

Research Article

Research on Legalization of Social Responsibilities of Food Enterprises

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Abstract: Until now, we have been defining and talking about food enterprises' responsibility in terms of moral obligation. While, now there is no time to delay to transfer their responsibility from moral obligation to legal obligation, because only by dividing enterprises' responsibility for creditors, consumers, employees, suppliers, distributors, environment and communities and legalize them respectively can the transfer of moral responsibility be actually realized. Meanwhile, only having the responsibility regulations in the level of law has it compulsive executive force, thus, could be better to push forward the performance of responsibility and the protection of the rights and interests of relevant people and to promote food enterprises' benign development.

Keywords: Food enterprise, legislate, social responsibility

INTRODUCTION

With the development of economy and society, food safety problem has become a vital internationally-focused problem. Therefore, food enterprises' social responsibility also accordingly become the core topic of theory and practice study, which mainly includes the performance research of food enterprises' social responsibility, competitiveness research of food enterprises' social responsibility, the analysis and evaluation research of food enterprises' social responsibility and system construction of food enterprises' social responsibility and so on. In recent years, with the further research of issues in this field, the research on food enterprises' social responsibility has been subdivided into more detailed researches on behavioral performance, financial performance researches and information disclosure and so on, in which research on legislation of food enterprises' social responsibility is one of the important aspects (Jiang, 2010). On the bases of research on legislation of scholars' social responsibility, this study talks about the corresponding legislation of food enterprises' responsibility for different unities in accordance with different social responsibility requirements to food enterprises, aiming to providing a law frame for the adjustment of enterprises' social responsibility. With the development of the economy and the society, enterprises are becoming more and more important in social life as they, on one hand, pursue to maximize economic benefits and go beyond economic field on the other to generate various influences on social life. Apart

from their traditionally acknowledged role in employment promotion and wealth increasing, they are also found to be involved in environment pollution, resource exhaustion, income disparity, unemployment and other negative aspects. Under this background, people start to rethink the influences of enterprises in economic life and reposition the responsibilities they have to assume. As early as in 1924, Sheldon, an English scholar, has given an explanation to the corporate social responsibilities in this way: profit is not the only pursuit of enterprises and they have some other social functions to perform. The U.S. Committee of Economic Development describes professional manager as "the trustee" who serves to balance the interests among different participators and corporate interest groups (including customers, employees, suppliers, communities, etc.). Shareholders are merely one of all these group members to be respected and they are listed in the last place. Berle and Means (2007) "Those who advocate corporate social responsibilities believe that profit maximization is only one purpose of corporate operation, apart from which companies also aim to enhance interests of other stakeholders in addition to the shareholders" (Zheng, 2008). The aforesaid viewpoints have transcended traditional theories in corporation laws and they are put forward as a result of our continuous introspection towards the functions performed by companies, the most fundamental form of production organization in human society up to now. Under the general background of generalization, with the promotion of international organizations, non-governmental organizations, trade unions and other

forces, the discussion on corporate social responsibilities reaches an unprecedented height and they have developed into a movement which are advocated and launched all over the world. "Today, the claim that 'whether social responsibility should be taken' has become outdated and the only problem is 'particularly what to take and how to take'". Kerr (2008) we can say that without the pursuit for profit maximization in traditional theory on companies, there would be no socialized turn in corporate responsibilities today and without the various social problems emerging in the pursuit process of profit maximization, corporate social responsibilities wouldn't witness such prosperous development now. This theory has indeed been generally accepted: Fortune and Forbes have added the standard "social responsibility" into their consideration for ranking of enterprises and multinational corporations start to require their suppliers to receive investigation on labor standard and corporate social responsibilities.

Food enterprise, one category of production enterprises, is now witnessing rapid growth. Their management scales are steadily expanding and benefits increasing; many such enterprises are becoming bigger and stronger in the rapid development of market economy. In recent years, however, accidents in food industry happened time and again. What is more shocking is that not only some small and medium enterprises with weak fund were reported in such accidents, but some large and famous enterprises would constantly visit the food safety problem list as well, exposed by issues from "melamine" to "Clenbuterol", from "expired meat" to "illegal cooking oil"; all these food safety problems challenge our moral bottom line time and time again and challenge market management order as well. The comprehensive well-off index survey result in China demonstrates that food safety ranked first in the top ten focus issues concerned by the Chinese in the past three years, which evidently shows the seriousness of this problem. As a result, Tu (2013) food safety problem has become a key topic in various policy researches, legal supervision and academic discussion and our concern for this is rising all the way. Some scholars argue from the perspective that "food safety right" is the right endowed to all man that our requirement for the safety and wholesomeness of food derive from food right and health right, which are basic human rights. Tu (2013) once food safety is highlighted as a right, our guarantee for it is justified and in this way we complete the justification work for food safety as a right. This conclusion can also find its basis in the actions of international organization and provisions of international conventions. As early as in the 1980s, the World Health Organization and Food and Agriculture Organization have advocated the concern for food safety problem; International Bill of Human Rights and other international conventions list food safety as a

