Journal of the Association of Public Analysts (Online) 2015 **43 001-012**
Grant

The Market Rules

Claire Grant, BA, MPhil, PhD (Cantab), Tutor in Philosophy, University of Cambridge, England. Correspondence should be addressed to: ceg61@cam.ac.uk

"To such perfection of ingenuity has the system of counterfeiting and adulterating various commodities of life arrived in this country, that spurious articles are everywhere to be found in the market, made up so skilfully, as to elude the discrimination of the most experienced judges… The eager and insatiable thirst for gain, is proof against prohibitions and penalties"
Accum, Treatise on Adulteration of Food and Culinary Poisons, 1820: iv-v.

This is a paper about the market and its rules. The market for food has long been the classic example and shall so serve in this paper. I shall argue that the market for food institutes its rules but there is an indispensable role for Public Analysts. They are necessary to supporting the market rule of honesty, and thereby the market itself.

Let us begin by getting clear about what markets are. Put simply, markets are institutions in which agents buy and sell. In these exchanges they seek to maximise satisfaction of their preferences. Competition arises thereby because agents seek to find the best deal. From these interactions rules arise, their purpose to serve market exchange. The market, then, has its rules. What should we make of them? There has been a divergence of views. The market has been said either to inculcate or to destroy the rules upon which it depends. For the sake of exposition I will refer to these two claims as the inculcation thesis and the destruction thesis. Both are false. In Section 1 I shall reject each in turn and in Section 2 I shall propose the institutional thesis, viz the thesis that the market institutes its rules. The accompanying account of market rules shows them to be imperfect coordinating devices. In Section 3 this general thesis is elaborated, where market honesty is considered. Features of the market for food that exacerbate market imperfections and generate opportunities for violations are considered in Section 4. That section of the paper shows that actions of public authorities are required. Moreover Public Analyst work is indispensable to support the market rule of honesty.

1 Two Wrongheaded Views of Market Rules

There are two wrongheaded views of the market's rules from which we can nevertheless learn much. Let us begin with the inculcation thesis, thus:

The market inculcates the rules upon which it depends

The market, it might be said, inculcates its rules. On this view, certain internal states of the agent are essential parts of their accepting the rules. Here to internalise a rule is to come to possess a certain character trait inclining one to conform to it. Take honesty. To internalise a rule of honesty is to come to possess the character trait of honesty, which inclines one to trade honestly. The claim is that the most market affects that kind of internalising. It fixes a moral disposition to honesty deep in the minds of participants by the repetition of exchange practices. To evaluate this claim we must first examine the account of inculcation on which it relies. Then we must ask ourselves whether the market affects that sort of inculcation.

What does it mean to inculcate the virtue of honesty? It is not just to get a person to do honest trades. The classic explanation comes from Aristotle in *Nichomachean Ethics,* where he affords three conditions regarding the quality of the agency whereby virtuous acts are accomplished:

- i the agent must know what he is doing
- ii the agent chooses it for its own sake
- iii the agent does it from a fixed and permanent disposition

Let's take the third condition. The claim is that due to how the market works, honesty gets rooted in the agent, grounded in his or her character. This gives the agent an inclination to trade honestly because the agent has become an honest person. The agent possesses dispositions or habit-like tendencies, which are deeply entrenched or ingrained. How does this come about? Virtues are acquired by a process of habituation, from the practice of repeated performances. A state of character, that is, results from the repetition of similar activities. Note though condition (ii), that the agent who is virtuous chooses virtue for its own sake. This virtuous motivation condition means that not just any kind of repetition will do. Habituation trains people to take pleasure in acting virtuously. Only repetitions that can get you to enjoy the intrinsic pleasures of virtuous activity will do the job.

