



## The GAP is getting wider: how private standards are filling the void between dynamic public opinion and food safety legislation

**Steve Homer**

*The author has great experience of writing, managing and implementing private standards, long working with companies that supply or have a desire to supply the supermarket industry with fast moving fresh products. After seven years as Group CSR Manger with Flamingo Holdings, he has been more recently involved in various projects (including Ethical Trading Initiative Smallholders Project, Former GlobalGap Board of Directors, GlobalGap Africa Observer Project, CMI Certification Governing Board Member, etc) to measure the impact of standards on livelihoods - particularly in respect of smallholder farmers in Sub Saharan Africa,*

### **UNCTAD :**

#### **Private sector standards.**

This is an issue that has never been discussed in the SPS Committee although it has been raised in the Technical Barriers to Trade (TBT) Committee. St Vincent and the Grenadines complained about requirements for exporting bananas and other products to European supermarkets.

St Vincent and the Grenadines, supported by Jamaica, Peru, Ecuador, and Argentina, complained that EurepGap's SPS and TBT requirements are tougher than the governments' requirements — *government rules should apply, they said.*

### **Differential void between public opinion and food law**

The majority of the public are caring interested observers but their busy lives do not allow them to become overly inquisitive. A trusted single source of information like their chosen newspaper or the BBC will often be the main benchmark against which they will form their opinion. From this position it is often assumed by the consumer that this is the majority civil society position and then it is only a short step to a single source opinion becoming a mainstream food fact.

Brand owners and supermarkets recognise the need to satisfy the views, and sometimes fears, of their consumers. Many of the supermarkets can demonstrate empathy with opinion-leading consumers, and can convert the 'don't knows' through informative labelling. Moreover on reaching a healthy 66% of their customers converted to the "new-brand", they can go on to ignore the remainder because the retail prices rarely change in these cases - so sales are not impacted.

Moving a supermarket brand to a position that either recognises or leads the consumer position on an issue creates a void between that retail market entry criteria and current legislation that is

based on proven scientific fact. The differential gap between public opinion and food law has always been there, and over time has expanded and contracted in reaction to food safety scares, farmers' lobbies, trade talks, and national and international alliances. However, the rising demands of the supermarkets and brands combined with an increase in the number and diversity of influence vectors have accelerated both the frequency of the change events and stretched still further the void between current legislation and private voluntary standards (PVS).

By contrast to the PVS entities, the food safety legislators during this period have been surrounded by the growing constraints of international treaties, political union enlargement and increasingly combative trade negotiations. During these lengthy political processes any momentum and valuable common ground appears to be lost in the uncertainty of the negotiated political outcomes. As a consequence the food safety legislative cycle becomes slower, and might in some cases be negotiated down to a lowest common denominator in order to reach a speedier conclusion. When finally agreed and adopted nationally, the legislation is often perceived as out of date. If a PVS has been in place in the industry for a number of years and the industry has already adapted to those market entry changes, then the legislation can be seen as irrelevant and just a rubber stamp to the PVS. The impression that there is a power imbalance between private and public is easy to be seen as appearing to develop.

Over time international legislation that can be understood and acted upon by developing countries and smaller farmers will fill the differential void, but in the interim period the PVS moves into the newly created space and provides a quick fix, but an imperfect and unbalanced solution for many.

For a PVS to be developed there must be a space between public opinion and legislation, because mainstream PVS initiatives are costly to initiate from zero. If it were as simple as proving compliance with legislation to a sceptical consumer, then there would not be a need for the brand owners to incur substantial PVS development and initial implementation costs because the mechanisms of international accreditation and certification of food safety are already well established. Later in the process

the business-to-business costs of adaptation to the new PVS and continuing proof of compliance to that standard are passed down the supply chain, but the decision to initially commit substantial brand resource to a project has to be backed by a strongly proven commercial need.