right to be guaranteed. Confronting with the frequent exposure of food safety problems, China has raised a serious of policy measures; but to keep food enterprises on the track of healthy development, we need to include the social responsibilities borne by food enterprises into legal control. If we continue to demonstrate this problem from the perspective of moral ethics and sociology, food safety problem will go beyond control because of the absence of legal liability. The viewpoint of this study is as follow: there is no doubt that we can regard food enterprises' social responsibility as adjustment of moral responsibility. However, as some scholars said, 'enterprises are neither machines nor animals, enterprises are organizations driven by people. So even if they are not moral person, they are assessed morally as a moral identity' (De George, 2002). By making supplement and adjustment with law for responsibility in moral level and legislating food enterprises' responsibility for creditors, consumers, employees, suppliers, sellers, environment and communities and then it should strengthen the effect of ethic restrain and provide food enterprises with more accurate behavior regulations, which makes moral obligation become much more ascertained.

LEGISLATIVE CONSTRUCTION OF FOOD ENTERPRISES' SOCIAL RESPONSIBILITY

Our understanding on corporate functions and responsibilities has undergone a transformation. When the sole purpose of seeking profit maximization is substituted by a richer social responsibility theory, corresponding system arrangement shall change from the past orientation on corporate shareholders' interest to giving consideration for the rights and interests of stakeholders as well. Up to now, although the discussion on corporate social responsibilities continues, the undeniable fact is that the concept that enterprises shall assume social responsibilities has become an irreversible social expectation which is deeply rooted in today's practices, especially for those production enterprises vital to national interest and people's livelihood. Concerning the corporate social responsibilities, we should not focus merely on the argumentation of ethics and morality, but have to legalize such moral responsibilities in due time.

Firstly, legalization of the responsibility of food enterprises to their creditors: Corporate creditors have always been regarded as the second most important stakeholders following shareholders. Their protection is not a fresh issue in the field of commercial law and there has been a comparably systematic and mature protection system. In the theoretic development process of corporation law, the famous theory, "piercing the corporate veil", is considered to be the most outstanding system achievement against the abuse of independent legal status and limited liabilities of

shareholders in avoiding debt, seriously harming the interests of corporate creditors and escaping the joint liability shareholders shall assume concerning corporate debt. Moreover, enterprise has the legal liability to disclose related information (minutes of shareholders' meetings, resolutions of board meetings, resolutions of board of supervisors' meetings and financial reports) to investors and creditors so as to protect their right to know and to realize their supervision on the operation conditions of the enterprise. Corporation law and many relevant laws of various countries and regions provide special protection for corporate investors and creditors in a comprehensive and systematic manner and such intensive and subtle provisions go so far as to protect creditors of affiliated enterprises, subsidiary enterprises and listed companies. Corporate responsibilities to its creditors are also stipulated in Bankruptcy Law. Only with such stipulations on responsibilities, could the owners and shareholders of enterprises utilize the intelligence of rational men to properly operate the assets of investors and creditors and try to improve the profitability of corporate properties.

Secondly, legalization of the responsibility of food enterprises to their customers: Food enterprise is different from ordinary production enterprises in that the quality of the products produced by it is directly related with the physical health of the people; therefore, the chief responsibility of food enterprise lies in providing safe and healthy products. Responsibilities of food enterprise to its customers are demonstrated in the following aspects. On one hand, food production is a consecutive process and only strict control of the whole process can guarantee that the foods produced are up to health and wholesomeness standards. In other words, the monitoring of the whole process from raw material procurement, processing in production to the storage and transportation of the finished products shall never be loosened in any way; accordingly, raw material quality monitoring, production process quality monitoring, food quality sampling inspection in circulation market and other systems are formed. The responsibilities of food enterprises to their customers also include after-sales service of the products and complaint handling. On the other hand, early warning of food safety issue and emergency response mechanism shall be legalized. Food safety crisis period is a time requiring special attention from enterprises; crisis management refers to a series of prevention management processes as well as actions and management against enterprise crisis. How do enterprises undertake their social responsibilities in crisis period is not only related with the moral standard of the enterprises but also challenging the maturity of our system. As safety issues happen frequently in food industry now days, emergency mechanism appears to be particularly important and a lack of legal response to emergencies will surely generate huge losses for

