FOOD INDUSTRY, LAW, AND SOCIETY: CORPORATE POWER, PUBLIC HEALTH, AND ACCOUNTABILITY

SESSION TWO

Governing the Food Industry: Procurement, Market Power, and Accountability

Sept. 18, 2026 · 08:00 Boston / New York / Washington · 13:00 London · 14:00 Rome / Geneva · 22:00 Melbourne

General Context

The governance of the food industry extends well beyond the rules governing the safety or legality of particular products. Public institutions determine which commercial operators may provide food in schools, hospitals, universities, workplaces, and other institutional environments; corporations exercise power not only through the products they sell but through ownership, acquisitions, distribution networks, purchasing relationships, and their interaction with regulatory institutions; and accountability ultimately depends on whether voluntary commitments, legal duties, litigation, public regulation, and international governance mechanisms are capable of changing conduct in practice.

This second session is therefore structured around three main thematic areas, each developed through a series of subtopics and questions intended to guide, rather than constrain, the discussion. The first examines **public procurement, institutional food environments, and delegated responsibility**, asking what responsibilities remain with public and quasi-public bodies when food provision is entrusted to private operators, how meaningful choice should be understood in institutional settings, and how contracting, oversight, and procurement integrity affect the food ultimately provided. The second considers **corporate power, market structure, and regulatory influence**, examining how concentrated economic power can shape consumer choice, suppliers, regulatory institutions, scientific evidence, enforcement,

and the capacity of public authorities to act in the public interest. The third turns to **accountability and reform mechanisms**, asking when voluntary corporate commitments should become legally enforceable, what makes legal obligations effective in practice, how disclosure and litigation translate into consequences, whether national and international governance mechanisms alter corporate behavior, and how reforms should be coordinated and evaluated.

Taken together, the three areas move from the allocation of responsibility within institutional food environments, through the exercise and consequences of concentrated corporate power, to the design and evaluation of mechanisms capable of producing meaningful accountability and measurable change.

THEMATIC AREA 1

Public Procurement, School Meals, and Delegated Responsibility

> *Line of inquiry: What responsibilities do public and quasi-public institutions bear for the food environments they create or authorize, what happens when food provision is delegated to private actors, and can procurement and contracting be used to advance public-health and other public-interest objectives?*

1 What responsibility do institutions have for the food environments they create or authorize?

1.1 Institutional responsibility for the food environment

When public and quasi-public bodies grant concessions, leases, procurement contracts, or other forms of access to commercial food operators on their premises, where does their responsibility for the resulting food environment end? Is that responsibility discharged by ensuring compliance with existing food law, or does the institutional decision about who may sell food and under what conditions carry a further responsibility for the nature of the offer itself? For example, should an institution be concerned where all available operators comply with the law but none provides affordable, nutritionally healthier alternatives, such as meals or products with lower levels of salt or sugar or without risky additives? What legal, administrative, public-health, or governance principles should determine whether such a broader responsibility exists?

1.2 What responsibility arises where individuals have little or no meaningful alternative?

Does institutional responsibility become more demanding where individuals have little or no practical ability to obtain food elsewhere, as may occur in schools, hospitals, care facilities, custodial institutions, or other dependent settings? Where the institution effectively determines the food environment for the people concerned, what minimum responsibility should it bear for ensuring that nutritionally healthier food is genuinely available, accessible, and affordable? What criteria should determine how the nature of that responsibility vary (e.g., age and vulnerability of the population, degree of institutional control)?

1.3 What responsibility arises where choice formally exists but is materially constrained?

Should responsibility differ in more open environments, such as universities, workplaces, transport hubs, or other institutional settings where individuals are formally free to obtain food elsewhere but may in practice face a restricted range of options? At what point does the existence of formal consumer choice cease to be a sufficient answer where the institution itself determines which commercial operators are given access to the relevant space? What would constitute meaningful choice in such an environment?

2 How should institutional responsibility be exercised when food provision is delivered through private operators?

2.1 Can procurement and contracting be used to shape the food that private operators provide?

Where an institution relies on commercial operators to provide food, to what extent should procurement, concessions, leases, or catering agreements be used to require standards going beyond minimum legal compliance? For example, can institutions legitimately require the availability of healthier menu options, nutritional standards, affordability conditions, ingredient or nutritional disclosure, or restrictions on particular products or marketing practices? What do concrete examples show about whether such contractual requirements actually change the food offered in practice?

