HALLMARKING HALAL

The Market for Halal Certificates: Competitive Private Regulation

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Abstract: Risks and uncertainties for Muslim consumers, wanting to buy halal food, are greater than in many other transactions. For one, religious rules of Muslims define not only product (no pork) but also process standards for halal food. Meat has to come from animals slaughtered in a specific way, and should not have touched impure ‘haram’ foods. Whether such standards have been met is impossible to determine from the final product at the point of final sale and consumption. This information problem has increased with the globalization of production and distribution chains and with the increased importance of composed foods, whose ingredients can come from many product sources and from all over the world. Yet states - at least in non-Muslim countries - have not considered it their responsibility to control for the religious ‘safety’ of food.

In the absence of such state regulation, and with markets for halal products expanding - both locally in western societies with growing Muslim populations, and globally, with growing purchasing power of Muslim countries - the demand for information and certainty is increasing. It has been met by the market. The halal market has produced a derived market: a market for halal certificates. In the Netherlands alone between 30 and 40 private certificates are on offer.

Yet this certification market is plagued by the same problems that haunt the market from which it emerged: easy accession, dabblers, information-asymmetries, intransparency, and price competition exerting downward pressure on quality, i.e. certificate reliability. The original problem has been merely reproduced, now on the derived market, at the cost of higher transaction costs. Apparently, the market cannot solve this problem – an external authority seems necessary. Thus, is a state really indispensable? Something can be said for this. Combating such uncertainties in the market is both a public good and a public interest. Still, it seems that if there will be a state which will actively involve itself with this problem, it will be a foreign Muslim one, perhaps imposing its standards through trade relations on Western producing countries - in a curious turn-around of the well-known ‘California effect’ as described by David Vogel: now not from the west to the east, but from the east to the west.

Key words: information asymmetries; food safety and food regulation; state and religion; private regulation; quality certification; California effect

Acknowledgements: This study was commissioned by the Dutch Scientific Council for Government Policy (WRR), in the context of its Project on ‘Market, State, and Civil Society’. It can downloaded as a report: (http://www.wrr.nl/content.jsp?objectid=5577). Other English language studies made in the context of this Project are: Aalbers, M., E. Engelen en A. Glasmachter, ‘Securitization in the Netherlands shaped by and shaping regulation’, WRR-Webpublication nr. 55 & Zuiderent-Jerak, T., K. Grit, T. van der Grinten ‘Markets and public values in healthcare’, WRR-Webpublication nr. 57
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# Hallmarking Halal

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## Preamble: on market, state, and civil society

What is the “right” division of labor between the market, the state, and civil society? Who should do what? And ought this to be a matter of design, or of development? Economists pretend to know what that right mix should be. And they believe in design, inspired, if not dictated, by their theories, models and criteria. From these they derive the ‘one best design’. Their assumptions are simple, albeit a bit ‘weltfremd’, and so are their criteria: best is what maximizes efficiency, and to a lesser extent effectiveness. The recent ‘defense of marketization’ by the Dutch association of economists KVS is a case in point (Van Damme and Schinkel 2009; see also Teulings, Bovenberg, van Dalen 2003; and for a critique Stam, Stellinga and de Vries 2010).

History has proven such economists wrong. The failures of their predictions and recipes are by now common knowledge. Many attempts at increasing the role of markets through liberalization have been counter-performative (Mackenzie et al 2007): they led to so many unintended and unexpected consequences, that the expected positive performance turned into its very opposite. The cases are growing on the trees: liberalized financial markets produced a meltdown of the financial infrastructure, liberalization of public transport led to a lack of sufficient investments in physical infrastructure; attempts to introduce free markets in health care are backfiring, as introduction of performance measurement (DBCs) has increased bureaucracy, discouraged innovations, reduced consumer choice, and reduced the demand for quality as those who pay - insurers - don’t ask for it (Horstman et al 2010); and the liberalization of taxi markets did not produce the predicted lower prices and better quality but, on the contrary, higher prices and lower service quality, up to and including fraud and manslaughter, instilling so much fear in potential customers that they rather refrain from buying taxi services, a literal case of market...
failure; something an author starting from the assumptions of the homo sociologicus rather than the homo economicus predicted 12 years ago (Van Waarden 1998).

History has also disproved economists in another way: societal institutions are never the outcome of grand design, even if regularly tried. Neoliberal economists may have their ideal world, their economic Mecca so to speak. Yet history has shown that reality is different. The right - in the sense of what people find right - balance and complementarity between markets, states and civil society is the outcome of history. It is determined less by the oracles of economists, but has been the product of historical experience, of problems that presented themselves, and solutions that were tried. It is the outcome of negotiations between different societal and political actors in the 'polis', actors with different perceptions and analyses of problems, and preferences for different solutions; preferences that may indeed stem in part from their particularistic interests, as economists like to emphasize. But more than that. Such actors have also belief systems, values, and morals. What 'should be' is not only to be decided on the basis of the efficiency criterion. The real existing combinations of markets, states, and societies were usually not produced by grand design, but by incremental policy changes under conditions of path dependency.

The development of the balance between markets, state, and civil society, both through regulatory measures as well as developments on markets and in society, is very much like the development of law, as so nicely described by US Justice Oliver Wendel Holmes in his famous 1881 treatise on the common law (2009: 1 (orig. 1881): "The life of law has not been logic; it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellowmen, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics. In order to know what it is, we must know what it has been and what it tends to become. We must alternately consult history and existing theories of legislation. But the most difficult labor will be to understand the combination of the two into new products at every stage. The substance of the law at any given time pretty nearly corresponds, so far as it goes, with what is then
understood to be convenient; but the form and machinery, and the degree to which it is able to work out desired results, depend very much upon its past.” What holds for the development of law, holds also for the development of regulation, and hence for the division of labor between market, state, and civil society at any given point in time. In this respects, economists could learn from lawyers, including the latter’s respect for history.

New configurations of market, state an civil society develop continuously, in response to new needs, and new needs in response to new problems such as crises and scandals, including unintended and unexpected consequences of earlier policies. Ordering and regulation of economic activity is a process of muddling through, conditioned by path dependency, by the already existing configurations, their performance and other experiences people have with them, their influence on societal interests, cultural values, and belief systems, and the expected costs and benefits of change.