So far we have heard nothing about rules. They are a first hurdle at which the inculcation thesis stumbles. Adherents of the inculcation thesis admit that beginners need rules to become virtuous because they must be guided to do right. Rules however, they insist, do not constitute virtue. We become virtuous by reflecting on their basis, which is the underlying principle of the rules. Moreover, once we have become virtuous, we are not engaged in rule-bound action. Virtuous actions are not done because they are the rule. To act from the virtue of honesty is not to act because there is a rule of honesty. Can the inculcation thesis recover from these setbacks? Annas[1] says that there is no need to think that virtue is a sort of non-rule-governed insight flowing directly from the state of virtue itself. She does admit though that ultimately what is internalised is the principle rather than the rules. This leaves us with a quick answer to the inculcation thesis then. It fails because on its own account virtue is not the internalisation of rules. A further reason to reject the inculcation thesis concerns its position on sanctions. Virtue ethicists concede that for beginners the guidance of external sanctions is needed, as a corrective. This in itself raises difficulties. It should be noted that according to Aristotle's condition (iii) above, virtue is not an instrumental good, related to happiness through external sanctions, but an internal good of the psyche. This provides that a person who has internalised a virtue enforces it against themselves. They would feel bad about the prospect of their violation, quite apart from any external consequences like lost business. A virtue-ethical account must hence say that with repeated practice the need for rules and external sanctions drops away. But how does this happen? The account is unclear here. One suggestion is that virtue-apt habituation requires supervision. Unguided repetition would produce little if any progress. Note that condition (ii) provides that virtue must be an informed choice. The agent must know what is intrinsically worthy about honesty. Moral habituation must be guided by someone who can articulate an understanding of what is to be done and why. This is not instruction. Habituation requires practice. Nevertheless, that practice might be guided by a supervisor, or the form might be that of trying to emulate a wise mentor. We might imagine something like this in families or schools. Habituation then has a crucial role in the inculcation of virtue.

This then is what it means to inculcate the virtue of honesty. Does the market affect this kind of inculcation? There are two main reasons to deny that it does, which are both about the nature of markets. Here is McCloskey[2]:

> "*A reputation for fair dealing is necessary for a roofer whose trade is limited to a town with a population of fifty thousand. One bad roof and he is finished… and so he practices virtue with care. By now he would not put on a bad roof even if he could get away with it, and he behaves like a growing child internalizing virtues once forced upon him"*

It is clear from this passage that external sanctions (those of reputation) are being asked to do too much work. The leap to internalising moral character traits is non-sequitous. The passage, with its culminating phrase about "*internalizing virtues once forced upon him"* seeks to convey the shift from external sanctions to virtuous motivation. Now, it would be absurd to hold that the market is a setting in which the relevance of profit would just disappear. There may be other settings in which external incentives may recede, for example in those schools able to foster the intrinsic pleasures of learning. The market is not like that. In a market, external incentives account for market exchanges. Furthermore, to stay in a market any trader must have an eye to them. There is therefore something in need of explanation, a lacuna in the account. What might fill it? The supervision solution considered above will not do. If the step from external sanctions to internal character traits is marked by mentorship or supervision, the market is not tutelary in that way. Market exchange is unlike parent-child or teacher-child exchanges. The interactions therein do not have the guidance properties to get people to want to trade honestly *for the sake of honesty*.

The inculcation claim, with its notion of rules and external sanctions guiding beginners, those at the outset of the path to virtue, also falls foul of market imperfections. Markets are beset by informational asymmetries. Some of these are exacerbated by large and complex market settings, others by the nature of products. Take McCloskey's roofer scenario. We are asked to envisage that market exchange initiates the inculcation process in it via external sanctions of reputation. Note that there is a small town setting, and the unstated assumption that reputational sanctions will be effective as a result. In fact small market setting does not guarantee the success of reputational sanctions, given certain kinds of products. The quality of many products may not be apparent to customers and in any case there is an incentive problem for sanctioners. Just that a customer receives a bad roof does not provide sufficient incentive to communicate to others its poor quality, that they might take their custom elsewhere. Virtue-ethical accounts may appear to sidestep these sanctioning problems. The virtue of honesty comes with an internal sanction of guilt, which qua internal doesn't depend for its efficacy on the dissemination to others of information. So, once a person has become a virtuous agent the informational asymmetries that inhibit the efficacy of external sanctions would not matter. However, this leaves us with paucity as to what is supposed to first set the roofer on the path to virtue. So the inculcation claim fails because it does not establish that rules are inculcated and it does not take proper account of what a market is. The failure of the inculcation thesis has nevertheless been instructive. We have learned that we need a good understanding of the market's rules and we must take proper cognizance of the nature of markets.