2.2 Once food provision has been delegated, who should remain accountable for what happens in practice?

When an institution delegates food provision to a contractor, concessionaire, caterer, or other private operator, can responsibility for the resulting food environment be delegated with it? What responsibility should remain with the

commissioning institution if contractual standards are not followed, harmful practices occur, or the provider's actual conduct differs from what was promised? What do concrete cases show about when outsourcing has preserved clear accountability and when it has instead fragmented responsibility between the institution and the private provider?

3 When does delegated food provision create accountability gaps?

3.1 Fragmented organizational structures and informational asymmetries

Where food provision passes through subcontractors and multiple supplier tiers, how should a commissioning institution design its own governance so that delegation does not destroy its visibility over what is actually delivered? What arrangements have been shown to preserve meaningful oversight without requiring the institution to perform the operational function itself, and where have they failed?

3.2 Procurement integrity and its consequences for the food environment

What forms of conflict of interest, favoritism, improper influence, hidden financial arrangements, bid manipulation, supplier dependence, or misleading sourcing and quality claims can distort the selection or oversight of institutional food providers? Where such integrity failures occur, how can they affect the food ultimately offered, including its nutritional quality, affordability, and the availability of healthier alternatives, and weaken the institution's ability or willingness to impose, monitor, or enforce public-health standards against the provider? What do concrete cases show about how these problems arise and whether existing monitoring and accountability mechanisms are capable of detecting and correcting them?

THEMATIC AREA 2

Corporate Power, Market Structure, and Antitrust

> *Line of inquiry: When does concentration of economic power in the food sector become a wider form of social, political, regulatory, and informational power, and how does that power affect consumer autonomy, equality, democratic accountability, regulatory design, and enforcement?*

4 When does concentration of ownership become concentration of social power?

4.1 Can acquisitions be used strategically to neutralize healthier or differentiated alternatives?

When large food corporations acquire competing brands, particularly brands offering products perceived as healthier, less processed, differently formulated, or otherwise distinct from the acquirer's existing portfolio, can acquisition operate as a way of neutralizing that competitive alternative? What do documented cases show about whether acquired brands retain their distinctive formulations, sourcing practices, and product characteristics, or instead converge over time toward the parent company's prevailing ingredients, processing methods, nutritional standards, or commercial model? Where such convergence occurs, what, if anything, constrains it in practice, including regulatory scrutiny, commitments made at the time of acquisition, consumer response, or other forms of external pressure?

4.2 Retail gatekeeping and downstream power over consumer choice

In many food markets, a relatively small number of supermarket groups, distributors, or other intermediaries occupy a gatekeeping position between producers and consumers. Mechanisms may include listing or slotting fees, preferential shelf placement, category-management arrangements, control over distribution networks, and decisions about where particular retail formats operate. How significant are these mechanisms in determining which products consumers actually encounter and which independent, healthier, less processed, or otherwise differentiated alternatives remain commercially viable? Where practical choice is shaped by what is physically available and affordable rather than by preference alone, how should that phenomenon be understood from a governance perspective? Does concentrated retail or distribution power affect lower-income consumers or particular communities disproportionately, and what evidence demonstrates that effect? Concrete examples in which regulators, public authorities, retailers, or alternative distribution models have successfully altered these conditions would be particularly useful.

4.3 Buyer power and upstream consequences for suppliers and producers

Concentration can also operate in the opposite direction. Where producers and manufacturers depend on a small number of powerful purchasers to reach consumers, how does that dependence affect the terms on which they trade? The discussion may consider practices such as retrospective discounts, listing or marketing charges, rejection of products, unilateral changes to contractual terms,

transfer of commercial risk, or sustained pressure on supplier margins. What do documented cases show about the extent and consequences of such buyer power? More importantly, do those commercial pressures generate effects further up the supply chain? For example, can sustained pressure on producer or processor margins contribute to lower product quality, changes in sourcing, wage suppression, precarious subcontracting, or exploitative labor conditions? How strong is the evidence for those causal links, what intermediate mechanisms are necessary for them to arise, and are there cases in which supplier protections or other countervailing arrangements have successfully prevented them?

5 How can corporate power shape the rules and institutions intended to constrain it?

5.1 Regulatory capture and institutional penetration

How can corporate influence enter the institutions responsible for regulating the food industry at national, regional, or international level (e.g., representation on advisory and standard-setting bodies)? Do documented cases suggest that particular institutional settings are more vulnerable to these forms of influence than others, and what explains the difference? How transparent are these relationships in practice? Are the affiliations, financial interests, funding relationships, and institutional connections of those appointed to regulatory or standard-setting bodies disclosed in a form that allows governments, researchers, journalists, civil society, and the public to assess whether decision-making remains genuinely independent? What do documented cases show about relationships or networks that became visible only through investigation rather than through ordinary disclosure mechanisms? Where such vulnerabilities exist, what safeguards have proved capable of preserving institutional independence? Are there examples in which these safeguards worked, and others in which they proved insufficient?