At the base of the problem is that economics is in essence a very normative science, whether economists like to admit it or not. They pretend to be empirical, but are also very normative, as much if not more than those ideal-typical normative disciplines: law and theology. The ‘dismal’ science does not only paint gloomy pictures; it also shows the way out of the misery: more room for the spontaneous order produced by free markets. ‘hell is here, but heaven is near’. Many economists seem fully convinced that their theories and models show the way. How it ought to be, how it has to be, what is best for all. They derive their policy prescriptions from their assumptions, criteria, theories and models, and convey their messages in a language which is for many mysterious - mathematics - and which adds legitimacy to these messages - whether intentionally or not - similar to the role of Latin in the Catholic Church. And as priests and popes, a certain arrogance is them not foreign; as again testified by the KVS study.

An alternative to deriving the ‘right’ balance between market, state, and civil society from assumptions, theories and models, would be to try to understand why history has saddled us with the present distribution of tasks and responsibilities between market, state, and society. Why and how did we end up with what we currently have? Which organizations have assumed which tasks when, how, and why?
What were the processes involved? What the arguments and reasons for these choices? How come different societies have made quite different choices throughout their history? What were the developmental processes involved? How did they perform? And which configurations have survived the historical selection of the fittest? What were driving forces in these processes? What was the importance of functional requisites and the embeddedness in pre-existing structures and cultural values of the market, civil society and the state administration? And what of past power relations, interests, and their institutional settings? Finally, what can be learned from these historical experiences? Just as lawyers have tried to understand the development of the common law, so we can also try to understand the development of different forms of market regulation, that is, the relations between markets, states, and, societies, from their histories.

In the course of time, markets, civil society organizations and states have emerged to produce a great variety of goods and services, private, semi-private as well as public goods, the latter including all kinds of regulations of markets. They developed in mutual interdependence. The history of state formation is closely linked to the increased importance of markets, and that in turn to the rise of organizations of civil society such as guilds and charitable organizations. Market towns developed in the shadow of the castle of a lord, who provided protection and social order, in exchange for tax income. Markets needed also currency, which too was provided by the lord. The growing importance of a monetized economy facilitated in turn the state formation process, as payment in money rather than in fiefs increased the dependence of soldiers and knights on their lord, thus augmenting the latter’s power and contributing to further centralization of state authority (Elias 1982). For the protection of long-distance trade, merchants formed private merchant guilds (Greif, Milgrom and Weingast, 1996. Greif 2006), which regulated that trade through self-produced private law, a process that gets repeated now at the global level, where transactions are increasingly being regulated by standards set by various private and semi-private international organizations. Private and public judicial authorities emerged to enforce contracts, aid in debt collection, and in the formation of trust relations over longer distances.
Over time, markets, civil society organizations, and (local and regional) state authorities have produced hybrid combinations and forms of mutual support. In particular in the Netherlands, where a rich world of organizational innovations developed, including the limited liability stockholding company (the VOC, and other partenredrijen), a stock market, guilds and other associations engaging in self-regulation, voluntary associations providing military protection (militias) or care for widows, orphans, or the elderly, associations producing collective goods for their members (club goods), insurance companies setting regulatory standards for their customers, etc.

The diversity of forms produced by history makes clear that the categorical distinctions between market, state, and civil society are gross simplifications. Of course as abstract principles of allocation and regulation they may be useful conceptual instruments, allowing for a comparison of their respective strengths and weaknesses. But the categorical simplifications should not obstruct the view on the many combinations and forms of mutual support that societies have produced throughout their history. They add to the richness of economic institutions, reduce the black and white distinctions between market and state, and hence also the ideological conflicts over state versus market. Economists, used as they are to abstractions, tend to overlook the historical-empirical richness of hybrid forms, and seem to be still caught in the simplistic categorical opposition between markets and states, in which these are posited as alternatives or even ‘competitors’ opposite each other. In reality they are interdependent and complementary, and have developed concomitantly ever since the emergence of both the state and the market. It is not an issue of either the one or the other. Less state does not automatically mean more markets, and neither do more markets mean less state. The message of Stephen Vogel’s book of 1996 ‘Freer Markets, More Rules’, then an eye opener, has in the meantime become a commonplace. Indeed, neoliberals have in the meantime also realized that markets may need a ‘market master’ - now commonly called ‘authority’ - that the price mechanism alone cannot do the steering. Some public authority is often needed to correct for so called ‘market failures’. But for many economists that is the only legitimation of public interference with markets. For them, the market has priority; the state has merely a derived role.
Market or State? Meant is Academy or Polis, Technocracy or Democracy

Economists get in particular normative when it comes to the question what institution has the highest legitimacy, and hence which one should have priority: the market (economics) or the state (politics). The fact that they put this issue on the table is, by the way, an expression of their categorical opposition of these coordination principles.

For many economists the market has the highest legitimacy, then civil society, and only then, in emergency cases, when the ‘market fails’, the state. Not surprising in a way, that economists give priority to their main subject of study: the economy, the market. As Baarsma and Teeuves (2009) in the KVS-study clearly maintain: ‘first the market, then the state’ (2009: 47). They maintain that it is a choice based on scientific evidence rather than ideological prejudice: ‘Is the choice for the market as the starting point an ideological step as economists are often reproached? No, not at all. There are objective reasons to start with the market.’ (2009: 46) And they cite a lot of studies which should provide evidence for this. (Including a recent evaluation of market liberalization policies by its very own author, the Dutch ministry of Economic Affairs, which can be considered a case of ‘the butcher certifying his own meat’, to stay in the terminology of the current study.) However, these are at the very least disputable. There are certainly as many other studies that point to the ineffectiveness and negative consequences of markets, including the standard market failures. Both positions pro and con may be right, and both will have arguments and evidence going for them.

The point is that this remains a political choice. It is a choice to be made by political actors in political arenas, certainly in a democratic polity, and not by economic experts, claiming supremacy of their position in that debate because they dispose over ‘objective scientific evidence’.

