

Food Labels, Autonomy, and the Right (Not) to Know

ABSTRACT. Food labelling has been overlooked in the emerging body of literature concerning the normative dimensions of food and drink policies. In this paper, I argue that arguments normally advanced in bioethics and medical ethics regarding the “right to know” and the “right not to know” can provide useful normative guidelines for critically assessing existing and proposed food labelling regimes. More specifically, I claim that food labelling ought to respect the legitimate interests and the autonomy of both consumers who seek knowledge about their food in order to make informed dietary choices and consumers who prefer to remain ignorant about the contents and effects of their food in order to avoid the emotional and psychological harm, or more simply the loss of enjoyment, which may result from receiving that information.

INTRODUCTION

The Italian government recently criticized the UK’s “traffic light” food labelling system for unfairly discriminating against some traditional Italian foods such as mozzarella, Parma ham, and Parmesan cheese (Davies 2013; Zatterin 2013). This type of labelling highlights the percentages of fat, saturated fat, salt, sugar, and calories of each food and classifies them by using red, amber, and green colors depending on the level of each nutrient. While it is true that some Italian foods do contain a high level of fat or salt (especially cured meats and cheeses), the Italian government pointed out that traffic light labelling sometimes privileges certain processed foods or fizzy drinks with artificial sweeteners over natural foods with a higher-than-average salt or fat content (e.g. Parmesan cheese). Furthermore, and most importantly, the Italian government highlighted that potentially unhealthy Italian foods should be assessed within the broader context of the Italian Mediterranean diet and that only their

excessive consumption, especially if not accompanied by the consumption of fruits and vegetables (which is central to the Mediterranean diet), should be considered unhealthy (Davies 2013; Zatterin 2013).

More recently, Consumers International and the World Obesity Federation called for the adoption of images on food packaging showing the health damages resulting from obesity. These images would be similar to those already displayed on cigarette packaging in many countries (Stephens 2014).

In this paper I do not intend to evaluate the empirical effectiveness of these and other types of food labels.¹ My aim, instead, is to critically assess food labels from a normative perspective, by examining the values and principles that may justify their use and weigh them against those values and principles that may warrant instead a more moderate use (if not the banning) of (at least some kinds of) food labels. More specifically, I intend to show how different conceptions of autonomy may justify different and conflicting approaches to food labelling.

Political theorists have only very recently begun to be concerned with the normative issues raised by food and drink policies (e.g. see Wickins-Drazilova and Williams 2011; Merry 2012; Voigt 2012; Saunders 2013; Bonotti 2013; Voigt, Nicholls and Williams 2014) and little attention, within this novel body of literature, has been paid to the issue of food labels.² I would like to point out that the food labels I am concerned with in this paper are those that provide nutritional information rather than warnings about ingredients that may be potentially (and directly) harmful to consumers. The latter may include, for example, labels informing consumers that a food contains nuts, an ingredient to which some people are allergic and which may have potentially fatal effects on them. I believe that these kinds of labels are uncontroversial and do not raise any significant normative questions.³

Two assumptions about food nutrition labels seem to be widely shared. First, these labels provide information, which is uncontroversial and indeed valuable as it helps individuals to make responsible and autonomous food choices. Second, and in connection with the previous point, food nutrition labels do not infringe upon (and in fact they promote) individual autonomy, and therefore differ substantially from those measures (e.g. “fat” taxes, food bans, etc.), which prevent individuals from purchasing and consuming certain foods (e.g. see Merry 2012, 5).

This paper aims to critically assess this dominant position. More specifically, by drawing on some of the recent literature in bioethics and

medical ethics concerning the “right not to know” (Chadwick, Levitt, and Shickle 1997; Bortolotti 2013; Andorno 2004; Rhodes 1998), I will argue that food labelling should take into account the interests of both those individuals who seek knowledge about their food in order to make informed dietary choices, and those individuals who prefer to remain ignorant about the contents and effects of their food in order to avoid the emotional and psychological distress (or, more simply, the loss of enjoyment) that may result from receiving that information. Both interests, I will argue, are legitimate and the state ought to ensure that food labelling respects them. I will conclude by offering practical suggestions about potential food labelling regimes that may accomplish this task.

Before I proceed with my analysis, some clarifications are required. First, as this short summary suggests, this paper is mainly concerned with the *political* implications of food labelling, more specifically with the normative issues that arise when food labels are government-mandated or when, even if they are not mandatory (as in the case of traffic light labels in the UK), government intervention would be justified in order to protect and attempt to reconcile the diverging interests of consumers.