customers, the enterprises themselves and the whole food industry. Moreover, we should focus on the establishment and perfection of food industry standards. At present, standards on food safety in China are not unified: the state enforces national mandatory standards, there are food safety standards provided in Food Safety Law, local governments formulate a series of local standards and specific food categories have their own standards; therefore our market is filled with too many different standards, which results in the unexpected chaos and deficiency of management. The author believes that we shall formulate a national mandatory standard and a unified certification system in the whole nation with reference to international food standards and on the basis of the specific conditions of food production, manufacturing and circulation in China; local governments shall not make any other standard below this mandatory standard or apply any other certification system; only in this way, could we effectively improve the protection specification on food safety and avoid management or enforcement chaos. Product Quality Law, Law on Protection of the Rights and Interests of Consumers, Criminal Law, Administrative Permission Law and other related existing laws have their provisions on food safety issues. We need to pay particular attention to Food Safety Law implemented in 2009 which is a significant sign that food safety issue in China has been included into a legalization track. For the first time, it clearly defines the system that local government assumes overall responsibility, supervision departments bear their respective responsibilities and production enterprises serve as the first person responsible. Enforcement Regulations on Food Safety Law stresses that the system of the first person responsible can facilitate beforehand prevention, process control and the traceability after food safety accidents, realizing a real transformation of responsibilities of food enterprises to their customers into their legal liabilities with definite enforcement. From the perspective of long-term development of food enterprises, their responsibilities toward their customers are surely displayed in the conformity to quality provisions of their foods delivered to customers, however they also include the research and improvement of safe food standards conducted by enterprises; only continuously improvement on green and environmental standards can be counted as truly being responsible for customers.

Thirdly, legalization of the responsibility of food enterprises to their employees: Corporate employees are considered by some scholars to be the most direct stakeholder in enterprise. For enterprises to undertake social responsibilities, it can yet be regarded as an effective way to arrange the operation mechanism of the organization with the focus on the rights and interests of employees. Under the competition among modern enterprises, manpower, as a factor, is more and

more highlighted and in the core competitiveness accumulation process of enterprises, manpower resource has become a key point in their way to success. Only when workers can obtain necessary encouragement from their enterprise and take advantage of suitable environment and conditions to display their quality, loyalty and creation, the critical competitive edge of the enterprise can burst out. Responsibility to employees is mainly demonstrated as the responsibility of employers to their employees, including the provision of work environment, the guarantee of safe production, etc. For food enterprises, employees' work environment is the production environment of their products, therefore, requirement on their wholesomeness surely surpasses that of other ordinary production enterprises; the production of some food even requires an environment with specification as high as pharmaceutical production. In this way, the work environment provided by food enterprises to their employees concerning healthiness and wholesomeness shall conform to product production requirements as well as the liabilities they assume to secure labor safety and provide health protection for their employees. Responsibilities of food enterprises to their employees also include the basic provisions in Labor Law, including provision of social insurance and welfare, guarantee of their rest and vacation, organization of vocational training, etc., which turn out to be legal liabilities that employers have to perform.

Fourthly, legalization of the responsibility of food enterprises to their suppliers and distributors: As a segment in the operation of market economy, production enterprise is not an isolated or independent unit; on the contrary, it keeps a constant contact with its upstream and downstream enterprises which turns out to be indispensable rather than dispensable; the life of production enterprise would be terminated if there's no raw material supply or product sales channel. The responsibility of food enterprise to its suppliers and distributors are mainly displayed in the provision of products which conform to related standards in accordance with market rule and in the performance of fair dealing and honest dealing. The interpretation on responsibilities of food enterprise also includes that it shall conduct constant supervision and investigation for its partners so as to continuously enhance the requirement for product quality. Concerning this, we shall adopt supplier and distributor bidding system, certification system, selection system, etc. which could effectively regulate the process and result of the deal and provide system guarantee for fair and honest dealing. The aforesaid issues are dealt with in Tendering and Contract Regulation, Government Procurement Law, Administrative Permission Law and other laws and regulations; but we shall notice that the stipulations are dispersed in their corresponding

department laws and there's no overall supervision for the whole cycle of products by breaking boundaries among raw material supply, production, sales and circulation because the failure in the control of any aforesaid segment would bring out serious consequence. Supplier, producer and distributor are director responsible persons in the consecutive product production process and their responsibilities shall be further defined in a legal manner.