Thus in positing the identification of the public interest as either coming from the market or the state, the 2009 KVS-study makes a logical mistake. One should distinguish the question what institution should be responsible for the provision, payment or allocation of certain goods and services (privately or publicly made, paid, or regulated) from the question from where we do derive the identity of the public interest and who should identify it.
The 2000 WRR study ‘Protecting the Public Interest’ (Het borgen van publiek belang) gives a democratic answer: political actors should do so via deliberation in the ‘polis’ (see more on the ‘polis’ as the location for the determination of policy Stone’s (2002) study on ‘the policy paradox’). The modern word for ‘polis’ is the ‘state’. As the state is the location where these democratic political choices are made, the state comes first. Not as the provider of goods and services, but as the location where choices about the division of tasks between the market, the state, and civil society are to be made. Any other position would be unconstitutional in a democratic constitutional state. That is also what the WRR meant in its 2000 study: ‘the state defines the public interest’. Not that the state should have priority in satisfying needs of citizens; but that it is the primary location where it is defined what private and what public interests and responsibilities are. The only possibility for a primacy of the market would be if that principle would be included in the constitution, at par with the principle of democracy or the rule of law. That has been done to some extent in the European Treaty of Lisbon, the European constitution that is not allowed to be called a constitution. But it is absent in almost any other constitution, perhaps with the exception of Chili, where the ‘Chicago boys’ managed to include it as a basic human right and organizational principle of Chilean society.

Economists claim that ‘the market’ should define the public interest. And, given the priority they give to the market, the market should try first to satisfy interests such as the need for goods and services, prosperity, employment, economic growth. Only if the market cannot do so, if there is a market failure, then there is a task for the state. But the market itself does not speak. Therefore it has to be represented by its priests or oracles, the economists. Saying that ‘the market’ should define the public interest, for which the state should be responsible, is saying that economists should define that, after consulting their modern versions of crystal balls and doodlebugs. I.e. it is not so much market versus state, as well as the ‘academy’ versus the ‘polis’, or technocracy versus democracy.

One should hence also distinguish public interest from public task: It is a public interest to have a prosperous economy thanks to well-functioning markets. It is a public interest to satisfy private interests, including allowing markets to do so;
conversely, it is a private interest to have a stable and effective state. Markets need governance.

Economists are in one way inconsistent. As true liberals they stress in the market place the individual and leave him completely free to define his preferences and interests. Degustibus non es disputandem, thus the famous saying. Although in a way they also define his interest for him in their assumptions: a rational actor should pursue his self-interest. Why not leave the same individual also that freedom in the ‘polis’? Let him there also define his interests, individually and collectively, according to the political rules of decision making. Isn’t it a bit arrogant, for economic scholars to claim to be able to deduce and define the ‘goals’ of and for the public from their assumptions, theories, and models? To pretend that ‘we know what is best for you, what you ought to want, what your interest should be?’ To claim to have to protect citizens against their own lack of insight if not stupidity? A kind of technocratic benevolent dictatorship. Is the public interest really ‘for the people’, but not ‘by the people’?

This pretentiousness is belied by history. Not any economists-elite has defined the public interest in the past; the public has done so itself, by political action varying from voting to protesting and revolting. As Stam, Stellinga and De Vries (2009: 60) write, ‘public interests are not given, they have to be discovered’. Not only and so much do they ‘have to be discovered’; they have indeed been discovered. And it has been done by political actors in the polis. The revolution of 1848 brought us our constitutional state; social unrest in the post-WW I years laid the basis of our body of labor law, and buyers’ strikes by cheated customers in export countries instigated the first food quality standards in a country with a trade history and dependency: the agricultural quality law (Landbouwkwaliteitswet). Many other market interventions by the state have come about following crises, revolts, or complaints: pharmaceutical regulation (after the 1963 Softenon scandal), rules on door-to-door hawking, false advertising, etc. Many of the public interests and subsequent regulations concerned ‘collateral damage’ caused by the market: exploitation of workers (the ‘social issue’ (‘sociale quaestie’) of the late 19th, early 20th century), consumers cheated with adulterated foods or usurious insurance policies, small stockholders, jobless workers, polluted environments, exploited children in the third world, etc. Strange to call that
'market failures': the markets worked well; however, they were also destructive, and produced risks and victims. According to economists, markets ought also to be destructive at times. Destruction and survival of the fittest are a form of 'creative destruction' (Schumpeter ...) and survival and prosperity of society as a whole. But just as we in society do not let our ‘useless elderly’ die (like the Eskimos supposedly left them behind on the ice), but have welfare state and health care programs take care of them, so we also do with the victims of this creative destruction in the marketplace. That is after all a symbol of civilization. Actually, the victims have revolted themselves, then and now. Citizens in the polis have become less and less willing to accept such destruction, risks, and victims. ‘Pech moet weg’ (bad luck should go) wrote Mertens et al (2003). And many actors in the polis are of the opinion that the state should take care of that. They call for more and more ‘risk regulation’. There is a veritable revolution of rising expectations towards the state.

Our current regulatory needs have neither been discovered nor predicted by economists, but by the victims of the financial and food crises: revolts of and lawsuits by the small stockholders and bank customers. Just as now in these crises our ‘worldly philosophers’ (Heilbroner 1953) have been overtaken by events and are nervously trying to adjust their theories, models, and predictions in order to save some of their pontificate legitimacy. Much of law, statutory as well as case law, private and public law, affecting the relations and division of labor between market, state, and civil society have come about as Oliver Wendel Holmes described it above.

**History: first Market, then State**

As regards the provision of goods and services, there has been in history probably mostly a primacy of the market: A need develops and in first instance enterprising individuals offer to satisfy those in exchange for money or any other compensation. Where more than one such enterprising individual gets up, they become competitors and a market has come into existence. Sooner or later problems on this new market emerge, such as the familiar problems of monopolization, information asymmetries allowing for adverse selection and resulting in a downward spiral of quality and prices, lemon’s problems, negative externalities, etc. Such problems call for
regulatory intervention, which is eventually provided by some actor with the authority to do so. Thus newly emerging markets have eventually called for state intervention, and where there was no state yet, such authority was eventually formed, after other regulatory possibilities (reputation effect, self-regulation, the medieval merchant guilds etc.) did not work sufficiently well as their actors did not have enough power or resources to do the job.

