

Call for papers

Workshop at the 22nd Ius Commune conference, 23-24 November 2017

The legal battle against lawful products or services that are potentially threatening to human health

Sugar, tobacco, sun cream, recycled cardboard, artificial grass, mobile phones, computer games and the internet; these are just some examples of products and services that are lawful, but at the same time are potentially threatening to human health. Obesity, addiction, cancer and other threats to public health lie in wait. The question of this year's Ius Commune Workshop on Liability and Insurance is how to combat products or services that are lawful, but at the same time are potentially threatening to human health, with the use of legal instruments. We invite legal scholars from different backgrounds to reflect on this question.

Background

Spurred on by an emerging risk-sensitivity, by an increasing concern about health issues, and by a broader-based rise in claims consciousness on the part of the public, legal doctrine has been swept into a period of legal turbulence. Worldwide manufacturers marketing unhealthy products and services are now faced with legal claims. Allegations against industries that they fail to warn and reveal information about the risks of their products are numerous. Such claims, and their impact on industry, show that private litigation might contribute to the social control of a product that is responsible for widespread harm. But, traditionally, private litigation is mostly used after health risks materialize. For example, in the past tort claims could not prevent the use of asbestos, not even when the risks were known to producers and employers. Additionally, although it was known from the 1970s that asbestos posed a threat to human health, the Dutch government waited until 1993 before issuing a banning order. In other words, legal instruments could not prevent subsequent deaths caused by asbestos. How does one prevent comparable disasters in the future? How can legal instruments (liability law, tax law, human rights, international law, etc.) be used for the protection of human health against lawful but potentially threatening products and services?

Central question

The following question arises: how can products or services that are lawful but potentially threatening to human health be combated? Three sub-questions can be distinguished:

1. Is it legitimate and/or expedient to use private law or another sphere of law in combating lawful products and services that are potentially threatening to human health?
2. What are or could be the foundations for this legal battle (the duty of care as laid down in our Civil Codes, the constitutional duty to promote public health, human rights, international law, etc.)?
3. What are examples of potentially threatening products or services and how (*e.g.*) should the law be shaped in order to react *ex ante*, *i.e.* before the risk materializes?

In the light of these questions, contributions are not only welcome from the field of liability and insurance law, but also from human rights, and procedural, international, tax and administrative law. We also invite scholars from economics, legal sociology and psychology to contribute to the workshop.

Call for papers

If you are interested in participating in the workshop, please send a summary of your ideas to R.Rijnhout@uu.nl (max. 300 words). The deadline for all applications is 1 April 2017.

Possibility to publish

The workshop is part of an overarching project by UCALL, the Utrecht Centre for Accountability and Liability Law. The project leader is Prof. Anne Keirse. UCALL will publish a compilation of articles on this subject. All participants at the *Ius Commune* workshop are invited to have their article published. The deadline for the outline is 1 April 2017. The first draft of the articles should be finished in the summer of 2017. The deadline for the final version is 1 November 2017. Articles can be either in English or in Dutch.

Questions?

If you have any questions please feel free to contact Rianka Rijnhout (R.Rijnhout@uu.nl) and/or Anne Keirse (A.L.M.Keirse@uu.nl).