A view that does prominently address features of the market is the destruction thesis. It goes some way in that regard but like the inculcation thesis it cannot grasp the nature of market rules so ultimately fails too. We can learn from its errors. It goes like this:

The market destroys the rules upon which it depends

The classic destruction thesis owes to Spencer[3], who maintains that trade is essentially corrupt. This is a strong claim. It is to say that markets *must* corrupt. Where there is a market, that is, it will vitiate rules like that of honesty for it corrupts individual moral agents. Spencer's account goes further yet and maintains that the market destroys the honesty rule, causes it to cease to exist. Spencer is not only saying that market exchange vitiates morality's action-guidance. He also believes that market exchange destroys the honesty rule altogether. Taking food fraud as his example of trade dishonesties, Spencer says that the law of the market is "*cheat and be cheated*". Here the honesty rule has been effectively undermined to the extent that it has been replaced by practices of dishonesty. He attests to the prevalence of frauds, but does not rely on their frequency to support his claim. His assertion that the market is essentially corrupt is backed by an argument about what we would now call opportunism and "*adverse selection*". Due to the pressures of competition all traders have to copy the malpractices of their competitors or "*go to the wall*". Due to these circumstances even the scrupulously honest trader is "*compelled*" to undertake frauds. Spencer stresses that morality is not an effective bulwark. However inculcated in one's education, the moral obligation of honesty is inefficacious when *"the scrupulous trader is obliged to become as little scrupulous as his competitors"*. Spencer adds that a system of keen competition conducted without adequate moral restraint can only be one of "*commercial cannibalism"*. He tells us that frauds are prevalent; many not only established but actually defended by traders as "*customs of the trade".*

Now, on closer inspection Spencer's claim of necessity begins to unravel. His account of widespread dishonest trading specifies certain background conditions. These are what we would now call information asymmetries, including quality and rule uncertainties and sanctioning failures. I shall explain each of these. In information asymmetries, buyers have less information about the quality of products than sellers. This is a state of affairs that permits deceptions. Spencer attests to "*tricks innumerable, lies acted or uttered, elaborately-devised frauds"*. He mentions the greed and credulity of customers, a predicament which would invite dishonest trades. In addition he observes uncertainties about what the rules are and about their importance. He emphasizes the inefficacy of both formal and informal sanctions. Spencer has correctly perceived that the market may, in certain circumstances, admit opportunities for dishonesty. He has also seen that in those circumstances the market may undermine moral constraints upon dishonesty, with resulting weaknesses in certain sanctions. These background conditions are premises of his argument and render his claim of necessity a false inference. At best his claim can be that widespread corruption may obtain in these circumstances. The claim merely holds conditionally upon the circumstances that actually obtain. Hence Spencer does not succeed in showing that *necessarily* the market destroys the rules on which it depends.

In fact Spencer's account doesn't even support the weaker claim that under adverse circumstances the market destroys its rules, viz., that they cease to exist. To see why we must consider the existence conditions of social rules[a]. Here we want to know abut those conditions that must be met if it is truly to be said that HT (honest trading) is a rule in group G. This is what it is for a rule to exist as a matter of fact, that is, as a matter of social practice. Social rules exist when the practice-conditions for such rules are met. These practice conditions are met when the members of the group behave in a certain way; they take the rules to be standards for the conduct of their group. Their taking the rules as standards in this way does not require conformity without exception. Mere prevalent dishonest trading cannot show that the honesty rule does not exist among the group in question, the British. Spencer is clear that the dishonest trades are tricks perpetrated on customers. He does not establish that the rule is no longer taken as standard among the British, even when there is rife opportunism.