This process gets repeated time and again: from product to market, to sub-markets, to need for regulation, attempts at self-organization and self-regulation, eventually also involvement of a state authority. It can be illuminating to study new cases, thereby combining knowledge gained from these older processes ‘from state to market’, with the new circumstances under which new markets have to function. History is still being made every day. We can witness it. That allows us to observe and analyze this process right now. That is what this study tries to do: to observe, describe, and understand the development of new configurations of market, state, and civil society around new emerging needs which have led to new markets for products.

New needs appear regularly and new markets are formed. Which pose new problems, dependent on the nature of the product, the publics that it serves, and any new conditions under which it has to function. Often product innovations are such starting points for the search for new combinations of markets and states. Examples abound: the car, the airplane, the TV, the computer, XTC or poppers.

**A New Market: Halal Certification. Also a new Role for a State?**

Occasionally also an old long existing product forms or acquires a new market. In this study we focus on such a newly emerging market. However, not for a new, but for a very old if not the oldest product in history: meat; and for very old rules relating to this product: Muslim religious norms. Our focus is the market for halal products - on which meat takes a central place - in the Netherlands, and, derived from that, an additional emerging market for information about and quality certification of such products, at least in the West. There may be states in the meantime; however, they hesitate to get involved in the regulation of religiously defined products. And
what is more, it is becoming a global market, and at that level of aggregation there is as yet no public authority to regulate such a market.

This new old market is especially interesting, because it has two special dimensions, one old, one new:

1- Religion, whereby there is diversity regarding whether religion is only part of civil society and separate from the state (as in non-Muslim countries like the Netherlands), or whether it is interrelated with, if not integrated within, the state (as in Muslim countries, to which the Netherlands exports).

2- Globalization. The emerging market for halal food is becoming a global market. And at that global level:

a) Civil society is highly differentiated in sub-societies identified by cultural variables such as ethnicity, religion, and language

b) The market is similarly differentiated - also along lines of interpretation of religious norms

c) Absence as yet of a global state authority that could regulate this global market.
1. Introduction: A New Commodity and a New Old Public Interest?

1.1. What Commodity?

Market liberalization policies have not only liberalized markets for existing goods or services, they also have given rise to new markets, that is, new forms of commodification. It has led to a demand for new products and services which could have the character of a private good, that is, a good for which the suppliers can charge a price to prospective buyers, because its consumption is excludable and rival, and for which hence markets can develop.

As buyers get more choice options following market liberalization, they need information about the choice options in order to be able to make well-considered rational choices. As has in the meantime become common knowledge even among mainstream economists, the state of ‘nature’ on the market does not provide sufficient conditions for buyers and sellers to make perfectly rational choices. Parties tend to engage in transactions under conditions of bounded rationality: they have only limited information as regards first of all their own needs, goals and preferences; secondly about the choice options available to satisfy those needs and the degree to which these options can satisfy those needs, i.e. the means-ends causality involved; thirdly about the real value or quality of these choice options; and fourthly about not only the benefits but also the costs of these choice options, including their (long term) unexpected and possibly unintended consequences. Hence, before entering in transactions, prospective buyers need to collect and process information, about what they want, why they may want it, where they can get it, how reliable products and sellers are, etc. That is, they have to engage in search strategies\(^1\). Collecting and

\(^1\) For an interesting anthropological study of such individual search strategies on Moroccan souks, see Geertz 1992.
cognitively processing, and evaluating that information involves time, money, effort, and energy. Hence transactions involve transaction costs.

A specific category of transaction costs are those that emanate from the likelihood that buyers and sellers have different amounts and quality of information about the product or service to be traded, i.e. that there is an information asymmetry. Usually the seller has more knowledge of the quality than the buyer as he is familiar with the product, knows how and where it has been produced, transported, and possibly also already used, what its past history and performance has been, etc. The buyer has more difficulty to distinguish better from poorer quality. This information advantage provides the seller with an opportunity to profit from it, by sketching an overly rosy picture of the quality, and in the extreme by cheating the seller. Therefore it is frequently not ‘what-you-see-is-what-you-get’. Our recent Nobel prize winner in economics, Oliver Williamson, identified this risk for the buyer in his famous 1975 study as the risk of opportunistic behavior by the seller, but long before economists discovered this, society has been aware of it, as apparent from the fact that many languages have age-old expressions for this risk: The Dutch have the saying that one should watch for ‘being sold turnips for lemons’ (‘je knollen voor citroenen laten verkopen’) and the British warn the buyer with the proverb ‘the buyer needs a hundred eyes, the seller but one’. Thus buyers need also information - i.e. incur transaction costs - to reduce this risk of getting cheated by narrowing down the information asymmetry with the seller.

The fiercer the competition, the greater the temptation or even pressure on suppliers to try to take advantage of information asymmetries. And as market liberalization is meant to increase competition, it also increases the risks of buyers to get cheated and hence the need among prospective buyers for information or otherwise protection against opportunistic behavior by the sellers.

Transaction costs have to be balanced against the benefits of an informed choice. That depends on what the choice concerns, how important the product or service for oneself is, e.g. because of possible consequences, or how much is being invested in terms of time and/or money. Obviously, engaging significant transaction costs makes more sense if the benefits of a good choice are high, or the costs or risks of a wrong or bad choice are high. The value of information and hence the incentive
to try to acquire it increases with the importance of the good or service to be provided. It would be rational to incur more transaction costs if the choice concerns choosing a university education and hence a future career, or a major financial investment, but not if the choice concerns only buying an apple. In principle it would be even more worth to invest a lot in information gathering and negotiation in case of goods or services whose quality could have life threatening consequences for the consumer. Examples are services where the buyer is at the same time subject of the service provided (so-called ‘human services’), i.e. where he has to surrender himself passively to the service provider - surgeon, dentist - in the hope to survive.\(^2\)

If the risks of getting cheated or maltreated are too high, buyers might hesitate or even refrain from engaging in the transaction. This risk of less transactions taking place - i.e. negative growth - could result in a negative spiral of ever less transactions as described and analyzed by Akerlof (1970) in his well-known ‘lemons’\(^3\) problem: information asymmetries and opportunities for deception make prospective consumers wary to engage in a transaction, lower prices are needed to entice them to do so nevertheless, which increases the pressure on producers to lower quality of products on offer on the market further in order to still earn something with lower prices. Conversely producers of good quality products refrain from offering their goods on the market, as they cannot get the real value for their product, because prospective buyers are reducing the price they are willing to pay with a risk premium for the risk they run to end up with a poor quality product. Thus - in a modification of Gresham’s law - the bad products and producers drive the initially good products and producers from the market; resulting in a negative spiral of ever lower prices and lower quality.