Second, it is important to highlight that food shopping is not always a self-regarding action. For example, we often shop for other people whose dietary choices depend on us (e.g. children). In such cases, one might argue, we have a moral duty to maximize our knowledge about the foods we are purchasing. While this is a plausible claim, though, it does not warrant imposing on *all* consumers (i.e. including consumers who do not have to buy food on behalf of others) food labels that aim to maximize the information provided and also employ judgmental and emotionally charged messages in order to convey it in a more effective way. I have argued elsewhere (Bonotti 2013) that even on the basis of a Millian approach to legislation regarding unhealthy food, consumers (including parents) have a moral duty to eat healthily if they have moral obligations towards others (e.g. spouses, children, employers, creditors, etc.) and their unhealthy eating would result in morally significant other-regarding harm, i.e. in the infringement of those obligations.⁴ However, also in that case I argued for the importance of devising policies that, while ensuring that those obligations are fulfilled, also protect the freedom of those who would like to engage in unhealthy non-other-regarding eating. The same issue, I believe, arises in the case of food labels. It is important, that is, to ensure that consumers who have duties towards others (e.g. children) have the opportunity to know how unhealthy the food they buy is. At the same

time, though, we also ought to respect the legitimate interests of those who would like to remain ignorant (partially or totally) about the nutritional contents and effects of their food and do not have duties towards others.

Third, the aim itself of “maximizing” information may often be counterproductive. As well as increasing production costs, with potential financial repercussions on consumers, it may also create confusion among the latter. Moreover, it might risk providing bureaucrats with undue control over the kind of information that food labels should convey. While these issues cannot be discussed within the limits of this paper, I believe that they should be highlighted and taken into account when assessing the normative dimensions of food labelling.⁵

Fourth, as I will explain later in the paper, what renders certain food labels normatively problematic is not simply the emotional and psychological distress that they may cause but the fact that they undermine individuals’ ability to exercise their autonomy, intended as “self-authorship” (Bortolotti 2013), in ways that do not cause morally significant harm to others.

Finally, I have already highlighted that my aim, in this paper, is to examine how different conceptions of autonomy may justify different and conflicting approaches to food labelling. This does not imply that food labelling (or restrictions of it) could not be justified on the basis of non-autonomy-based arguments, e.g. utilitarian or communitarian approaches to public health ethics (e.g. see Dawson 2011). These approaches, and their implications for food labelling, are certainly important and worth exploring, but this analysis cannot be accommodated within the limited space of this paper. Furthermore, and most importantly, acknowledging these non-autonomy-based perspectives would not affect the argument that underlies my entire analysis. This is the idea that, given the “reasonable pluralism” (Rawls 2005) of values and principles that consumers may invoke in defending or opposing (certain kinds of) food labelling regimes in diverse societies, and in demanding different amounts and kinds of nutritional information about food, legislation about food labelling ought not to be shaped solely by any one of these sets of values. In this sense, it is true in general that “[l]abeling may be preferable to other policy tools if consumer preferences differ widely with respect to product characteristics. . . . Information is often the best solution in cases where ‘one man’s meat is another man’s poison’” (Golan et al. 2001, 145; see also Magat and Viscusi 1992). However, disagreement among consumers also concerns the amount of nutritional information that food labels should provide and the way in which it should be conveyed.

It is often argued that food labels provide information and that the latter is valuable as it helps individuals to make responsible and autonomous food choices. In her discussion of genetic knowledge, for example, Rosamond Rhodes argues that a Kantian conception of autonomy justifies knowledge but not ignorance. According to Rhodes,

[f]rom my point of view as an individual autonomous agent . . . when I choose to remain ignorant of relevant information, I am choosing to leave whatever happens to chance. I am following a path without autonomy. Now, if autonomy is the ground for my right to determine my own course, it cannot also be the ground for not determining my own course. If autonomy justifies my right to knowledge, it cannot also justify my refusing to be informed. I may not be aware of the moral implications of ceding autonomy by insisting on genetic ignorance, but the ramifications are there, nevertheless. (1998, 18)

When applied to food labels, Rhodes's account implies that as autonomous individuals we have a "consumer right to know" (Golan et al. 2001, 136) what is in our foods, and how healthy/unhealthy they are, but we cannot have a legitimate interest in not knowing that information.

Rhodes's conclusion presents two main problems. First, it seems to rely on an incorrect account of Kant's conception of autonomy. While the latter requires that individuals act as self-legislating moral agents (rather than following heteronomous instincts), it does not require them to maximize the information relevant to their choices. Second, even if we set aside an analysis of Kant's conception of autonomy (which cannot be accommodated within the limits of this paper), Rhodes's conclusion seems implausible in its own right when applied to food labelling. Clearly, indeed, individual autonomy does not require comprehensive knowledge of food properties and nutrients, which could probably be acquired only through an in-depth study of disciplines such as chemistry and biology (e.g. see Takala 1999, 292–93). How much information, then, is necessary for the exercise of individual autonomy with regard to food choices?