We have seen that both inculcation and destruction views are wrongheaded. They vest too much in individual morality. They do not grasp that market exchange generates *market rules*, that is, a purely social source of objective constraint. To do better we need to establish what sort of rules the market institutes. We need to be clear about what rules are and when they exist. In due course we shall also address Spencer's worries regarding how the market's rules work, given problems of opportunism.

2 The Institutional Thesis

The institutional thesis postulates that:

The market institutes the rules upon which it depends

A defence of that claim needs to say what rules are and when they exist, explain what it means to institute them, and clarify the dependency feature. It also needs to show how the market, given what it is, institutes its rules. So, the market institutes its rules. What are rules? A rule is a normative injunction. It is an injunction that in circumstances X do Y. It is normative in the sense that it has a binding nature. When do rules exist? When a group has a rule its members have a distinctive attitude toward the conduct it requires as standard for their group. Consider the following difference between rule-following and merely habitual

[a] The account herein owes to the view of existence conditions for social rules proposed by H.L.A. Hart, The Concept of Law Oxford, Clarendon 1961/2012

behaviour. For habit it suffices that the behaviour of a group converges; deviation need not be regarded as open to criticism. Rules however meet with pressure among the group for conformity and deviation is met with criticism. Rules exist insofar as they are accepted as a general standard, as the rules for the members of a particular social group. The existence of a rule is compatible with the existence of some group members who break it and moreover do not view it as a standard either for themselves or others. However, at least some members of the group must look upon the behaviour in question as a general standard to be followed by the group as a whole. Opportunism scenarios of the kind envisaged by Spencer feature traders breaking rules that are otherwise taken as standard for the group. In dishonest trading then the continued existence of the rule of market honesty is not vitiated. The requisite critical reflective attitude toward the rule as standard for the group does still exist. Some members at least still view honest trading as standard. Demands for conformity to that rule and criticism of violators are still practiced among the group. We can imagine a range of circumstances in which practice of that critical reflective attitude might be undermined however, and the action-guidance of the rule becomes inconsistent rather than generalized. In some such circumstances the existence of the rule might be ultimately threatened. Insofar as the rule is deemed important to the group, additional forms of upholding it might be practiced then. We shall come to these in section 4 of this paper.

What kind of rules are market rules? Market rules are not moral rules. They are social rules. This is not just in the sense that they are the rules of a particular social group. They are also social rules in the sense that they are the artifices or social inventions of a group. Specifically they are sources of objective constraint arising from interaction among market participants. This brings us to the idea that the market *institutes* its rules. Markets endogenise their rules in the sense that those rules develop internally to the exchanges conducted by market participants. They arise conventionally, that is, a set of rules along with a sense of their bindingness emerges from the repeated interactions among the group members. The institutional thesis differs from the inculcation thesis because it specifies the group-based origin of the market’s rules. They arise from but are irreducible to the thoughts and activities of individuals. The virtue-ethical account is unconvincing in this regard. Virtues come about insofar as they are part of good character, and for its sake. That they might be useful for a group is at best a secondary consideration, and not in itself part of the account of inculcation. The institutional thesis, by contrast, shows that rules come about insofar as they are the rules of a group. The market’s rules come from a sense of common interest and a recognition that it can only be served if group members coordinate their behaviour. Taking honesty as our example, it is only the best policy if others do it too. Individuals only have a conditional interest in trading honestly then. The honesty rule arises thus as a way in which individual self-interested agents can act in a coordinated and mutually beneficial manner. They are coordination devices. The process of instituting its rules does not require that they be inculcated in the character of market agents. Why do I not just say that the market coordinates its rules? Why specify that the market *institutes* its rules? The institutionalist view specifies rules. There are notions of coordination otherwise than by rules, for example by social norms. Secondly the institutionalist view envisages market rules as instrumental to the durability of the market. Institutions are ongoing entities, whereas coordination can be a short and non-repeated event. They are systems of established and prevalent social rules that structure social interactions like those of the market. This brings us to our next consideration, which concerns the dependency clause of the institutional thesis.

