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Problems and Suggestions on the Blacklist Policy of Food Safety

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Abstract In order to increase the illegal credit cost and social cost of companies, blacklist policies for food factories came into being. According to international experiences, blacklist policy, as a systematic project, is compatible with law and regulations, social credit system, and social observation movement. This paper reviewed the international experiences in blacklist policies and analyzed the existing problems in blacklist policies. In addition, three constructive suggestions were proposed in this paper.

Key words Food safety, Blacklist, Credit system, Social observation

In recent years, food safety incidents have taken place so frequently that food safety has drawn public's attention. The State Council approved *Opinions on Deepening Economic System Reform* in 2003 proposed by National Development and Reform Commission, among which the most rigorous policies on food and medicine supervision, food safety proposal mechanism and blacklist policy were put forward. In December 2013, *Opinions on "Blacklist" Management of Food and Medicine Safety* was published to the public for suggestions. In fact, the concept of food safety blacklist is not rare. In 2011, some officers from the Ministry of Health P. R. China stated that blacklist policies should be made to punish media journalists who purposely report misleading news^[1]. However, because media, as a fourth supervision organ besides law, legislation and administration, have reported many incidents regarding food safety. Therefore, media blacklist, once published, is subjected to reproach. Considering the practical experiences in China and abroad, this paper analyzed the potential difficulties in carrying out food safety blacklist policies and put forward suggestions on its management.

1 Significance of blacklist policies and international experiences

One major reason for the food safety issue is weak punishment and loose supervision so that the benefits which companies can get from being dishonest is higher than illegal costs^[2]. Punishment cost and rent seeking are related to laws and regulations and administering justice. Opportunity cost reflects the balance between safe production and illegal production. Credit cost and social cost refer to social evaluation, which directly affects the future of a company. When the consumers are strong enough, blacklist policies would increase companies' credit cost and social cost.

Based on international experiences, the core of social credit system is the punishment mechanism to dishonesty. Hence, the blacklist system supported by large credit information basic data-

base is the preliminary project, and the market joint defense is a key link to ensure the companies to be honest^[3]. The market joint defense is to unite social organizations to punish dishonest companies so as to enhance the illegal cost of those companies. In abroad, once food companies are put on the blacklist, they will face survival crisis.

First of all, the strict punishment policies enhance companies' criminal costs. Besides of direct compensation, some western countries established other compensation policies that is to demand illegal companies to pay more than the actual damage to reassure the public and to intimidate other companies, *etc.*^[4] In Germany, illegal companies will suffer from the criminal prosecution and enormous compensation. Once food companies that produce or sell fake products in America, they will be subject to 0.25 to 1 million and more than five years of life imprisonment. In France, companies that sell expired food will be shut down.

Furthermore, in some countries that have advanced social credit system, companies producing fake products cannot get loan. In Germany, people can find personal credit information through SCHUFA database, including business transaction, credit loan record, insurance information, crime and personal record, *etc.* Such public credit checking systems not only provide financial organizations with personal credit, but also help individuals to select business partner with high credit. In America, personal and company credit service systems are two sets of different credit systems, the former being restrained by FCRA and the later being evaluated by special credit organizations^[7].

Thirdly, in foreign countries, the supervision from the third party plays a significant role in the management of food safety. The third party is independent from governments and companies, including media, NGO, business association and consumer associations, *etc.* The third supervision usually initiates or organizes social activities, such as protest and resists, in order to realize the containment of unsafe food production. Under the intense social observation, food factories have to produce safe products, and those social activities guide and nurture consumers' healthy consumption concepts. Educating consumers of food safety is extremely essential.

It can be concluded that blacklist policy is not enough. Blacklist policies have to be related with legal system, social credit system and social observation movement. Food companies have to accept legal punishment and face difficulties in getting loans, communication and business transaction, once those food companies are on the blacklist.

2 Problems in carrying out the blacklist policies

2.1 Imperfect management mechanism for illegal companies and producers

In the Opinions on "Blacklist" Management of Food and Medicine Safety, producers and responsible parties, who break the rules and are required to stop production, revoke licenses and withdraw approved documents, are included in the blacklist. However, the credit restrains and following management of blacklist no long exert any effects on companies that have been revoked of license, and companies that have not commit serious illegal actions. Besides, producers and people in charge who are on the blacklist shall be supervised in the following management measures. Under such situations, there are possibilities that companies that are on the blacklist will replace main businessmen or duty officers to weaken the administrative punishment of committing crimes again.

