it but you can't understand your reaction. The next day you eat the very same product but you happen to get a batch that doesn't have genetically engineered soybean and you don't have a reaction. It would have been almost impossible to track down that problem if the product had made it to market. Without a labeling system, it would have been extremely difficult to catch the problem.

{11} With those thoughts I will move on, and I just want to put out a challenge to my fellow panelist from the Competitive Enterprise Institute, which really advocates that a free market is the best way for markets to sort themselves out and for the economy to work. To have a free market work effectively requires consumers to have information, so what is the difficulty with labeling genetically engineered food so that consumer can make a choice as to what they want? Thanks.

* Jean Halloran serves as the Director of the Consumer Policy Institute (CPI), a division of Consumers Union, the publisher of Consumer Reports. With over twenty years of experience in dealing with public issues, her work at CPI has included dealing with projects on food safety, biotechnology, hazardous pharmaceuticals, toxic chemicals and health care for elderly and poor consumers. She is currently on the Steering Committee of the Genetic Engineering Action Network (GEAN) USA, formed in 1999 to promote mandatory labeling and safety testing. She also helped to organize the Transatlantic Consumer Dialogue (TACD), a coalition of groups in the U.S. and Europe which call for safety and labeling of genetically modified foods. Ms. Halloran has spoken widely on genetically modified foods and other food safety issues. Ms. Halloran came to CPI in 1981, after serving on President Carter's Council on Environmental Quality. She received her B.A. with Honors in English Literature from Swarthmore College in 1967.