The market institutes the rules *upon which it depends*. This claim is instrumentalist. The rules are instrumental to coordination, which the market needs. At this point we should avoid the errors of certain functionalist fallacies. The first of these supposes that a rule is explained by its function. An error to which this conducts is the assumption that the contribution of a rule to the maintenance of an institution is sufficient to explain the ongoing existence of that rule. We need instead to see how a rule advantageous to the market is sustained. For example, how are the correctness conditions for rule-following behaviour sustained among the group? Another error is to suppose that because a rule is instrumental it is effective and efficient. We should not take coordination rules to be self-enforcing, despite their genesis as a coordination solution. The dependency feature of the institutional thesis renders market rules necessary but not sufficient for the market. The market needs its rules but may not be able to sustain them itself. Its rules may be partly dependent on other institutions. Likewise we should avoid the traps of tautology and reductionism. We should not define the market by its rules. Nor should we reduce the action of the market to the instituting of rules. Markets, we might think, do other things in addition to instituting rules. They also shape preferences. The preferences shaped in food markets might help or hinder the market's rules.

So, we have established that while market rules are coordination solutions, they are not perfectly self-enforcing. Other kinds of rules may be self-enforcing. Market rules are not like that. There may be failures to know the rules, or what consists in conformity to them. There may also be opportunism; the violation of a rule in instances when it seems to suit an agent. The nature of market rules permits forms of opportunism and features of particular markets exacerbate it. In section 3 I shall explain how market rules are coordinating devices that nevertheless permit opportunism. In section 4 I shall explain how features of the market for food exacerbate opportunism problems. This state of affairs engenders a need for action by public authorities to support market honesty. That there is an indispensable role for Public Analysts will also be shown.

3 Market Honesty

Market rules are coordinating devices that nevertheless permit opportunism. Let's consider the rule of honest trading. It is a social rule generated endogenously within market exchange. It is moreover important to the proper functioning of the market and where it is not present gross market failure is invited. How does the market institute this important rule? The honesty rule arises within market exchange as a coordination rule. It coordinates interactions in order to secure the long-term mutual benefits of honest trading to market actors. The rule arises within market exchange in this way, but then is deliberately changed over time, so that the social rule is reinforced by a regime of legal regulation. Understanding how the social and legal aspects of market honesty are related will be the task of section 4 below. First we need to think about the nature of market rules. The nature of market rules permits forms of opportunism, for they are contingent and conditional. Let's take contingency first. The contingency in question is motivational. What markets give people are non-moral motives.

These can only contingently bring about honest trading, raising a problem of their unreliability. This sort of contingency hazard is absent in the case of actions done from virtue. It has been said by Foot[4] that the virtues are "*corrective, each one standing at a point at which there is some temptation to be resisted or deficiency of motivation to be made good"*. Are we to think then that the market is an institution from which a motivation to honesty is absent? No, the point is that the social rules of the market don't motivate in the same way as virtuous motivation. That the motive is non-moral doesn't mean that there's no motive at all. The motive is long-term economic self-interest. The reliability question remains. Can social motives be as reliable as moral motives? If virtue is a character trait, reliability is built into the concept, for the disposition to be honest is so well entrenched in its possessor. This appears to negate the unreliability problem. However, virtue ethicists generally regard most people as imperfectly virtuous, not having all the virtues fully built into their characters, so the unreliability problem does still arise. We should add that the unreliability problem about social rules ought not to be exaggerated. Conforming to a rule is not like acting on a "*temptation"* like a momentary desire, passing whim or tick. So contingency should not be thought to vitiate the guidance-capacity of market rules.