In her defence of informed consent in medical ethics, Onora O'Neill (2003) provides an argument that I think can be useful for answering this question. According to O'Neill, the scope of informed consent is to protect patients from deception and coercion (2003, 5). This, however, does not require providing patients with detailed and exhaustive information. Instead, patients' informed consent can be guaranteed "by giving them a limited account of accurate and relevant information and providing user-

friendly ways for them to extend this amount (thereby checking that they are not deceived) as well as easy ways of rescinding consent once given (thereby checking that they are not coerced)” (O’Neill 2003, 6). Similarly, the right to know with regard to food choices could be guaranteed by food labels that are sufficiently precise and comprehensible, i.e. that provide sufficiently detailed information about nutritional contents, explain what that information means within the context of an adult person’s daily diet, and allow consumers to find out more information if they wish. The latter requirement could be fulfilled, for example, by providing either a telephone number or a website address through which consumers could obtain more detailed information about the foods they purchase (e.g. see Siipi and Uusitalo 2008, 361), something most food producers already do. To ensure the impartiality of the additional information, the website (or telephone number) could be managed by an independent and impartial body (rather than the food producer).

Daily intake (DI) labels (also called reference intake (RI) or guideline daily amounts (GDA) labels) seem to be sufficient to guarantee a consumer right to know. They provide sufficiently detailed information about the amount of calories, fat, saturated fats, sugar, and salt present in a food or drink product and explain what percentage of the average daily intake those quantities provide. Yet daily intake labels differ regarding how they calculate the amounts of nutrients. Some provide nutritional information per 100 g while others indicate the amounts of nutrients per portion. The problem is that the idea of a portion size may vary significantly between producers and consumers and among consumers. Moreover, even 100 g (or any other specific amount) may be difficult to quantify by the average consumer (unless they weigh every single food they eat) (e.g. see Magnusson 2010, 6).

This implies that the information about the measurement unit adopted should be as clear as possible, in order to prevent the nutritional information from being misleading. It may be easier, in this sense, to always refer to an average “portion” rather than 100 g or any other specific weight. However, producers should also specify what the average portion amounts to (e.g. half a pizza, a quarter of a cake, etc.) and, ideally, different producers of similar products should be required to adopt the same portion standards.⁶ Clarity on this point could guarantee that daily intake labels fulfil their goal and are not misleading. However, consumers “must also consider how their individual daily intake needs compare with those of an average adult male [or female]” (Magnusson 2010, 6),

especially if they are not of “average” build (Faculty of Public Health and National Health Forum 2008). All these features render daily intake labels “complex” (Magnusson 2010, 6).

This is why traffic light labels have recently become more popular. These labels color-code nutritional information (red, amber, or green) and therefore express a judgment on the nutritional values of a food or drink product. They therefore differ from daily intake labels, which are “agnostic about the quality of the *nutrition* of a product” (Magnusson 2010, 6, original emphasis). Indeed,

Traffic Light Labelling is *interpretive and judgmental*. It helps consumers to make healthier choices by taking a position on the nutritional content of the product. It identifies the foods you should avoid or eat sparingly! It is this judgmental quality of Traffic Light Labelling, together with its relative simplicity, that makes it more helpful for making decisions in real-time, in the aisles of supermarkets and corner stores. (Magnusson 2010, 6, original emphasis)

Traffic light labels therefore respond to the need for accessible and clear information that daily intake labels may not be able to convey as easily and clearly. By being more simple and understandable, they may be better (than daily intake labels) at enabling consumers to make their food choices in an autonomous way and consistently with their busy life schedule and time constraints. Indeed “[c]onsumers are more likely to read and understand labels that are clear and concise” (Golan et al. 2001, 139).

However, traffic light labels may unduly simplify food nutritional information by decontextualizing it. This can be inimical to improving eating habits among the population (as the Italian government pointed out in the abovementioned controversy with the UK) and may risk undermining rather than enhancing consumers’ autonomy. Traffic light labelling should therefore be accompanied by a broader program of education, conducted in schools or through state-funded campaigns, educating citizens about the benefits of a balanced diet (including but not limited to a Mediterranean diet). This, of course, would not be without problems. The government agencies that would be entrusted with the task of planning and conducting these campaigns, for example, may lack sufficient information. Moreover, some government agents may endorse certain measures on the basis of personal bias, career ambition, or pressure from superiors and/or external bodies, rather than being driven by a genuine and unbiased concern for the interests and health of consumers. All these factors should be taken into account. However, rather than completely undermining the rationale

for government campaigns, these problems just highlight the importance of careful planning and overseeing in order to minimize abuses.