5.2 Abusive legal process and the protection of public-interest regulation

Corporations and industry associations may use litigation to contest public-health regulation. When does this represent a legitimate exercise of legal rights, and when can disparities in financial and legal resources turn legal process into a mechanism for delaying, weakening, deterring, or increasing the cost of regulation? What determines whether governments and public institutions have sufficient capacity to resist such pressure and sustain measures adopted in the public interest? Where legal process is used primarily or disproportionately to delay, chill, or burden legitimate regulatory action, should legal systems provide procedural safeguards analogous to those developed against abusive litigation in other contexts (e.g.,

SLAPPs)? Could courts, for example, be empowered with early dismissal tools to dispose of manifestly abusive claims and be allowed to impose cost consequences or other sanctions, or otherwise protect public authorities from litigation strategies that exploit extreme asymmetries of resources? How can such safeguards be designed without impairing legitimate access to courts or the right to challenge government action?

5.3 Industry influence, conflicts of interest, and the independence of regulatory science

How can corporate interests shape the scientific evidence and expertise on which food regulation depends (e.g., funding of research, consultancy or other financial relationships involving researchers)? How effectively are those relationships disclosed and made assessable? Can regulators and the public identify who funded the underlying research, what financial or professional interests expert-panel members hold, which participating organizations have industry connections, and what evidence was supplied by regulated firms themselves? Where that information is incomplete, fragmented, or unavailable, how does this affect the ability to assess the independence and reliability of regulatory decisions, particularly where the underlying science is contested? What institutional safeguards can preserve the independence of regulatory science without excluding relevant technical expertise? A further question arises where regulators legitimately depend on industry for data, technical capacity, or specialized expertise: can such dependence gradually produce a shared framing of the problem, even without improper conduct or undisclosed conflicts, so that certain questions or regulatory alternatives receive less attention? If so, what institutional arrangements can counter that form of dependence?

6 Can law and enforcement effectively constrain powerful food corporations?

6.1 Beyond the overcharge: the wider public harms of food-sector economic crime

Price fixing, bid rigging, cartel conduct, corruption, and related economic offenses in the food sector may produce consequences that extend beyond the immediate financial loss normally associated with the offense. This may be particularly significant where the affected products are essential goods that consumers cannot readily avoid and where public institutions, including schools or other public-food programs, are among the purchasers. What do documented cases show about whether food-sector economic offenses produce consequences beyond the immediate financial loss associated with the offense? Where prices have been artificially increased or procurement distorted, is there evidence of wider effects on consumers, public health, or the distribution of harm across different social

groups? If such downstream effects can be identified, through what mechanisms do they arise, which populations or institutions are most affected, and how strong is the evidence connecting them to the underlying misconduct? Where sanctions focus primarily on corporate fines, financial damages, or negotiated settlements, are they capable of changing incentives and addressing the wider public consequences of the misconduct, or are additional forms of accountability or remediation required? Concrete cases in which enforcement either succeeded or failed to address those broader harms would be particularly useful.

6.2 Systemic importance and the limits of enforcement

Some food corporations acquire a strategic economic importance that goes beyond their market share: they may be central to national food supply, be a region's principal employer, account for a significant share of exports, or operate distribution infrastructure with no realistic substitute. Can this situation create structural dependence that makes public authorities more reluctant to impose measures capable of seriously disrupting their operations? What do documented cases show about whether corporate size or systemic importance has influenced inspections, licensing, sanctions, prosecution, settlements, plant closures, debarment, or other enforcement decisions? Where such dependence exists, how should authorities balance corporate accountability against interests such as continuity of food supply, employment, regional economies, and protection of innocent third parties, and when might these considerations create a food-sector version of the “too big to fail” or “too big to jail” problem? Conversely, are there cases in which governments imposed substantial consequences despite a corporation’s economic or systemic importance, and what institutional, legal, political, or market conditions made decisive enforcement possible?

THEMATIC AREA 3

Transparency, Civil Society, and Reform Mechanisms

Line of inquiry: Once accountability failures have been identified, which combinations of voluntary responsibility, enforceable duties, transparency, litigation, public regulation, civil-society intervention, international governance, and institutional coordination actually change corporate conduct, and how should their effectiveness be tested?

