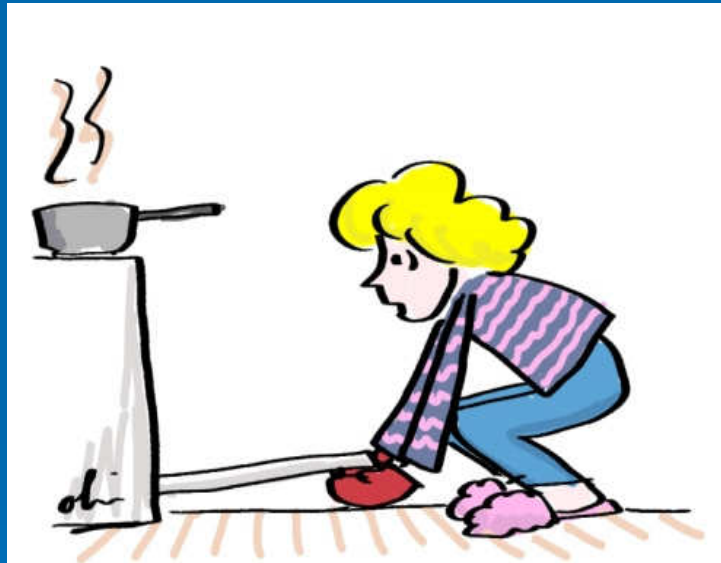


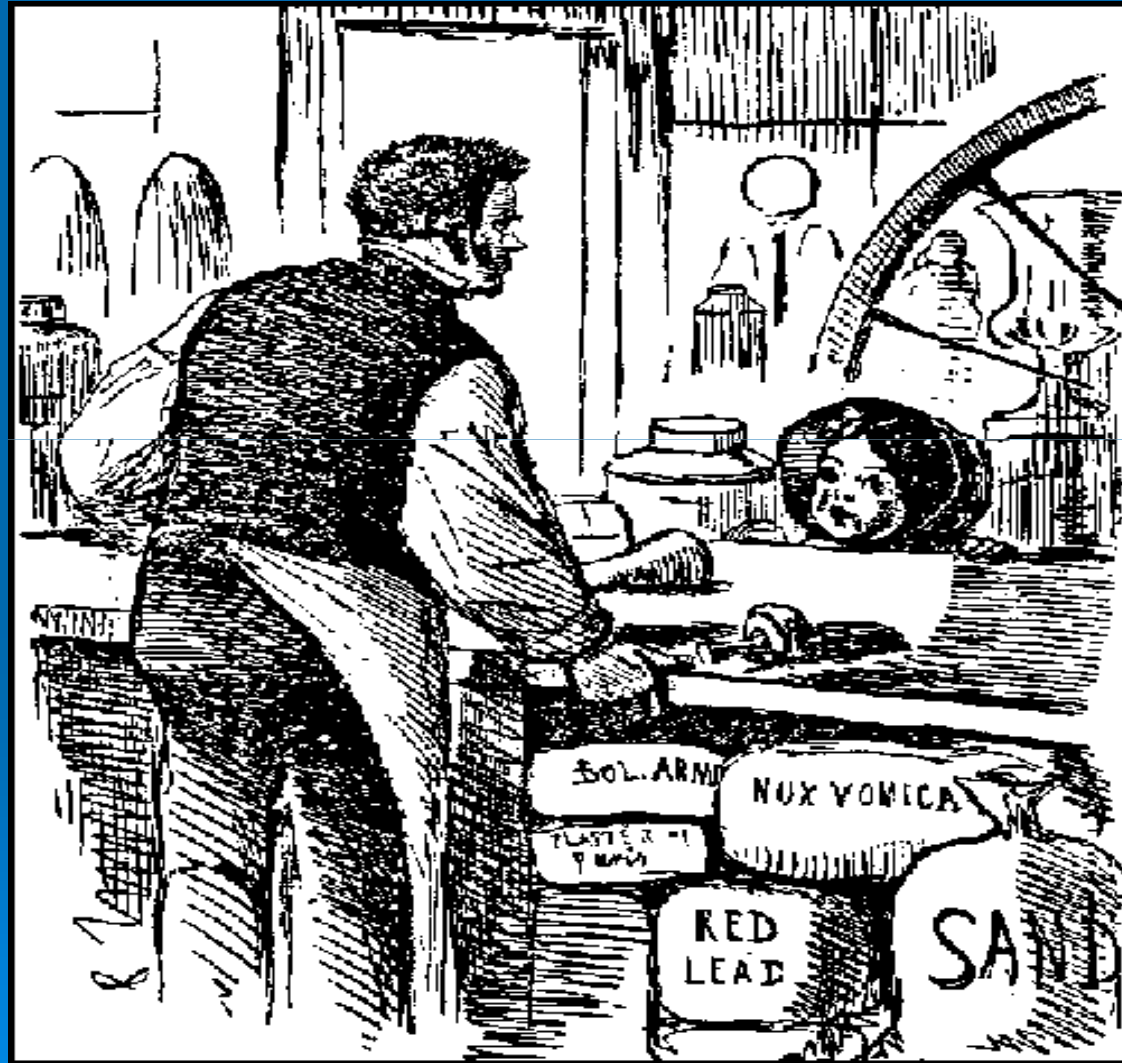
*What's Cooking?
From GM Food to Nanofood: Another Game of
Regulatory Catch-up?*

