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Horsemeat controversy: consumers should not forget their role in market

Mika Schröder

The recent horsemeat scandal has unearthed a dysfunctional and deceiving food industry. It has raised concerns as to what consumers actually purchase and what regulations control the flow of goods between EU Member States.

Although the mislabeling was clearly contrary to current legislation, the fact remains that government policy seems inadequate in its ability to control the market and ensure full transparency.

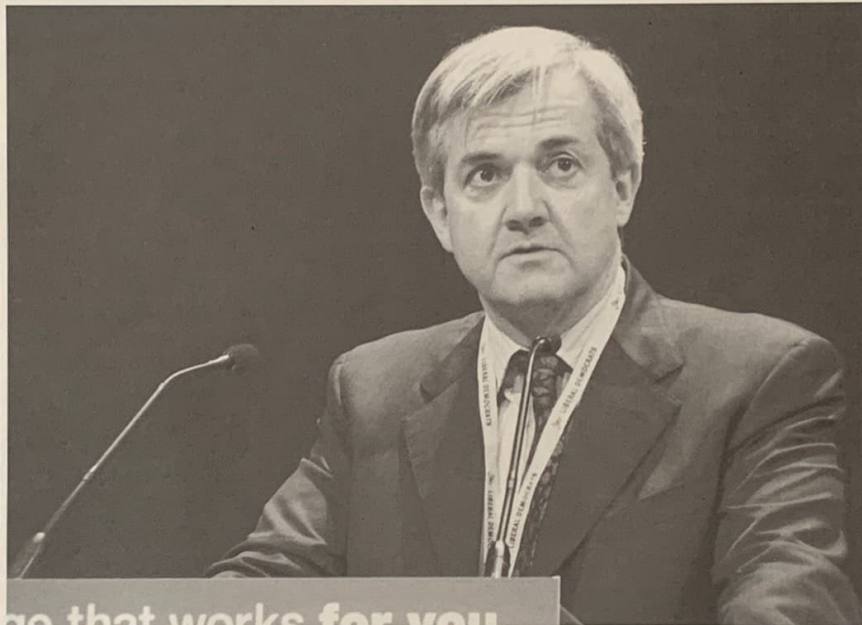
In their report from 2008, the House of Commons Environment, Food and Rural Affairs Committee (EFRAC) acknowledged the ultimate goal for establishing sufficient and sustainable food production is "making sure that people have access to sufficient, safe, sustainable and nutritious foods at affordable prices".

In light of the recent events, it is clear that these goals will not be achieved by current policies, especially if citizens, and in fact the government itself, is unaware of what is being imported into the country. In their report, the EFRAC discusses the complicated mess within meat and dairy production. NGOs such as the WWF have urged governments for years to support a decrease of meat and dairy consumption. First, they claim that it is a "wasteful" use of resources:

"It takes up to 2.6 kg of feed to produce 1kg of chicken meat, 6.5kg of feed to produce 1kg of pig meat and 7kg of feed to produce 1kg beef."

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Public confidence in jury system shaken by Pryce trial



Chris Huhne MP has been caught up in controversy after ex-wife Vicky Pryce claimed he forced her to take his speeding points
 Image: David Spender <http://www.flickr.com/photos/dspender/4434030255/>

Megan Jones

Following Mr Justice Sweeney's decision to discharge the jury in the first trial against Vicky Pryce, the ex-wife of Liberal Democrat MP Chris Huhne, questions have been raised about the role, and perhaps even the future, of the jury system in England and Wales.

In a retrial, after the first jury failed to reach a verdict, Pryce was found guilty of perverting the course of justice by taking speeding points in 2003 for Huhne.

In 2003, Huhne's BMW was caught by a speed camera speeding on the M11 as he made his way home from Stansted Airport to Clapham.

As he already had nine points on his driving licence, and would therefore face a driving ban if he were given any further points, it is claimed that Pryce falsely informed the police that it was she who was driving the car at the time.