The conditional character of market rules poses a greater problem. The rule of market honesty is this kind of conditional rule:

Each individual has only a conditional interest in conforming to the rule; the condition is that the other individuals conform to it too.

That there are social rules requires that the group has a distinctive attitude toward its rules as standard. There are two issues here. First off, some group members might not care much about certain rules any more, even when those rules are important to the group in some way. From the days of Accum[5] and Hassall[6] people have had to be persuaded or reminded that food adulteration undermines the very basis of trade. The necessity of the honesty rule to the market has had to be repeatedly pointed out. Its importance as a coordination rule still may not be perceived consistently. A further problem is just as serious, namely that of opportunism. We saw Spencer struggling with it earlier in this paper. Even if a group does hold to the honesty rule as its standard, this might not make for a pattern of conformity without exception to those rules. Even if group members accept the rules as their rules, they might on occasion seek to violate them. This issue makes for an opportunism problem. An individual who perceives the advantage of having rules that are generally conformed to will agree that, generally speaking, honesty is the best policy. However, while playing a part in generally upholding the rules, they might violate them in instances when it is to their profit and they think they can get away with it. Their part in upholding the rules consists in efforts to conceal their rule violations from others, so they can cheat moderately and secretly. Note that they recognise the pernicious effects of open and generalized nonconformity so they only have an interest in violations when they will go uncopied and unpunished. Hume ponders this predicament when he writes about the sensible knave.[b] He considers a couple of solutions. The first of these is moral. The knave will hardly be able to conceal his crimes from himself

[b] David Hume 1748 *Enquiry Concerning the Principles of Morals*, Section 9, Part II.

and if he has acquired the tendency to disapprove of dishonesty he will suffer the pangs of conscience. He doesn't rely on the inner sanctions of conscience however. Hume's other reply is that sensible knavery is just too difficult a strategy for it to be a reasonable course of action. The temptation to cheat even when it is unwise to do so is so strong that the knave must fall for it and lose his reputation and the trust of others. Honesty is still the best bet then, despite opportunities for knavery. The knave does has non-moral reason, all things considered, to act in conformity with the honesty rule. Note that this impracticability reply pre-supposes that there be some system of external sanctions. The sanctioning is evidently part of the account of what commends the practice of honesty to self-interest.

4 Regulation, Credence and Food

The market institutes the honesty rule as a coordination solution but like other market rules it is conditional, and there is an opportunism problem. Opportunism is exacerbated by the informational features of certain markets. The market for food has long been a case in point, for it is beset by both information asymmetries and deficiencies. Food products are subject to information asymmetries, with buyers having less information than sellers. Food products are also subject to striking informational deficiencies. This is because they are what is known as credence goods. What are these? There are three categories of product attributes, dependent on how easy it is for the consumer to acquire information about them. Food products possess search attributes like colour that might be inspected by consumers prior to purchase. They also have experience attributes like taste and smell that consumers might come to know of by using them. However food products also have credence attributes. These are difficult or impossible for the consumer to ascertain even after use of the products. Examples of credence attributes are nutritional value and provenance. These informational weaknesses with which the market for food is beset in virtue of the products traded therein pose a problem for sanctioning. As indicated in the foregoing paragraph, sanctioning is part of the account of what commends the practice of honest trading to self-interest. Without effective sanctioning, the rule is undermined and market failure may ensue.