The kinds of campaigns advocated here are similar, for example, to those proposed by Helena Siipi and Susanne Uusitalo (2008) with regard to genetically modified food (GMF) labelling. In order to prevent consumers from thinking that products identified by GMF labels are dangerous or unhealthy, Siipi and Uusitalo argue, GMF labelling should be accompanied by a broader information campaign involving “[f]ree leaflets . . . visible posters containing relevant information in the stores . . . [or printing] on the packets of GMF products an address of a website where relevant information is available” (2008, 361; see also Jackson 2000, 323). In this way, they claim, labelling would avoid “[decreasing] consumers’ autonomy of choice instead of promoting it” (Siipi and Uusitalo 2008, 362).

One might then point out that these kinds of information campaigns would not be unproblematic. For example, many people are sceptical about GMF products and may distrust government attempts to promote them. Given this climate of disagreement with regard to GMFs, then, would it not be preferable to let public opinion be shaped by a free and unconstrained debate, in which scientific arguments can be voiced and critically assessed? The same could also be argued with regard to healthy eating. Given the level of disagreement concerning benefits and harms of different dietary habits (e.g. see Voigt, Nicholls, and Williams 2014, 19–38), it might be wiser to let the clash of arguments in an unconstrained public debate (rather than government agencies) shape public opinion. However, this almost Millian confidence in the strengths of unconstrained public debate seems to overlook the extent to which, at least in Western societies, not all social actors have the same ability to present their case and influence public opinion. Government action may sometimes be biased, of course, but it may often also be necessary in order to counter the influence of private and corporate interests that, through advertising and marketing, contribute in producing an “obesogenic environment” (Voigt, Nicholls, and Williams 2014, 111–32) that strongly affects people’s dietary habits.

Furthermore, in order to promote the idea of a balanced diet, governments could encourage supermarkets to offer discounted combined purchases including a balanced variety of foods. These might include, for example, a pack of Parma ham, a bag of salad, and a can of tomatoes; or a mozzarella ball, a bag of oranges, and a bottle of olive oil. Incidentally, as well as providing consumers with an incentive to adopt a more balanced diet, these measures might also help producers and retailers to partially

offset the potential economic losses that traffic light labelling (and other emotional and judgmental labelling) might cause (see Magnusson 2010, 7), as well as prevent the risk of controversies such as the one between Italian and UK governments. These measures, however, might have to remain voluntary in order to avoid the normative and practical issues resulting from increasing transaction and compliance costs for firms and government agents, as well as from the cost that any state subsidies would impose on the taxpayer.

As long as they are accompanied by these supplementary measures, therefore, traffic light labels seem to be able to provide (more than daily intake or other more complex labels) manageable and understandable information that can contribute to the exercise of individual autonomy by consumers. This is the case even if consumers eventually decide (knowledgeably and autonomously) to purchase unhealthy food or drink products.

FOOD LABELS, AUTONOMY, AND THE RIGHT NOT TO KNOW

The conclusion reached in the previous section overlooks an important issue that has recently been highlighted in some of the bioethics and medical ethics literature. Some authors have argued that individuals should be granted not only a “right to know” but also a “right not to know” (see Husted 1997; Andorno 2004). The right not to know is already recognized in various jurisdictions (Andorno 2004, 436) and is normally associated with genetic testing. Individuals increasingly undergo genetic tests that may reveal that they have gene mutations that may cause specific diseases, such as Huntington’s Disease, or place them at significant risk of others (e.g. cancer, Alzheimer’s disease). Individuals often undergo these tests under pressure from relatives, usually because there is a family history of a certain disease and genetic testing may provide clear information on whether the disease is going to affect a specific member of the family (see Andorno 2004). Moreover, sometimes the testing of all family members may be necessary for establishing whether a family history does exist and whether a disease is going to affect other family members. In these cases it is therefore often highlighted “that since genetic information about oneself is also information about one’s relatives there might be cases where the ignorance of one person might cause harm to others” (Takala 1999, 289). However, as Tuija Takala rightly points out, the duty to undergo certain tests in order to identify a hereditary disease within a family (assuming that the participation of all family members is required) does not imply a duty to be informed about the result (Takala 1999, 289).⁷

The right not to know is normally defended by highlighting the fact that knowledge and information of one's genetic traits can cause psychological harm (Andorno 2004; Bortolotti and Widdows 2011). As Roberto Andorno points out,

[i]n order to understand the refusal of . . . [individuals] . . . to have access to their genetic information, one has to consider that the burden of knowledge may become unbearable for them, leading to a severe psychological depression and having a negative impact on their family life and on their social relationships in general. For many people, the discovery that they have a genetic condition that places them at a high risk of suffering certain untreatable diseases could so depress them that the quality, joy, and purpose of their lives would literally evaporate. . . . Therefore, it seems reasonable to allow these people to choose not to receive that potentially harmful information and to continue their lives in peace. (2004, 435)

However, it is sometimes highlighted that the right not to know is almost unattainable because it presupposes that we already have some knowledge of what we would prefer to ignore (e.g. a genetic disease). Yet, as Andorno rightly points out, “some risks [of developing genetic diseases] may be so remote in our perception as to seem virtually inconceivable” whereas genetic testing may render those vague fears more concrete and therefore psychologically harmful (2004, 437).