It often seems ironic to observers of PVS

**INTER PRESS NEWS SERVICE**  
**July 07 MRLs are a nightmare.**

*The EU has effectively ducked harmonisation and are waiting for member states or transnational retailers to unilaterally declare the 0.01 (theoretical zero) level," the exporter told IPS on condition of anonymity.*

*"In a few years' time, the EU can wade in and 'harmonise' after the blood has been shed by the retailers."*

*He said that German retailers' "knee-jerk" reaction had an immediate impact on rural poverty in third countries. "It's a mess and no one comes out well."*

activities that it is the activities of those that seek to highlight the failures of supermarkets that cause some of the biggest and unexpected spaces to appear between PVS and legislation. Quite often single issue campaign groups using big brand names to highlight a generic single food issue or campaign can cause the brand or retailer to react unexpectedly. A recent NGO name and shame campaign in Germany to highlight pesticide residues in fresh fruit and vegetables resulted in sweeping changes to the certification requirements almost overnight. The costs associated with this action and the possible exclusion of vulnerable groups in the supply chain appears to have been wholly disregarded by both parties. The knee-jerk reaction to poor publicity has created a chain reaction in other supermarkets, and there is now a strong

movement to consider setting residue limits within the PVS environment, while the EU continue to promise harmonisation sometime soon.

**Marks & Spencer  
Fairtrade boost for farmers  
Daily Mail 6 March 2006**

*The entire M&S range of coffee and tea, totalling 38 lines, is switching to Fairtrade over the next few weeks. The prices will remain the same because M&S has been working with its suppliers for years to help them achieve Fairtrade status.*

Invariably those brands with a need to react quickly have the personnel resource and access to the technical expertise to develop a PVS quickly. The need for consultation, impact assessment and regard for legislation are considered as unnecessary as the brand owners are able to cite public demand. When a space exists or is created an entity that has invested enormous sums of money into a brand trust agenda will not hesitate to spend money and commit seemingly unlimited resources on measures that protect that investment. Unconstrained by legislation and any need for multilateral or multi-stakeholder consensus, the brand is free to move quickly and decisively to implement measures that will satisfy perceived or recently generated consumer demand.

In the past food safety has generally been pre-competitive, and to date the brands and supermarkets have not ostensibly fought each other in this specific scientific area. Saying one type of food is “safer” than another by default makes the other food appear “unsafe”, and no retailer would want to be accused of selling unsafe food. Food quality and the health benefits of certain types of food production have often been used as brand enhancement tools, but have never formed the main strands of a competitive strategy. It has only been recently when food safety has been woven into other issues like social and ethical values or climate

change when the market has come close to food safety PVS entering a competitive position.

This blurring of the edges between these newly competitive (as well as subjective) topics such as the environment with established precompetitive food safety issues has caused the most recent proliferation and diversification of PVS. This comes at a time when otherwise pragmatic harmonisation had seemed a real (if remote) possibility. Business equity aspirations though fair trade schemes and potential price premiums for growers from organic production systems are often eroded or completely lost when these types of voluntary niche schemes are forced into the mainstream categories as mandatory measures for entry to a category. What were once seen as PVS that were positive for change are simply a different barrier when used in the wrong way and the outcomes are coming under increased investigative media scrutiny.

If this use of the subjective and objective measurement is to continue, then the outlook for the future is mixed. There is no doubt that the internet, 24 hour news, and the media-driven public agenda is becoming faster, even more subjective and a recurring mixture of single issue campaigns. We have already seen the proliferation of sub-brands that are, in effect, *de facto* standards (Nature's Choice - Tesco, Fair Partner - M&S) and the rise of labels like Fairtrade in a mainstream context (Sainsbury), which enhance the supermarket brand but rarely scale up to significant levels of percentage business.

In the farmers field this increasing subjectivity and diversity of demands brings uncertainty and waste of limited resource. Spending two years trying to attain a certain social or ethical certification, only to be faced with the notice that the market has moved on and now climate change reduction methods are required, is not an uncommon occurrence for developing countries supplying the European retailers. If PVS continue to fragment then the farmer will need to decide which single, tighter market channel to supply. The market access requirements will not be based on scientific facts but proof of compliance to a loosely connected basket of mixed subjective and scientific criteria. If this is to be the GlobalGap decade when harmonisation breaks through or the time when retailers finally begin to use PVSs as fully competitive business to consumer weapons is unclear.

There will undoubtedly be increased and unsustainable costs associated with the complexity of auditing the scope of the horizontally extended PVS that are emerging. The traditional methods of annual certification of small farmers through an accredited audit body are already subject to challenge on both economic and audit integrity grounds. Utilising the professional coalitions, partnerships, and experiences forged during the last business to business GlobalGap decade farmers may be better able to deal with the challenges ahead. Whether they will be able to prosper and achieve the enormous scaling up of participation that we need to achieve sustainable rural poverty reduction remains questionable given these new and diverse constraints.