In theory this would eventually destroy the market: consumers would not be willing to buy anything anymore, and sellers would no longer offer anything for sale.

\(^2\) Curious enough most consumers of health care services invest very little time and money in collecting relevant information about the quality of the service and the reputation of the service providers. They tend to rely on the public certification of physicians based on years of training and practice. See further.

\(^3\) Akerlof uses the term ‘lemons’ in the American meaning of older (poor quality) second hands car, where the information asymmetry is relative great due to the fact that every second hand car is unique, as it has its own special history of driving style of the driver, repairs, accidents, or even of turning back the speedometer, odometer, etc., which only the seller knows. Curiously enough, Americans use - at least in this context - a lemon as symbol for poor quality; whereas in the Dutch proverb ‘selling turnings for lemons’ the lemon stands for a high quality product.
No transactions would mean no market. I.e. this would be a literal case of ‘market failure’: the market would fail to materialize and to work⁴. This theoretical logic of the lemons problem depends however on the assumption that consumers can wait with engaging in a transaction. That is not always a realistic assumption. It may hold for the choice to buy a second hand car or for other luxury products. But it is different with vital necessities of life: food, shelter, clothing, warmth, gasoline, other sources of energy, life saving health care. Such products one has to buy sooner or later, usually sooner. That is, one may have to accept whatever food is on offer, even if the bread is diluted with sand or the milk with water. The same holds for labor markets: poor workers cannot wait to sell their labor to the capitalist, even if they get exploited and receive only a starvation wage. They may have to accept anything that is available to them. Thus, not only asymmetries in information (1) affect the power relations in potential transactions, but so do asymmetries in the ability to wait (2), as well as in the availability of alternatives (3). The last condition is a classic one in economics: monopoly/monopsony or oligopoly/oligopsony positions on markets - i.e. less alternatives for one transaction partner - bias power and bargaining relations and allow for the other transaction partner to extract undeserved rents in their transactions⁵. The first one, information asymmetries, has in the meantime become common knowledge in institutional economics, since the work of Coase (1937), Williamson (1975, 1996), and Akerlof (1970). The middle one, asymmetries in the ability of the potential transaction partners to wait, has not received much attention in mainstream economics. However, it has been stressed in Marxist economics, among

⁴ Strictly speaking one would expect that the term ‘market failure’ means just that: failure of the market in allocating goods or services, because potential transaction partners refrain from entering in the transaction. It would be a case where ‘the market would not work’. Examples would be strikes by workers or consumers. However, economists tend to include among ‘market failures’ also all kinds of ‘collateral damage’ which the ‘free market’ produces by the wayside: in addition to the traditional ‘externalities’ as exploitation of the environment (pollution) and exploitation of (child) labor one could include here also cheating, corruption, distrust, destruction of social capital, class conflict, exploitation of the less powerful (people, organizations, countries) by the more powerful, etc. However, such negative side effects are no failure of real markets, they are real consequences of real markets. What is failing here is at most the idealized perfect market, whereby the costs of such negative externalities (as well as possible positive ones) are not included in the market price.

⁵ One of us elaborated this in an earlier study of labor relations in the history of the Dutch cotton industry (Van Waarden 1982)
others by Ernest Mandel (1975). More in general, the rich have all three power advantages: they can increase their alternatives by traveling elsewhere where there may be alternative suppliers; they can wait; and they can afford to collect information or recruit expert advice before entering in transactions. Use of power may be abuse of the market, which is again abuse of power. That needs to be corrected for, not only to stimulate transactions and growth, but also to equalize positions of power in these transaction relations.

1.2. Why or to What Extent a Public Interest?

Trade seems to be in first instance a private interest of the partners involved. But there is a basic public interest in a well functioning market. And curiously enough, it is a public interest in the satisfaction of private interests, namely the interests of potential transaction partners in reducing the risks and uncertainties that come with information asymmetries, among others the risk to get cheated. These individual risks produce individual behavior - refraining from concluding transactions, engaging in commercial, legal, or in the extreme case, even violent social conflict - which at the aggregate level produce collective outcomes that are undesirable: mutual distrust, crime, social unrest, decrease in prosperity, negative growth.

Information asymmetries, risks and uncertainties produce distrust between potential transaction partners and in society more in general. Distrust is sand in the cogwheels of society, in the economy, politics and government administration. Many have already pointed to the dangers of a decrease of mutual trust for the social structure in society (Fukuyama 1995, Putnam 1993). In the economy distrust may induce potential transaction partners from concluding a transaction, which implies less economic growth, if not economic stagnation. The consumers-strike of beef after the BSE-scandal or the recent plummeting shares on the stock market, are cases in point. Who is still willing to sell anything if the trust in the stability of the currency has declined to zero? Who still wants to purchase stocks when the annual reports of companies are not trustworthy anymore? The crisis of confidence caused by the Enron-Anderson scandal led to an enormous destruction of capital in this manner.
From one day to another 35 billion dollar of investment capital went up in smoke. Furthermore, too much distrust is also disastrous for the legitimacy of politics and government. In a modern society, zillions of transactions between citizen and citizen as well as between the state and its citizens take place - transactions which may involve information-asymmetries - which require some minimal trust in the truthfulness of required information. Fraud is hence not only unfair or immoral, it is also dysfunctional.

The general public interest in security, social order, and the protection of life, liberty and property concerns also the market place. There should be no abuse of information asymmetries, opportunistic behavior, cheating, fraud, theft, or otherwise abuse of information asymmetries such as with ‘insider trading’ in financial markets, but on the contrary literally ‘honest trade’. Behavior that is prohibited in society in general should also, or rather, especially, be banned in the marketplace. Trade should be ‘fair’ and markets transparent. There should be equality of information, or at least in principle equal access to information. Selling something for what it is not - poor for good quality - can be considered a form of theft: the seller extracts more monetary property from the buyer than the exchange justifies. Just as in society in general the rule of law should also reign in the marketplace. It should regulate social interaction there, i.e. commercial transactions.