Fifthly, legalization of the responsibility of food enterprises to environment: The general requirement for corporate responsibilities towards environment is that their production and operation shall not generate pollution or destruction to the environment and shall not be conducted in the way of environment exhaustion and that enterprises shall maintain ecological balance, including the protection of agricultural ecological environment. In response, they are required to select green raw materials to be applied production, normalize their production process and conduct hazard-free treatment for industrial waste and discharge so as to fulfill the responsibilities to environment. Food enterprises shall observe national environment protection laws and regulations and policies, try their best to protect and improve local environment and modify the environment destructions already caused. The transformation of these responsibilities into legal liabilities are mainly demonstrated in Environment Protection Law which provides clear definitions on the establishment and production of enterprises as well as their disposal of environment emergency. However, the prominent problem in environment protection lies not in legislation but in law enforcement. The enforcement of Environment Protection Law in China has been controversial in public. Many local governments, out of their consideration for local economic benefit, turn a blind eye to environment pollution and discharge problems of the enterprises under their administration and some even hold a protective umbrella for the offenders regardless of environment benefits. Such a law enforcement environment has no good for the fulfillment of enterprises' environment protection responsibilities and by doing this, we will surely fall into the cycle of pollution first and treatment later. Therefore, governments shall enhance the enforcement of related laws and realize the supervision on the fulfillment of corporate environment responsibilities by public power.

Finally, legalization of the responsibility of food enterprises to their communities: In social governance, the concept community is mentioned more and more. As it is a connection among families, organizations and the society, community becomes an optimal medium for the harmonious integration of macro policy and micro individuals. When we are in the

middle of discussions on the ways to realize and evaluate corporate social responsibilities, many enterprises have started their community practice concerning their social responsibilities. Now days, more and more enterprises are participating and making contributions in public benefit activities conducted by the communities they reside, e.g., helping the disabled and poverty-stricken students, promoting employment, constructing infrastructure, etc. The contributions enterprises make to their communities help establish good understanding and communication between the residents and the enterprises, which in turn benefits the enhancement of corporate reputation and the modification of external competitive environment. We can say that this is a higher state of benign development and shall become a long-term goal for corporate development. Actually the focus on society and environment is not in contradiction with the enterprise purpose of profitability. In a long run, the social responsibilities enterprises undertake could win good social benefits and the generally modified social environment is a huge stimulus for the development of enterprises. This is a virtuous cycle. Enterprises' endeavor to improve their governance is beneficial to the overall modification of the overall social system environment and these two parties can generate a win-win situation instead of conflicts. The existing legislation is almost blank in stipulation of the responsibilities food enterprises have for their communities. This is largely related to the immaturity market economy, small scale and weak economic strength of food enterprises; moreover, they don't have much aspiration for the pursuit of social responsibilities. Therefore, changing their responsibilities to the communities into their legal liabilities can not only realize restriction and supervision for them, but also provide significant influence in guidance and anticipation.

CONCLUSION

All in all, the enhancement and enforcement of the social responsibilities of food enterprises cannot depend merely on the conscience of entrepreneurs, on the contrary we shall pin our hopes on the formal institutional arrangements based on the authority of law because corporate social responsibilities staying at the level of morality cannot realize true transformation of corporate role. The institutional arrangement shall focus on the maintenance of public interest, include ethic requirements based on social responsibilities and provide a clear code of conduct for enterprises. In this study, by dividing enterprises' responsibility for

creditors, consumers, employees, suppliers, distributors, environment and communities and legislating them respectively, it lays a foundation for the construction of legal system of food enterprises' social responsibility.

Meanwhile, It promotes the transfer of moral responsibility of different objects and make them reach to the level of legal obligation, which also can enhance the compulsory execution and realize the aim of pushing forward obligation performance and protecting the rights and interests of relevant people. As for food enterprises, the establishment of evaluation system for the corporate social responsibilities, information disclosure system, social responsibility encouragement system and other systems under law framework could push food enterprises into a truly legalized and normalized management system and will surely facilitate the transformation of enterprise consciousness and the establishment of the corporate culture for social responsibility fulfillment. It is necessary to point out that the legislation of food enterprises' social responsibility is also restricted by different factors. One important meaning of researching on the legislation of social responsibility lies in enlarging enterprises' social responsibility within the law frame at the most extent and promoting the realization of enterprises' social responsibility.

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