7 When should corporate responsibility move from voluntary commitment to enforceable governance?

7.1 When should voluntary corporate commitments become legal obligations?

Food companies have adopted voluntary commitments on matters such as product reformulation, nutrition, marketing to children, labeling, sustainability, and consumer health. Some may produce meaningful change; others may remain promises, be only partially implemented, or persist for years without measurable effects. When should public authorities stop relying on voluntary corporate commitments and convert the relevant expectations into legally enforceable obligations? What should trigger that transition: repeated failure to meet voluntary targets, the seriousness or persistence of the harm, the vulnerability of the people affected, the absence of independent verification, significant information asymmetries, or other factors? What do documented examples show about voluntary initiatives that genuinely worked and others in which continued reliance on corporate discretion became difficult to justify?

7.2 What gives food-industry regulation enough force to change corporate behavior?

Legal obligations in the food sector can differ substantially in what they require and how they are enforced. Some principally require disclosure, reporting, internal procedures, or due diligence, while others impose substantive requirements concerning matters such as product composition, labeling, marketing, safety, or other aspects of corporate conduct. What distinguishes legal rules that materially change corporate behavior from rules that principally generate paperwork, formal procedures, or cosmetic compliance? Are there examples of food-industry regulation that appeared demanding on paper but had little effect in practice, and others that produced measurable changes in products, marketing, corporate decision-making, or public-health outcomes? What made the difference, for example the precision of the obligation, independent monitoring, regulatory access to information, meaningful sanctions, enforceability, or the capacity of authorities to intervene when firms do not comply?

7.3 Who certifies the certifier? Private assurance, conflicts of interest, and public oversight

Private certification schemes play an increasingly important role in food governance, including claims concerning animal welfare, sustainability, quality, sourcing, labor standards, and production methods. How reliable is a system in which the organization seeking certification may also contribute, directly or indirectly, to the revenues of the body assessing it? Does that funding relationship

create a significant risk to the independence or rigor of certification, and what do documented cases show about when certification has provided meaningful assurance and when serious problems persisted behind an apparently credible label? Why do public authorities rely on private certification in these areas, and what responsibility should the state retain for ensuring that such claims are trustworthy? Should the response involve public certification, mandatory accreditation, independent or randomized audits, state spot-checks, transparent inspection data, stronger sanctions and withdrawal procedures, or other forms of public supervision? What are the barriers to the establishment of public independent agencies devoted to these types of certifications? What institutional design could preserve useful private expertise without allowing certification to become a substitute for genuinely independent oversight?

8 Exposure, harm, and legal consequences

8.1 From exposure to consequence: why do some disclosures produce action while others do not?

Assume that credible information about harmful or unlawful conduct in the food industry has become public and is sufficiently substantiated to warrant institutional attention. What determines whether it produces a meaningful institutional response rather than fading? Where along the pathway from public disclosure to formal intervention does the machinery of accountability most frequently stall, and what structural, legal, or political obstacles prevent documented harm from translating into accountability or policy reform? Documented cases on either side would be particularly useful: disclosures that produced regulatory action, policy change, or procurement consequences, and disclosures that produced nothing.

8.2 Litigation as a route to accountability: access, impact, and limits

Where public regulation has not prevented or remedied harm, what can litigation against food-industry corporations achieve, and what can it not? Is it best understood as an alternative route to accountability, or does it do something different: compel disclosure, establish facts judicially, or create risk that changes conduct without any judgment being given? What obstacles arise in practice, particularly where victims, production, corporate structures, and decision-making sit in different jurisdictions? What do concrete cases reveal about the real-world impact of litigation: when does taking food corporations to court force industry-wide change, when does it prove structurally ineffective, and what explains that divide?

9 What does the legalization of corporate responsibility tell us about the strengths and weaknesses of current CSR governance?

9.1 Does mandatory disclosure change conduct, or mainly produce documents?

Rather than prohibiting conduct directly, regulatory regimes increasingly mandate public disclosure, such as modern-slavery, non-financial, or supply-chain reporting, on the assumption that transparency and reputational pressure will drive corporate reform. Do these regimes genuinely alter corporate decisions and supply-chain practices, or do they primarily yield increasingly sophisticated compliance documents? Where reporting has driven actual change, what explains the difference: the content and specificity of the disclosure required, systematic external scrutiny, verifiable underlying data, credible enforcement for inadequate or misleading reporting, or something else? Crucially, how should effectiveness be measured, and what empirical evidence distinguishes substantive operational change from improvements in corporate reporting?