It would be wrong, however, to identify the rationale for a right not to know with a welfarist argument that simply privileges individual well-being over individual autonomy. The key point, instead, is that autonomy should be conceived as a capacity that does not conflict with either well-being or knowledge (or any other goals) but is rather placed somehow before them, i.e. as a capacity that enables us to choose how to conduct our life and which goals or values to prioritize. In this sense, “the theoretical foundation of the right not to know lies on the respect for individual *autonomy*, even if the ultimate foundation of this right is [in the case of genetic testing] the individual's *interest in not being psychologically harmed*” (Andorno 2004, 436, original emphasis). Therefore “people should be free to make their own choices with respect to information. If we understand autonomy in this wider sense, then the decision not to know should be, at least in principle, as fully respected as the decision to know” (Andorno 2004, 436).

Lisa Bortolotti (2013) offers an account of individual autonomy that reinforces the idea that the latter is consistent with a right not to know. According to Bortolotti, it is a mistake to argue that information and knowledge are inherently necessary to the exercise of individual

autonomy. “[P]ersonal information and information about the surrounding environment,” she argues, “impinge significantly on the feasibility of life plans and on the likelihood of success, but is not necessary to the capacity most human agents have to shape their own lives. Failing to obtain such information does not rule out self-governance altogether” (2013, 686). Drawing on the work of other authors (e.g. Mameli 2007; Harris and Keywood 2001), Bortolotti claims that autonomy should not be identified with fully informed choice but with “self-authorship,” i.e. the “entitlement to make decisions on whatever grounds the agent wishes, as long as she does not cause harm to others” (2013, 685).⁸

Some kinds of knowledge, Bortolotti argues, are necessary to the exercise of autonomy as self-authorship, e.g. “knowledge of one’s own attitudes” (2013, 686). However, other kinds of knowledge (e.g. of one’s genetic information or life expectancy) are not, even though ignoring this kind of information may render a person’s life less successful by preventing her from making appropriate “contingency plans” (2013, 687).⁹ In this sense, “choosing ignorance of genetic information does not necessarily make one’s future choices less authentic or less genuinely authored—those choices can still be in tune with one’s beliefs, desires and values” (2013, 687).

In summary, what provides the normative grounds for the right not to know is the idea of autonomy as self-authorship and the duty to respect it, *regardless of the specific reasons* why an individual may decide to reject the available genetic information.

The defence of a right not to know is relevant to the issue of food labels. Indeed while most of us might be vaguely aware that certain foods or nutrients are harmful to our health, information provided on food labels may transform that vague understanding into concrete and precise knowledge. This knowledge can be psychologically harmful, at least for some, or it may simply decrease our enjoyment of those foods. By producing those effects, it may therefore undermine our autonomy as “self-authorship,” i.e. our ability to shape our life (in this case, our dietary choices) as we wish.

The degree of psychological harm, distress, or loss of enjoyment, and the resulting infringement upon the exercise of individual autonomy, depend on how direct and unavoidable the information provided on food labels is. Some kinds of food labels, such as the daily intake labels discussed earlier, are purely informative and non-judgmental. As we have seen earlier, due to the complexity of the information they convey, these labels may not always be the most effective for guaranteeing fully informed autonomous

choices. For the same reason, however, they are easily avoidable and therefore unlikely to cause significant distress or loss of enjoyment.

Other kinds of labels, however, may have a stronger judgmental character. These include the already discussed color-coded traffic light labels. These labels are judgmental (i.e. they tell us which food is “good” and which is “bad”), difficult to ignore (as they are normally placed on the front of packaging), and, as a consequence, can cause negative and unavoidable emotional reactions in many consumers. These might range from a sense of guilt for wanting to purchase and consume certain unhealthy foods to fear of the health conditions that eating those foods may contribute in causing. Many consumers might prefer to remain ignorant about the information provided by these labels, in order to avoid experiencing those negative emotions. Moreover, for some of them unhealthy eating may be an important aspect of their life and play a central role in social, cultural, or religious experiences and practices that are especially valuable to them (Barnhill et al. 2014). In choosing to remain ignorant about the (unhealthy) nutritional contents of their foods, however, these people would still be exercising their autonomy as “self-authorship,” i.e. they would still be shaping their own existence according to their own values.