That is for several reasons a public interest. First of all to secure social peace and law and order on the market itself, an interest to fight crime, to prevent that aggrieved traders take the law into their own hands, such as with tit-for-tat behavior, in the extreme case honor killings, lynchings or social unrest. Secondly, it is also a public interest because the fear to get cheated may refrain potential transaction partners from engaging in transactions, thus lowering subsequently demand, prices, supply, employment, growth, and prosperity. That is, the market ‘fails’ literally. This downward spiral can be set in motion with a buyers-strike of domestic consumers, but in an open economy as the Dutch one, a foreign buyers-strike may be even more disastrous. If foreigners do not trust ‘Dutch produce’ anymore and close their markets for imports from the Netherlands that sets this negative spiral in motion.

There is a public interest in prosperity, hence in well-functioning markets, as a value itself, but also as a condition for political stability and social peace. Discontent
among citizens breeds social unrest, reduces the legitimacy of the political system and the survival chances of political leaders and sometimes even the state itself (as it becomes an easy prey for other states or because the citizens prefer the security of a larger state entity, as now with the Icelanders who suddenly yearn to give up their independence by joining the EU).

Well-functioning markets are more than free markets, they are well-coordinated markets, where the risks and uncertainties of potential transaction partners are reduced to at least such a level that they are willing to engage in transactions. Prosperity may be a condition for social order and political stability; the reverse also holds: Political stability and social and legal order enhance prosperity. As Hobbes (1651) already wrote, in their absence ‘there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodions Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare.’ (Hobbes, 1968, orig. 1651: 186)

1.3. Who? Which Actors provide it?

1.3.1. The emergence of new markets for information and certification

Could this public interest be satisfied by private actors? The public interest in a well-functioning market has of course indeed to a large extent been served by the actors on that market, by their trading action. The question is whether and to what extent they can also provide the condition for it: reduction of risk and uncertainties by correcting for information asymmetries. The market itself has indeed provided many solutions throughout history.

First of all, the seller may provide information to the prospective buyer in order to convince him or her to buy. He could do so in a) marketing and advertisement; by b) labeling his product with information about it, its use, and
perhaps even its production process; and c) he may provide ‘money back’ guarantees to the buyer, e.g. if the product turns out to have defects of deficiencies or if the consumer is otherwise not satisfied.

But how to be sure that the information given by the producer is true, objective and complete and that he will live up to his promise of a money back guarantee? Again the market may do the job. If the buyers could be or become recurrent buyers, the seller has an incentive to care for his reputation, in the interest of future business transactions. At least under the assumption that it is likely that the buyer will be able to recognize the buyer as being the one he has dealt with before. In competitive markets, this may turn into a competition for the best reputation, a competition which may be aided by the development of strong brand names. Where the reputation mechanism does not work, either because of limited competition, low frequency of transactions between the same persons because the product or service is only rarely needed (so that buyers cannot punish sellers for poor performance the next time around as there is no next time any time soon), or intransparency of the market due to information asymmetries as regards the reputation of the different sellers, third party involvement may be needed.

Such third party services have again first of all been provided through the market mechanism. The demand for more reliable and trustworthy information from independent, supposedly objective, third party involvement has produced its supply. A veritable plethora of enterprising entrepreneurs has popped up to fill this expanded market niche for information providers and risk reducers. Commercial information providers, book and magazine publishers, detectives, appraisers, auditors, certifiers, rating agencies, hallmark producers, accreditors, mediators, real estate agents, art experts, other brokers, dealers and experts, etc. have presented themselves. They either provide themselves supposedly more objective third party information about the quality and reliability of the product and/or the producer. Or they sell information which confronts buyers and sellers with evidence that the information provided by the supplier has been right or wrong, complete or incomplete. And they do so for a great variety of products and services, including raw materials, transport conditions, labor, working conditions, etc.
Product certification is as old as fraud and deception and that has been of all times: smuggling, coining, swindling, embezzlement, gambling with weighed dices, forgery, corruption, tax evasion, the quacks in the paintings of Bosch. The early Middle Ages knew a lively swindle with relics. Bone pieces of saints were believed to provide protection, both in the political struggle and in economic competition. As long as people believed in that power it was indeed real - following the well-known Thomas theorem (‘If men believe something to be real, it is real in its consequences’). It was also believed that objects such as little cloths (‘brandea’) that had lied on top of relics had acquired the holy power. That led to an extensive fraud with relics, and inflation of their value, which produced a need for certificates of authenticity. The relics that authorized and certified in the name of God the authority of the Carolingian kings, needed themselves a certificate, of the relic keeper. They came about, little pieces of parchment called ‘cedula’, with two wax seals of an authoritative person fixed to a piece of bone or cloth and with the text that they were ‘pars’ of one or the other saint. The pilgrims who traveled to the relic safekeepings were also in need of a certificate: a pilgrim medal to prove that they had really been there. (source: treasury of Saint Servaas, Maastricht). History abounds with cases of certification. Guilds had their cloths hallmarks and the witch’s stool in Oudewater certified on request that one was too heavy to be a witch (one could not fly on a broom), a certificate that was valid in the entire Habsburg Empire.

However, the number and variety of hallmarks has strongly increased. In shops, newspapers, on the internet, on all kinds of specialized markets, one is greeted by a bewildering amount of quality certificates, that all praise specific products and scream for attention. Food producers launch new brands that pretend to satisfy the need of consumers for certainty as regards safety, health, animal friendliness, environmental responsibility, or fit with specific belief systems. Commercial agencies dive in this market for ‘information’ and try to build a reputation as reliable certifier, and to get producers to accept (and pay) for their certificates. Consumer and sectoral producer associations try to do so as well. Familiar ones like the ‘Kema Keur’ and the hallmark of the Dutch Association of Housewives have been joined by some of the most outlandish types. Meanwhile there is even a hallmark for extortionists, although de facto and unwillingly: the ‘Kidnap and Ransom’ (read: ransom money) policy of insurer PIA Nassau: information about it tells the potential extortionist where he has
to be to prize off a ransom quickly and without too much hassle (Volkskrant 09-04-03).

