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Co-regulation: Exploring the Interface between Regulation and Private Standards

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Innovation in the food industry brings new products and new technologies to the market and may also change the nature of food distribution systems. Innovative new products and new technologies also generate new challenges in assessing and monitoring safety and assuring the veracity of quality claims. Governments routinely intervene in markets to establish regulatory frameworks for food safety generally and for emerging technologies in particular. At the same time, private mechanisms (standards) for food safety control and food quality assurance have become increasingly important as evidenced by the growing array of private and third party quality assurance labels, 'Good Agricultural Practice' programs, etc. Thus, public regulation and private standards are often viewed as separate alternatives. Rather than a discrete choice between public and private standards, however, in practice there is often a continuum. So-called 'co-regulation' is an approach which aims to combine public sector regulation with private standards, through a mixture of primary legislation, reinforced by the more flexible self-regulatory approach wherein food safety and product quality becomes a shared responsibility between private and public players.

This paper explores the concepts of public legislation, self-regulation and co-regulation. We investigate the nature of the relationship between co-regulation and innovation, providing examples in which regulation appears to have hindered or promoted innovation. The paper examines the use of co-regulation in other countries and in different contexts (e.g. Media, transportation, environment) drawing lessons from previous successes and failures in the application of this approach. Finally, the analysis explores some of the challenges in designing an effective co-regulatory strategy for food safety and quality in Canada, particularly with respect to emerging technologies.

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