Or....Is Regulatory Precaution 'Fit for Purpose'?



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"If you please, Sir, Mother says, will you let her have a quarter of a pound of your best tea to kill the rats with, and a ounce of chocolate as would get rid of the black beetles?"



(Punch, 14 August 1855)

European Community food law:

Regulatory aims and objectives

Regulation 178/2002/EC, Article 1:

“This Regulation provides the basis for the assurance of a high level of protection of human health and consumers’ interest in relation to food, taking into account in particular the diversity in the supply of food including traditional products, whilst ensuring the effective functioning of the internal market.”

EU Food Law & 'economic precaution'

e.g. Regulation 178/2002/EC: Article 7

1. In **specific circumstances** where, **following an assessment of available information, the possibility of harmful effects on health is identified** but scientific uncertainty persists, **provisional** risk management measures necessary to ensure the high level of health protection chosen in the Community may be adopted, pending further scientific information for a more comprehensive risk assessment.
2. Measures adopted on the basis of paragraph 1 shall be **proportionate and no more restrictive of trade** than is required to achieve the high level of health protection chosen in the Community, **regard being had to technical and economic feasibility and other factors regarded as legitimate in the matter under consideration....**

Technological risks & agri-food nanotechnology: 'uncertainty' or 'ignorance'?

Barbara Adam & Joost Van Loon, 2000

“Rapid technological change has succeeded in effectively warp[ing] the very notion of risk into an entirely different orbit [and has led to] a host of manufactured risks, unbounded in time and space that lie outside the realm of predictability and demystified futures.”

Consumer perceptions of 'safety' or 'acceptable risk'

'economic precaution' versus 'ethical precaution'

The expert view - arrived via an actuarial assessment of risk



The non-expert tends to move from H to H via an alternative route but in circumstances of relative ignorance, should his journey and the conclusions he draws about 'acceptable risk' (safety) be considered any less valid than the expert 'assessment'??

European Community Law, Precaution & the Regulation of the nanofood sector

- Development of nano-food sector constrained to some extent by existing precautionary Community food law. Thus, by implication, the regulation of nanofoods is certainly *more* precautionary than GM food regulation was in the 1990s.
- BUT... the free-trade bias built into the EU system ensures that, even where 'the' precautionary principle is brought into play, Community law remains essentially *reactive - economic* precaution must guide the development of policy in the face of uncertainty.... even where uncertainty equates to a general state of ignorance.
- **So long as 'economic precaution' holds sway, 'regulatory catch-up' must, *inevitably*, be the name of the game!**