Even the trade unions reached for the regulatory instrument of certification to defend workers interests. Whereas in the past they would defend these interest by organizing a strike or lobbying or negotiating with the government over protective regulation, they now seek recourse to quality certificates - for working conditions. Thus the Dutch union for film and tv crews has developed a certificate for film- and tv producers that ‘treat their crew-members on the movie sets decently’, as many workers make long 16 hour workdays, get poorly paid, and lack, as formally self-employed, wage contracts (‘FNV werkt aan keurmerk voor film en tv’, Volkskrant 29-01-2010). Rather than using working class power, the unions seek recourse now to consumer power. Certification seems to have become the new fit-for-all solution to a great many problems, both in the private and the public sector (as, in the latter earlier the privatization and NPM policy fashions, cf. a.o. Van Thiel 2000).

Unclear is whether the popularity of hall-marks and certificates is an indication of institutionalized distrust, or whether it has merely become one among many commercial fads and fashions, that may eventually blow over again once their own reliability and reputation is increasingly questioned.

However, certain is that market liberalization has turned this into a booming market, as freer markets are also markets where prospective transaction partners run more risks and uncertainties; and that exactly at a time when people are less willing to accept risks and uncertainties as fate, as something they have to risk, because our knowledge of risks as well as of instruments to reduce such risks has increased - new medicine against infectious diseases, insurances against financial risks. What has become possible should also be used. And where risks are known, information should be communicated about it.

Take the real estate agents for example. In the past a realtor had to be sworn into office by a judge. Since the first of January 2001 everyone can go on the road. Just like in the taxi-branch the moonlighters pop up everywhere, because selling a house means quick and good money, now that the prices of houses have increased so much. In order to sift the wheat from the chaff private instead of public hallmarks are
now coming into being: the membership of the NVM, the Foundation Hallmark Mortgage Mediation, or the Foundation for Recognition Regulation Mortgage Advisors. Their members supposedly have to do a ‘trade exam’, keep their knowledge up to date (of what?), and they are sworn in (by whom?).

Third parties have also found commercial opportunities in providing services that aid in negotiating, closing, and enforcing contracts, all instruments for prospective transaction partners to reduce the risks and uncertainties they may run into when engaging in transactions. Such services are provided by lawyers, accountants, notaries and bailiffs, and in certain markets even by the mafia.

The information service providers can make a business out of it first of all by directly charging a price for their information. Sometimes their customers are the prospective buyers in the transactions, as with newspapers and magazines who sell publications that compare goods, services, and their providers, ranging from the latest notebooks, vacuum cleaners, hotels or holiday trips to the best universities and the hospitals where one has the greatest probability of leaving again alive; or brokers or mediators who offer their expert knowledge of e.g. financial or real estate markets to prospective buyers. In other cases the producers and/or sellers are the ones who pay, such as for audits, quality ratings, or certificates that should make the prospective buyers believe that the products and producers can be trusted.

Secondly, some information service providers earn their income from advertisements accompanying free information, with the free information being the bait for the fish. Freely accessible websites compare products or allow experienced consumers to exchange information about products and suppliers, while sneaking in advertisements in banners above, below or even between the lines and/or offering immediate links to the producers and sellers of the evaluated products.

Thirdly, services are also provided by public interest organizations with at least a less explicit profit incentive, such as consumer associations that provide information services in lieu for general membership dues.

The essence of certification is that it is an indirect form of market regulation. Unlike regulation which is imposed by some public authority in the form of bans or commands or prohibitions, certification is officially voluntary. It is a requirement not
imposed by the state, but by customers, investors, workers, and sometimes even suppliers. Whether or not they choose to do so is initially up to them. Transaction partners have formally a free choice, whereby certificates are supposed to provide merely information relevant for this choice. The paradox is that such information that originally was voluntary has often de facto become obligatory: transaction partners won’t engage in a transaction without the certificate or the rating for financial reliability by Standard and Poor’s, or for the corporate social or environmental responsibility guaranteed by the hallmarks of the Fair Trade Label Organization, the Marine Stewardship or Forest Stewardship Councils (Van Waarden 2009).

1.3.2. Problems

All these commercial initiatives of private information providers, raters, certifiers and regulators may go some way in alleviating the problem of information asymmetries and the resulting distrust in transactions. However, history has shown that sooner or later they turn out to have their shortcomings.

First of all, how to trust the information providers and certifiers? How reliable are their certificates? Can one trust them? The problems caused by information asymmetries and pressures and opportunities for fraud that haunted the original products and services concern the quality certificates of these products just as much. And the certificate producers tend to follow similar strategies in attempting to raise the status and reputation of their certificates: advertising, labeling, detailed information about the bases of the certificates, guarantees, development of a brand name, and in the end also third party verification/certification of the certificates and certifiers. This is usually called accreditation of the certifier. But the problem gets repeated then again for the accreditor. In principle the chain of certifiers of certifiers of certifiers, etc. of products could become endless, if the suspicion in the market is great enough. In reality it can of course not be endless. All these levels of control add to the transaction costs of the original products, and when these become prohibitive, transactions may either not take place, or the buyer will have to take some risk. In the end the consumer will have to trust the highest level of certification.
The trust problem concerning the private certifier can get exacerbated by a number of conditions. A first one is the question where the certifier gets his income from, who his client is directly. In principle that should be the one who profits from the information, the prospective buyers of the product or service that is being certified. But if they are as yet unknown, how can the certifier charge them? Exceptions are where the prospective buyer approaches an expert to rate the quality of the product, because it concerns a costly transaction with high risk of making mistakes, as with buying a house or a major piece of art, or when investing large sums in risky financial assets. Then the buyer pays a fee to his advisor, agent or broker. When it concerns a mass produced product whose quality certificate is addressed to a mass of anonymous customers the certifier cannot directly charge those. An exception is where a consumer interest association, formed by prospective buyers, compares and rates products. Then the association issues de facto certificates and pays it out of membership dues. In all other cases it has become common usage that the producer or seller is the one who pays the certifier for certifying his products. That is like ‘trusting the cat to keep the cream’. Indeed, the wisdom of proverbs tells us what to expect in such cases: ‘he who pays the piper calls the tune’. Thus information, ratings and certificates may be(come) biased. Already that suspicion would be sufficient to make the buyer distrust both product and its certificate making the latter practically useless and unsaleable and furthermore resulting in a dramatic loss in demand, i.e. a crisis on the market. The recent financial scandals, first the Enron case, which destroyed the reputation of its accountant Andersen, and then the Mortgage Backed Securities crisis, which seriously hurt the reputation of their rating agencies Standard and Poor’s and Moody’s, have underlined that once again.