During the initial trial, Pryce accepted that she had taken Huhne's points, but argued a defence of marital coercion, claiming that he had made her sign a form he had already completed in her name.

Whilst this may not seem to be a particularly complex case, the first jury had immense trouble in getting to grips with their role in the trial process. After more than two days of deliberations, the jury submitted ten questions to the judge which strongly suggested that they had little understanding of their purpose. These questions included:

"can a juror come to a verdict based on a reason that was not presented in court and has no facts or evidence to support it, either from the prosecution or defence?"

This question goes to the very heart of the role of a juror. Each juror will have taken an oath or affirmation that he or she will "faithfully

try the defendant and give a true verdict according to the evidence". Therefore, to misunderstand the juror's role as a judge of fact based on the evidence presented in court, and that alone, is to misunderstand the very purpose of his or her being in the courtroom.

The confusion of the first jury was further evidenced by a question wholly unrelated to the case before them:

"would religious conviction be a good enough reason for a wife feeling that she had no choice i.e. she promised to obey her husband in her wedding vows and he had ordered her to do something and she felt she had to obey?"

Whilst this is, no doubt, a fascinating legal and philosophical question, which would be ripe for debate and discussion by legal academics and commentators, it had no place in the case as Pryce had not suggested or argued that such reasoning was behind her decision to take the points.

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NEWS BRIEFS

■ 31 alleged sexual abuse victims are suing the estate of Jimmy Savile and the BBC. The late Radio 1 DJ and the presenter of the Jim'll Fix It show on BBC One, who died in 2011, is alleged to have abused victims across the country. All victims are taking action against Savile's estate and eight are suing the BBC.

■ Prime Minister David Cameron has stated that those liable for passing off horsemeat as beef will face legal action. Recently, an EU meeting about the horsemeat scandal has taken place in Brussels. In addition to legal action, tougher inspection regulations are to be put in place.

■ President Obama's call for restricting some semi-automatic rifles and high-capacity magazines as well as reinstating the federal ban on military-style rifles that expired in 2004 has received mixed reactions. Some predict that he will face strong resistance in the Republican-controlled House of Representatives, and possibly even in the Democratic-led Senate.

■ Christian British Airways employee Nadia Eweida, who claimed she suffered religious discrimination at work over wearing a visible cross, won her case at the European Court of Human Rights. Her Article 9 rights had been violated and the UK was ordered to pay her compensation and costs.

■ The question of who owns the fictional character Superman, and the right to make money off the character, has been the subject of ongoing court battles for years. The latest move in the Ninth Circuit Court of Appeals on Jan 10th (U.S.) awarded Warner Bros. (which owns DC comics) the victory.

Fashion v The Law

Stacey Smith

Fashion and law collided at the 'Fashion and Intellectual Property Rights: Past and Present' conference on the 20th February 2013. The event, hosted by The Centre for Commercial Law Studies, was held at the Charterhouse Square campus. I arrived with my girly instincts bubbling and a sense of eagerness to learn about the integral link between the legal field and such a vibrantly creative industry.

The keynote speaker was Professor Susan Scafidi of Fordham University School of Law (New York City). A graduate of Duke University, Yale Law School, Berkeley and the University of Chicago, Professor Scafidi is an expert in a wide range of areas including intellectual property, legal history and international law. She is both founder and director of the non-profit Fashion Law Institute, which is located at Fordham Law School.

The Institute was established with the support and advice of the Council of Fashion Designers of America and its president, Diane von Furstenberg. Professor Scafidi also created and maintains the first website on fashion law 'Counterfeit Chic', which has been recognized as one of the American Bar Association's top 100 blogs.

At the conference Professor Scafidi spoke about "re-fashioning intellectual property" and provided a global perspective on the industry. She introduced the subject with visual images of style icons Victoria Beckham, Michelle Obama, Carolyn Bessette-Kennedy and Kate Middleton, each wearing elegant dresses that were illegally copied by so-called 'knock off artists'.