2.2 Lack of examination on carrying out blacklist by local government

In the last few years, the food safety standard and laws as well as regulations in China have been improving, but regional governments are not strict enough in carrying out the blacklist policies. Local food and medicine bureau are responsible for the management of food and medicine safety in the specific area, including administrative punishment to illegal companies and managing database. According to a nationwide survey, food industry is one of the top three industries with intense regional protection features^[8], which can be proved by the reaction of Shijiazhuang government to the "Melamine incident". Some people summarized local governments' response as: being exposed by the media ' rapid action by relevant departments' related officers making their performance clear' being peaceful ' quickly being forgot ' next exposure^[9]. Especially in some places where certain food industries exert great importance in regional economy, local government reacts less strictly to illegal food factories out of considering of employment and tax, *etc.* Therefore, how to avoid local protectionism is an essential requirement to ensure the influence of blacklist policies.

2.3 Not enough restrain to small companies

Nowadays, small companies with less than ten employees accounted for 60% of the general food production industries. Although the market share of small companies only took up 9.3%, it has become the difficulty in supervision of food safety in China^[10]. The blacklist policies only apply to food industries with certain scale. At present, the market share of products from food industries with certain scale reached 72%, and national food security can be ensured if blacklist policies can cooperate with related laws and regulations concerning food.

2.4 Difficulty in solving food safety issue The blacklist policies cannot directly manage agricultural production. The overuse of antibiotics of husbandries, agricultural medicine residual in vegetables, the excessive use of vegetable hormone, and overuse of fertilizers in food result in food safety issue. After reform, the original issue falls to the Agricultural department to manage. Considering there are more than 200 million farmers and 0.76 million companies, the scattering production management and outdated production technology have become factors that restrain the source^[11]. Major food safety issues that happened in the past are because of source problems^[11]. Although large scale factories are the key subjects in carrying out blacklist policies, factories would shirk responsibilities and shift the blame onto agricultural producers. How to define companies' responsibilities and to force companies to manage the production are worth further discussing.

3 Countermeasures and suggestions

3.1 Improving the management of blacklist and establishing market cooperation mechanism

Food blacklist should include all the dishonest factories rather than the one only with serious illegal actions. Otherwise, blacklist policy cannot reflect its advantages to direct punishment. Food blacklist should have a set of perfect management system so as to conduct evaluation to food factories with different dishonest degrees. Meanwhile, stimulus mechanism is established to encourage food factories shouldering social responsibilities. Therefore, food blacklist policy is a systematic project for credit system construction so as to encourage companies with high moral entering food market. Besides, to construct market cooperation mechanism is a crucial link in punishing dishonest mechanism.

3.2 Improving evaluation of blacklist of local government and encouraging social observation

In order to prevent local protectionism, central government examines and evaluates the blacklist work of local government, including publicizing online, and checking the updated situation, *etc.* Similar to RASFF, blacklist policies also function as information report. As a platform to publicize information, RASFF reports only once a week. After more than ten years of development, RASFF has developed into an open database for researchers to study^[12].

The concept of society participating in management was proposed in 2013 to emphasize food safety supervision, and to encourage the participation of more social power such as media and citizens. Social organizations can report unsafe production companies to the media so that local government would be forced to take actions. Some non-government organizations disclosed the fact that 32 provinces and cities do not carry out the new policies issued by State Food and Medicine Bureau. Since 2009, NGO has set up an evaluation system named "index of supervision of pollution source" to evaluate and rank 113 cities in China. Lorentzen analyzed the three-year evaluation and found that the general performance of those cities was increasing^[13]. Consequently, more social organizations are encouraged to participate in the manage-

ment.

3.3 Enhancing market admission requirement and pushing forward structure adjustment of food industries Because small companies take up a large proportion in the food industry in China, it is difficult for government to supervise. In order to pursue the maximum interest, small food factories would prefer illegal production since the cost to enter and exit market is low, which indicates it is of great necessity to enhance companies' illegal cost and to force companies for safe production. Moreover, local government should update food industries and promote structure adjustment so that food factories can become stronger, larger and produce safer products^[10].

Meanwhile, considering the scattered small factories in China, food and medicine departments should cooperate with each other to accelerate adjustment of agricultural structure. It is suggested that the new pattern "company + cooperation + farmers" can make companies and farmers become more intimate^[14].

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