The market for food exemplifies why market honesty matters and cannot be sustained by consumers and sellers alone. In a seminal paper Akerlof[7] showed that informational asymmetries can lead to market failure, using the used cars market as his example. Used cars are experience goods. Buyers can't tell before purchase which are good and which are bad ("*lemons*"), but they can tell through post-purchase use. That used cars are experience goods creates an opportunity for dishonest trading. A lack of credible quality signals creates opportunities for sellers to misrepresent the quality of their goods. Dishonest trades ensue and adverse selection follows, meaning that bad cars drive down the price of the good ones and eventually the poor quality cars drive the good ones from the market. High quality goods are eliminated because they are less profitable, leaving only low-quality goods. Adverse selection undermines exchange. In the short term the consumer loses out, and in the long term there is demise of the market. So much for the used car market. Consider now the food market, which is a market for credence goods. It is yet more vulnerable to these kinds of information problems. The information deficiencies of credence goods render their trade especially vulnerable to the abuse of asymmetric information on the part of sellers. This is a case of imperfect information of a strong kind; when buyers can't either inspect or experience the desired qualities of food goods this invite opportunism and may issue in adverse selection and market failure. For both used cars and food products reputational sanctions face problems, but for different reasons. There is not usually repeat purchase in the used car market, which inhibits the power of reputational sanctions. There is often repeat purchase in the food market however, so if reputational sanctions can be made to work, they can have purchase. However, reputational sanctions can only work in markets for products with credence attributes if third parties can credibly signal quality. This is where public authorities and Public Analysts come in, with an indispensable and multifaceted role in supporting the market rules.

That food traders and consumers can't sustain market honesty alone does not mean that they can or need not do anything. Let's consider first what food traders can do. There are market responses that can go some way in counteracting the problems created by asymmetric information. By these they seek to signal quality to consumers. Brands and labels are two practices that merit consideration. Consumers need a signal that they can trust when purchasing a food product. A brand name is such a signal, which may serve as a proxy of the quality claim made by the producer. Product labelling can also signal quality, where the value of credence attributes is accurately and clearly shown. There are profit incentives for food traders to engage in credible quality signalling. Information problems in food markets may thus function as profit opportunities, when a seller ameliorates information disparities and realizes boosted gains from market exchange. Sellers can capture consumers' willingness to pay more for the higher quality attributes of their goods. Nevertheless, the incentive is only there to signal high quality, that is, to *appear* to sell high quality goods. Traders could engage in the opportunist strategy of signalling credence attributes that their product actually lacks. Brand marketing information or product labels might make fraudulent claims about quality for example.

In addition to traders credibly signalling quality, a market solution requires consumers wanting to buy quality goods, believing they can get them and knowing how to spot them. This involves educating consumers to value high quality food products and to be prepared pay for them. We ought not to assume that consumers accord positive value to high quality goods and that this value is reflected in their demand for goods. This is nothing new. Hassall[6] remarked that the mass of the public have cost as their primary consideration and too often buy food goods where they profess to be cheap with little thought for their quality. They also might not know how to reliably access them. Food labels are no good if shoppers don't look at or understand them. The household management books of yore may have had a role in rendering people able to be crafty shoppers, those with an idea of what things are, and what they ought to cost. At one time this kind of know-how was imparted in the everyday cooking of families. Regrettably this may have diminished somewhat[c]. Schools have a role in cookery, health and science lessons. Perhaps schools might combine food chemistry with instruction in meal planning, understanding food labels and cooking skills.

---

[c] For instance Isabella Beeton's *Household Management* sought to inform readers regarding the chemistry and economy of soup-making. Today's consumers might be inspired by the exploits of Heston Blumenthal.