The psychological effects of traffic light labels, it is worth noting, should not be simply attributed to the intellectual inability, by the average consumer, to process the information rationally and correctly, in a way consistent with the exercise of individual autonomy. Instead, such labels have been shown to be misleading. On the one hand, consumers may tend to associate red labels with the idea that a certain food or drink is bad or socially disapproved of.¹⁰ Recent research conducted by The Co-operative Food, for example, has shown that the presence of a “red” traffic light label on a food product dissuades 40% of women and 30% of men from purchasing it (The Co-operative Group 2013). On the other hand, foods displaying amber or green labels may produce a “health halo effect” (Magnusson 2010, 7). Consumers, that is, may mistakenly believe that such foods are inherently healthy and therefore can be consumed in large amounts without unhealthy consequences.

This suggests that traffic light labels (and, more generally, judgmental and emotionally charged labels), like “nudges” and “choice architecture” (Thaler and Sunstein 2008), take advantage of non-rational psychological processes and imperfections in people’s decision-making capacities in order to influence their choices (see Hausman and Welch 2010). Seeing a “red” light in the front of packaging (i.e. rather than non-colored nutritional

information that would require a closer look) may prevent consumers from deciding how much they want to know and therefore from fully exercising their individual autonomy. Judgmental and emotionally charged labels, therefore, should not be seen as simply inconvenient or welfare-diminishing. Instead, their manipulative character should be considered as a threat to the exercise of individual autonomy, to the extent that consumers' ability to choose based on their preferred reasons is somehow undermined or reduced.

One might then point out that consumers' autonomy would be undermined only if judgmental and emotionally charged food labels were government-mandated, rather than being voluntarily adopted by some firms. This is a plausible claim, as a voluntary system would in principle leave consumers free to choose where to shop. Yet, in the absence of government intervention (whatever this might entail) it may be difficult to ensure that consumers are provided with an effective freedom of choice. For example, before smoking bans were introduced in many Western countries, public places were not required to allow people to smoke (i.e. the system was voluntary), yet all or most of them did.¹¹ Similarly, even though it is still voluntary in the UK, traffic light labelling already affects around 60% of all foods and this percentage may increase (e.g. for marketing reasons).¹² This is why nutritional food labelling, and the form it takes, should be regulated by the government in order to guarantee consistency and predictability for both firms and consumers, and ensure that the legitimate interests of both information seekers and information avoiders are taken into account. Furthermore, consistency and predictability would also make it easier for consumers to fulfil their duty (which, we can assume, they have) to be informed about the methods adopted by governments and firms to influence their behavior.

The psychological distress resulting from judgmental and emotionally charged food labels, and the threat it poses to the exercise of individual autonomy, would be even stronger if those labels contained more explicit information, e.g. like the labels currently placed on cigarette packaging in most countries, which convey messages such as "smoking kills" or "smoking causes cancer." It is not unthinkable to expect some governments or international organizations to invoke in the near future a more extensive use of warning labels on unhealthy food and drink products, similar to those already found on tobacco products (Merry 2012, 5). Indeed, we have seen that an even more radical proposal has already been advanced by Consumers International and the World Obesity Federation, who have

called for the adoption of food labels containing explicit pictures of cancers or other health conditions resulting from unhealthy eating, similar to those already present on cigarette packaging in some countries (Stephens 2014). These might include, for example, pictures of individuals who have just suffered a heart attack or of arteries clogged with cholesterol, i.e. health conditions unhealthy eating can contribute to. The very explicit message conveyed by these labels would cause a strong psychological distress in many consumers who would certainly prefer not to be exposed to them.¹³

One obvious objection to the idea that the use of judgmental and emotional food labels should be restrained might be raised at this point. Those who endorse paternalistic views, that is, might point out that it is useful, sometimes indeed necessary, to employ judgmental and emotional labels in order to get people to do what they rationally would if they were not short-sighted. Moreover, they might argue that it is justifiable to make people experience a sense of guilt as a result of their unhealthy dietary choices. Yet this is exactly the point that defences of the right not to know aim to challenge. The right to autonomously decide how much we want to know (e.g. with regard to food or genetic testing), and to accept (or not) the potential emotional and psychological consequences resulting from that knowledge, is anti-paternalistic (Andorno 2004, 436). For this reason, nutritional food labelling should be government-mandated and should respect the legitimate interests of both information seekers and information avoiders. Mandating certain kinds of information and, therefore, a certain way of exercising one's autonomy, would favor only the former group of consumers and would be a clear instance of paternalism towards the latter.¹⁴