9.2 Due diligence: external regulation or compulsory self-regulation?

Mandatory due-diligence regimes, such as the French duty of vigilance and the German supply-chain framework, seek to move beyond disclosure by legally requiring corporations to identify, mitigate, and account for supply-chain risks. Does this shift overcome the weaknesses of disclosure, or can it reproduce them in another form? Where firms substantially determine the scope of the exercise, commission private audits, or control important parts of the underlying evidence, at what point can a legal duty operate in practice as compulsory self-regulation? Conversely, where has mandatory due diligence driven genuine operational change, and what proved essential: independent verification, worker and community participation, access to primary data, regulatory enforcement, or meaningful legal consequences for inadequate due diligence? Ultimately, what distinguishes substantive external regulation from procedural compliance?

9.3 Can international governance change behavior without conventional sanctions?

To address jurisdictional divergence and corporate cross-border mobility, international governance often relies on soft-law standards, codes, monitoring, and peer-review mechanisms that lack conventional coercive sanctions. Can such frameworks nevertheless alter state or corporate conduct? Where international instruments have driven domestic reform rather than being ignored, what explains the difference: systematic monitoring, independent assessment, public reporting, civil-society pressure, domestic political commitment, or other factors? How can we distinguish the effect of the international mechanism itself from reforms that domestic conditions might have produced anyway? Conversely, can binding trade

or economic agreements provide stronger leverage, and how should governance address the risk that the same mechanisms may also be used to challenge legitimate domestic public-health regulation?

10 How should food governance be coordinated, designed, and evaluated?

10.1 Fragmented governance: accountability gap or necessary division of labor?

A single food-industry problem may engage food-safety authorities, public-health bodies, procurement agencies, competition or anti-fraud authorities, courts, and regional or international institutions, each responsible for a different part of the problem. This division of responsibility can produce gaps, inconsistent responses, or opportunities for responsibility to be shifted between institutions, but specialization may also be necessary and consolidation may create its own vulnerabilities. When does fragmented governance actually weaken accountability, and when does it represent a legitimate division of institutional functions? Are the principal failures caused by overlapping or missing mandates, or instead by the absence of effective duties to share information, refer matters, coordinate investigations, or act on findings produced elsewhere? What do concrete cases show about coordination arrangements that have either succeeded or failed?

10.2 Matching the instrument to the mechanism

Food-industry accountability may fail for very different reasons: harmful conduct may fall outside existing legal categories; enforcement authorities may lack capacity or independence; relevant information may remain inaccessible; concentrated corporate power may weaken regulatory action; or harmful conduct may remain lawful. If the underlying mechanisms differ, should the regulatory response differ as well? How should policymakers determine which intervention fits which failure, whether disclosure or labeling, marketing restrictions, fiscal measures, product or formulation standards, procurement conditions, due-diligence duties, competition enforcement, litigation, or another mechanism? Concrete examples would be particularly useful, both where an intervention successfully addressed the problem that produced the failure and where an apparently plausible reform failed because it targeted the wrong mechanism.

10.3 How would we know whether a reform had worked?

Every reform proposed in this discussion rests on an assumption that it will change something in practice. What should count as credible evidence that it has actually worked? Is adoption of a law, policy, institutional procedure, or corporate commitment itself relevant evidence of success, or should evaluation require

demonstrable changes in corporate conduct, enforcement practice, information availability, market conditions, consumer behavior, or public-health outcomes? Against what baseline and over what period should those effects be assessed, particularly where health or market consequences may take years to emerge? And who should evaluate success? Should assessment be conducted by the regulator responsible for the intervention, by an independent body, through academic or civil-society scrutiny, or through some combination of these? What do existing reforms show about the difference between formal implementation and measurable effects in practice?

CLOSING SYNTHESIS

From Governance Design to Measurable Change

The session closes by bringing together the three governance problems examined throughout the discussion: the allocation of responsibility where food provision is delegated through private actors; the capacity of concentrated corporate power to affect markets, consumers, regulation, and public institutions; and the effectiveness of the mechanisms available to strengthen accountability.

CLOSING QUESTION TO THE PANEL

> **If you could change only one feature of how the food industry is governed, what would you change, and what evidence would persuade you that the reform had actually worked? What important question about food governance do you think this symposium has left unanswered and should be investigated next?**

Corporate Crime Observatory

Organized in partnership with Boston College Law School, Exeter Law School, and the Global Harmonization Initiative.