Traders and consumers have a part to play then but there is only so much that they can do. There is hence an indispensable role for public authorities and Public Analysts in reliably signalling credence characteristics to consumers. The role is multi-faceted. The government must play a part, with its monopoly on formal rule-making. Market rules are, as I explained before, conditional. Legal rules are not. They tell traders to trade honestly whatever the public's level of care for honest trades and whatever the temptations of opportunism. Where an enforcement regime is established by statute, it also tells the relevant authorities they have duties to enforce the food laws. This can help counteract the longstanding official priority accorded food safety over food authenticity. Government should hence maintain laws and regulations that proscribe dishonest trades[d]. They should also maintain an effective regulatory regime overseen by a central competent authority. In the UK this is the Food Standards Agency. This body is an important ancillary to market exchange, aiding the signalling work that the market cannot perform alone. Consumers can only take brands and labels as proxies for quality claims if they are backed up by a competent authority deemed effective and trustworthy. This is where Public Analysts come in.

Given the credence attributes of food products, Public Analysts have an indispensable role in supporting market honesty. They are, in the terms of this paper, credence experts, those able to accurately assign quality judgements to food products. Accum, in the epigraph to this paper, wrote of ingenious frauds that even food connoisseurs can't spot. Reliable mechanisms are required for monitoring the credence characteristics of food products if they are to be signalled to consumers. Quality signals are only as good as the evidence supporting them. For this purpose there must be specialist analytical chemists appointed by the enforcement authorities, that is, Public Analysts and official control laboratories in which the testing is conducted. Public Analysts and their laboratories have essential roles in assisting courts in determining whether the legal rule in question was in fact violated. They also have, via the legal system, a role in the provision of credible quality information about food products. As cases are decided and reported, information on the quality of products offered by particular traders is disseminated. Public Analysts can moreover have a role in clarifying the relevant legal provisions to food traders and assisting them in adhering to them, including in accurately labelling products.

If it is to be effective this vital Public Analyst role in supporting market honesty must be properly organised and adequately resourced. Of course it is far less costly for public authorities and Public Analysts to supervise food quality than it is for each consumer to try to discern quality themselves. Nevertheless, like state of the art science in any field, the public analyst work needed is dynamic. Consider the cost of developing and using food authenticity techniques. Fortunately there is a market for scientific services, with world leaders in food testing acting as market participants. Techniques that have emerged from the private sector include the use of isotope ratio mass spectrometry for food authenticity. Government should support investment in research and development for these cutting-edge tests. In addition to

[d] For example §14-15 of the Food Safety Act 1990, which renders it a criminal offence to sell food that is not of the nature, substance or quality demanded by the consumer, or to falsely or misleadingly describe or present food.

being dynamic public analyst work is expensive. There are price premium incentives for traders to market quality food products. There ought to be then a transparent industry-funded testing scheme. This must not be undertaken in laboratories owned by food traders themselves, since they lack the requisite independence. It should be conducted by Public Analysts in official control laboratories able to affordably provide the requisite scientific services. These must be modernized outfits, running efficiently and using state of the art techniques that are fit for purpose.

5 Conclusion

The thesis advanced in this paper is that the market institutes its rules. This view proposes that while market rules arise as coordination solutions, they are imperfect coordinating devices. Features of the market for food exacerbate those imperfections and create opportunities for dishonest trading. Food market participants can go some way to remedying this situation. Nevertheless the market's rules must be supported by public authorities maintaining an effective regime of legal regulation. Moreover, Public Analysts in modernized official control laboratories have an indispensable role in supporting the market rule of honesty.

6 References

1 Annas, J. 1993 *The Morality of Happiness* New York: Oxford University Press

2 McCloskey, D. 'Bourgeois Virtue' *American Scholar* 63(2): 179-191

3 Spencer, H. 1859/1871 'The Morals of Trade' *Essays: Moral, Political & Aesthetic* New York: Appleton

4 Foot, P. 1978 *Virtues and Vices* Oxford: Blackwell

5 Accum, F. 1820 *Treatise on Adulteration of Food and Culinary Poisons* London: Longman

6 Hassall, H. 1855 *Food and Its Adulterations* London: Longman

7 Akerlof, G.A. 1970 'The Market for "Lemons": Quality Uncertainty and the Market Mechanism' *Quarterly Journal of Economics* 84(3): 488-500