Mrs. Scafidi explained that the repetitive production of copies due to the success of one knock off artist is a difficult problem that has been going on for centuries.

To give some background on the issue, she told us about the first couturier, Charles Frederick Worth of France. In the 1850s he developed a business model that provided a season's worth of dresses that were ordered in advance and tailor made specifically for each client.

This was revolutionary because the collection was shown first and ordered later, rather than a single designer supplying clothing for a par-

ticular household, as was previously common. Worth's new model therefore meant that not only would clients see his designs in advance, but potential knock-off artists would as well.

Presently there are various international laws that protect different forms of intellectual property including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Berne Convention, patents, trademarks, copyrights and designs. However, whilst there is protection for some areas of fashion, it does not cover fashion design as a whole.

In fact, France is the only country that offers full copyright protection to fashion. Since the 1700s there was textile protection and the law evolved to cover manufactured garments as well.

Many other countries have followed the French lead, giving protection under the category of 'designs' including the UK since the late 1980s and the EU. However, there is a weak level of patent protection in countries like the U.S., particularly for the garments themselves.

Due to the global nature of the fashion industry, designers, fashion houses and giant fashion companies have various methods of responding to the inconsistent level of international protection.

These include enlisting the services of lawyers, stretching existing intellectual property law to cover the relevant issue and attempting to secure more effective legal protection via the courts and legislature. In fact, Professor Scafidi has herself testified regarding the proposed extension of legal protection to fashion designs and she works actively with members of Congress and the fashion industry on this very issue.

Some designers have also developed their own methods of protection by developing techniques that would be hard to copy, sending messages through the media (such as the 'Sex and the City' episode regarding a fake Fendi bag) and by re-producing their own brand in various forms. Giorgio Armani adopted the latter method by creating different sub-labels including 'Armani Collezione', 'Emporio Armani' and 'A/X Armani Exchange'.

In the words of Professor Scafidi "he was knocking himself off" because his suc-

cess had provided the resources to do so. Another method, although not effective in all jurisdictions, is to put logos outside rather than inside of designs and to use a unique and recognisable trademark that automatically brings the company to mind. The red soles of Christian Louboutin shoes are an example of this approach.

One might wonder why there is such limited protection of fashion designs, unlike fine arts and many other creative industries. Professor Scafidi said there are various cultural and historical biases that are to blame, including those relating to gender, consumer social classes, race and ethnicity and a view that there exists high versus low art forms, with fashion being on the lower spectrum. There are

only few countries that actually make fashion part of their national ethos she said, which is also a hindrance.

On a positive note however, these negative attitudes are changing for the better. There is a declining cultural bias, which has influenced celebrities who now want to be designers and even children are growing up dreaming about a career in fashion.

As a result of the manner through which the fashion industry has evolved it is no longer possible to be a huge success and remain in your home market. As a result Professor Scafidi stressed the importance of international legal harmonisation. New technologies, changes in the locus of production and the existence of creativity at all price points have also made this a pressing issue. It is becoming increasingly common for emerging designers to suffer whilst corporate design pirates and counterfeiters bene-

fit.

After a tremendously insightful overview of the legal issues within the fashion industry, Professor Scafidi concluded her presentation on a lighthearted note: "And finally, I just think fashion designers should be able to reap what they sew."

Also speaking at the event were Queen Mary Professors Uma Suthersanen, Dr. Noam Shemtov, and King's College Professor Evelyn Welch. Professor Welch elaborated on the historical origins of complex fashion law in early modern Europe, proving that the desire to know that you're wearing something that is not only of quality but has also been worn by prominent individuals is not a new phenomenon. The speeches given by the aforementioned Professors included a range of trademark issues and interesting case law such as *Louboutin v Yves Saint Laurent* and *Louboutin v Zara*.



Christian Louboutin have previously been at the centre of a legal battle over the rights to the distinctive red sole of their shoes
Photo: foecoc kannilic <http://www.flickr.com/photos/foecoc/7892087672/>