BALANCING THE LEGITIMATE INTERESTS OF INFORMATION SEEKERS AND INFORMATION AVOIDERS

The discussion conducted so far raises an important question: how could a food labelling regime respect the legitimate interests of both information seekers and information avoiders? Governments could adopt different kinds of strategies. A first option might be for them to simply ban existing and proposed food labels with an excessive judgmental and/or emotional content. These include traffic light labels and labels picturing health conditions related to unhealthy eating. These labels excessively undermine the autonomy (intended as “self-authorship”) of those consumers who would like to remain ignorant about the health effects of their foods. Moreover, they are not necessary in order to safeguard the

legitimate interests of information seekers. The latter require (as O'Neill's abovementioned account of informed consent suggests) only some clear and relevant information about the nutritional contents of foods, as well as user-friendly ways of acquiring more information. Purely informational non-color-coded food labels accompanied by a telephone number and/or website address to obtain more information would be sufficient for this purpose.

The option of banning judgmental and emotionally charged labels might be especially relevant in those places, such as the UK, where such labels are currently voluntary (even though nutrition labelling in general is compulsory). However, one might point out that banning would be an unnecessary and excessive measure. It would amount to a form of censorship, restricting the freedom of expression of those producers and sellers who wish to adopt those types of labels. As long as the information they provide about nutritional contents is not deceptive, it seems that it would be wrong to prevent them from adopting certain labelling regimes.

A second and perhaps more suitable option, therefore, might be for governments to require that the informational and emotional content of food labels be dissociated. This could be achieved, for example, by providing a purely informative label in the front of packaging, containing all the neutral factual information about the nutritional contents of the food (plus a telephone number and/or website address to obtain more information), and a separate judgmental and emotional label on the back of packaging. The latter could provide, for example, either a nuanced message such as "Parma ham causes cholesterol if consumed in excess" or "Parmesan cheese causes heart attacks if it is not part of a balanced diet," or a strongly emotional picture of a health condition associated with excessive consumption of that food.

This solution would achieve a twofold goal. On the one hand, it would prevent information avoiders from being exposed to psychologically harmful, distressful, or enjoyment-diminishing information against their will, as they can easily ignore the basic neutral information about the nutritional contents (as the latter is not color-coded or visually striking). These consumers could still work out the implications of those contents by themselves (and/or by using the telephone number and/or website address provided), if they wanted. On the other hand, it would enable information seekers, and especially those who are not concerned about experiencing emotional distress, to find out about the (potential) effects of foods on their health. Furthermore, this solution would be more effective in increasing the

knowledge of information seekers than the mere provision of a telephone number and/or website address, as consumers would be able to obtain the additional information more quickly and at no cost.

Moreover, in order to further protect the legitimate interests of information avoiders, a peel-off flap could be placed on top of the judgmental/emotionally charged label.¹⁵ This would allow consumers to decide whether to receive or avoid that extra information *before purchasing the item*, i.e. by lifting the flap. By being attached along one edge, the peel-off flap would avoid that those who seek the extra information, but then decide not to purchase the item, forget to reattach it (therefore potentially exposing information avoiders to unsolicited information). Checking this information would be similar to what we do when we want to purchase an item of clothing and want to know whether it is suitable for washing machine or dry cleaning. We can do that by checking the label placed inside the item of clothing. In the case of food, we would not be able to do that (i.e. it would be impractical and not hygienic to place the label inside the packaging), but we could at least provide a similar way of allowing only information seekers to acquire the additional information. While it is true that once a consumer has looked at the covered label she may not be able to forget its content, that is beside the point. The choice that matters concerns whether to check the covered information in the first instance. If a consumer decides to do that, her autonomy has not been undermined, even if the information contained in the label causes emotional distress or loss of enjoyment to her. The only condition for this labelling regime to be effective would be for consumers generally to be aware that this is the system currently adopted by all food producers in their jurisdiction. This is one more reason (alongside those already mentioned earlier) why food labelling concerning nutritional content, and the form it should take, should be government-mandated.¹⁶

It should be noted, once again, that the practical solutions that I have just suggested are not exhaustive, and do not represent the main goal of the paper. My central aim, instead, has been to show that legislation about food labelling should take into account the legitimate interests of both information seekers and information avoiders. While empirical research may be necessary in order to establish which food labelling regime best achieves this goal, a normative account can at least guide the choices of legislators, by pointing out the values, principles, and interests that should be considered when choosing between viable alternatives.

CONCLUSION

Food labelling has been overlooked in the emerging body of literature in political theory and philosophy concerning the normative dimensions of food and drink policies. In this paper, I have argued that arguments normally advanced in bioethics and medical ethics regarding the “right to know” and the “right not to know” can provide useful normative guidelines for critically assessing existing and proposed food labelling regimes. More specifically, I have claimed that food labelling ought to respect the legitimate interests of both those consumers who seek knowledge about their foods in order to make informed dietary choices, and those consumers who prefer to remain ignorant (totally or partially) about the contents and effects of their foods in order to avoid the emotional and psychological harm, or more simply the loss of enjoyment, which may result from receiving that information.

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NOTES

1. Indeed there is disagreement with regard to the effectiveness of traffic light labels. While some authors have argued that these labels do in fact help consumers to make healthier eating choices (e.g. Magnusson 2010), others have contested that conclusion (e.g. Sacks, Rayner and Swinburn 2009). There is also disagreement regarding the effectiveness of food labelling in general as a policy instrument for informing consumers and influencing their choices (e.g. see Golan, Kuchler, and Mitchell 2001, 139).
2. There are, however, accounts of food labelling that, while not being produced by political theorists/philosophers, provide useful insights into the normative dimensions of food labelling. For a welfare economics perspective, see especially Golan, Kuchler, and Mitchell (2001).

3. As John Stuart Mill argues in his discussion of poisonous drugs, “such a precaution . . . as that of labelling the drug with some word expressive of its dangerous character, may be enforced without violation of liberty; the buyer cannot wish not to know that the thing he possesses has poisonous qualities” (Mill 2006, 109).
4. Instances of “morally significant” harm, in this sense, should be distinguished from the many situations in which our actions, including our dietary habits, may harm others for reasons that depend more on them than us. For example, being offended and psychologically “harmed” by the fact that someone else bases his or her diet entirely on junk food does not provide legitimate moral reasons for interfering with that person’s dietary habits.
5. For an account of the costs and benefits of food nutrition labelling see Golan, Kuchler, and Mitchell (2001, 148–52).
6. Of course sometimes the information provided by food producers (or by restaurants) may be intentionally misleading (see Gostin and Gostin 2009, 217). This, however, does not undermine the normative argument made here. It simply reinforces the view that food producers ought to provide clear information and that, if necessary, the state ought to impose tighter checks and controls on them.
7. However, it may still be the case that “[p]ublic health interests may in particular circumstances justify limitations on the right to ignore one’s genetic makeup as they may justify limitations to confidentiality, for instance, in the case of infectious diseases” (Andorno 2004, 437). In similar circumstances avoiding information may result in harm to others. This implies that the right not to know is limited in scope, i.e. when one’s ignorance might harm others there is no such right.
8. Similarly, Jørgen Husted (1997) defends the right not to know by appealing to a “thick” conception of individual autonomy intended “as self-determination, or self-definition” (1999, 61). This differs from a “thin” conception of autonomy for which “what is good for persons is for them to have their desires or preferences satisfied to the maximum extent possible over their lifetimes” (Husted 1997, 59) and which, according to Husted, would justify the unsought release of genetic information to them. Husted’s “thick” conception of autonomy, like Bortolotti’s idea of autonomy as “self-authorship,” clearly draws on Isaiah Berlin’s conception of “positive freedom” (1969).
9. Even the latter point, however, could be contested. According to Juha Räikkä, for example, “[g]enetic information can make rational deliberation unfeasible because of fear, it may limit the range of life plans one might have which require ignorance about when one is likely to die” (1998, 50). In this sense,

knowledge of one's genetic information may often reduce rather than increase our chances to succeed in our life endeavours. If that is the case, this would further strengthen Bortolotti's argument and, more generally, the justification for a right not to know.

10. For the use of emoticons in connection with energy consumption, see Thaler and Sunstein (2008, 74–75).
11. I would like to thank Tom Walker for suggesting this example.
12. Indeed Golan et al. (2001, 127) point out that “in their drive to persuade the maximum number of consumers to purchase their products, firms may provide a public service by increasing the information available to consumers.”
13. A further problem with these kinds of labels is that they are misleading as these health conditions are generally the consequence of an unhealthy diet and/or lifestyle overall, rather than of consumption of specific foods.
14. Walker (2013) makes a similar argument with regard to the amount of information that doctors should provide patients with. If a patient states that he does not want to receive certain (or any) information concerning the risks of a certain treatment, Walker claims, “it might well be that to insist that he has more information and that he uses it would be to fail to respect his capacity for autonomy” (Walker 2013, 392).
15. I would like to thank Elizabeth Cripps for suggesting the idea of “peel-off labels,” which I have modified into the idea of “peel-off flaps.”
16. The list of benefits resulting from government-mandated food labelling could be extended. According to Golan, Kuchler, and Mitchell (2001, 130), for example, “[t]he primary services that third-party entities [including governments] offer to help strengthen labeling claims are standard setting, testing, certification, and enforcement.”

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