A second problematic condition could be the presence of several competing certifiers, i.e. a situation where there is a market for certifiers, which may differ in degree of seriousness and professionalism and hence quality. It may provide the customer with choice; on the other hand it also tends to produce intransparency and confusion. What is more, the resulting competition could very well focus on that what is most visible and easiest to compare for the customers: the price. Competition may not only be an incentive for maintaining or raising the quality of information, but also for the opposite: price competition tends to exert downward pressure on quality. The certificate provider is under competing pressures from on the one hand maintaining
quality and reputation, but on the other hand keeping prices as low as possible. The temptation to relax quality standards in the interest of more competing prices is greater as the customer is less able to judge the quality of the information, as is frequently the case. There is not only an information asymmetry problem as regards the quality of the rated good or service, but also concerning the quality of the information about it.

Trade associations who selectively recruit members and certify them in order to distinguish them from unorganized bunglers may get confronted with collective action problems inducing members to defect the self-regulation scheme. The competition from the outside bunglers may force some association members to lower prices and quality, while still free riding on the overall collective reputation provided by the association. In time, more and more members will be under pressure to defect, making the association hallmark eventually useless. Certificates from consumer associations and other more independent and objective certifiers may be unjustly applied by those who have been certified or may even be illegally copied, thus also decreasing their credibility.

1.3.3. State Involvement

All in all, such problems of certificate inflation, product laundering, and collective action produce calls for yet a higher or more respected authority to back up the reputation of the certificates or even to take over the responsibility for the certifying itself. Such an authority could be in principle anyone whom the customers consider an authority, varying from God and his representatives on earth to expert scientists to pop stars, film stars, soccer heroes or other charismatic figures. A critical press broadcasting critical consumer programs such as in the Netherlands ‘Zembla’ or ‘Keuringsdienst van Waarde’ could also contribute.

However, in our secular society the last authority has sooner or later has become the state, as it is considered ‘the ultimate risk manager’ (Moss 2002). It has in principle the power to enforce its standards. Furthermore, most citizens believe the state to be more neutral and objective than private actors with their particularistic self-interests, because a) it does not need to be directly paid by those to be certified, as it
can fund its work out of general tax income; and b) it is accountable to the general public, i.e. to the control institutions typically of a democratic constitutional state. After all, in such a democratic country the state is ‘from us all’ and therefore expected to represent the ‘public interest’. What is more, as long as citizens trust the state to be so, it is sufficient for public certification to do the job of providing trust of potential transaction partners in markets.

Given the public interest in facilitating and encouraging economic transactions, states have early on assumed a role in ordering markets. The centuries old process of state formation went hand in hand with increase in transactions and economic growth, whereby the one facilitated the other and vice versa. The increase in trade and prosperity allowed for surpluses to be taxed to fund the state and its regulatory and enforcement organizations. Conversely, the market ordering by the state reduced the risk of transactions, thereby facilitating and increasing them.

Market ordering went first through private law and criminal law, emerging out of local customs and conventions, but sanctioned and eventually codified by the state. Basic rules of the market game were set as regards mutual obligations of transaction partners: information provision, contracting, honest trade, liability. Fraud and deception were sanctioned under criminal law, but aggrieved parties could also claim damage compensation under tort law.

Eventually that was complemented by social and economic public law, usually motivated by the need to correct for information and power asymmetries in transactions by protecting the weaker parties in them, such as children, workers, individual consumers, smaller businesses. Concretely, this meant the setting minimum standards for goods and transactions, as in general labor and consumer law, and in legislation for specific goods, services, and sectors, such as food, drugs, toys, housing, finance, insurances, or health care. In essence such public regulation set minimum standards for products, services, and contracts, i.e. they reduced the freedom to contract. What was originally possible became henceforth impossible, what was voluntary became compulsory. Such statutory measures also reduced the pressure of competition on transaction partners to accept undesirable conditions or consequences, including e.g. the pressure to lower quality standards to survive cut-throat price competition.
In order to implement those regulations, a great variety of regulatory, inspection, enforcement and adjudication bodies have gradually developed, starting with the very basic such as courts and constables, unto the many autonomous sector regulators that have been created over the last decades.

In exceptional cases the production of goods and services was initiated or nationalized by the state, i.e. they were decommodified or could not be commodified. This was either because they were considered to be of essential strategic importance (physical and legal infrastructure), because they had characteristics of public goods, characterized by non-excludability and non-rivalry, making it impossible to produce them commercially, or because it was the only way to gain sufficient trust among potential consumers so that they would enter in transactions. Direct hierarchic control over production by publicly accountable authorities were in the latter case the one definite way to guarantee consumers that their chance to get cheated in transactions would be minimal.

Frequently, in intervening in the market the state build upon pre-existing private forms of market regulation, product certification, and conflict resolution, in particular in the Netherlands with its centuries’ old rich history of such private initiatives (Van 1985, 1992, 1995). The state tolerated, sanctioned, or extended self-regulation by sectoral trade associations, and it also took measures to protect quality brands and certificates. Intellectual Property Rights legislation has allowed for the registration and protection of brand and certificate names, and makes copying illegal, thus in part protecting also their reputation. More far reaching is the possibility to have private certificates checked on their value by formal state accreditation. To these ends states have created both Patent Offices and Accreditation Councils.

In this study we intend to focus now on a case which forms an exception to the rule that where a public interest is involved, sooner or later public regulation in one way or another has emerged: the reduction of risks and uncertainties for buyers of a special kind of products, *halal products*, products that are safe for Muslims to consume or use. There is a clear public interest involved here (albeit a different one for different ‘publics’) but as yet there is no involvement of public authorities and employment of public resources, such as tax money, the neutral reputation of the state, and binding regulations backed by criminal or administrative sanctions.
The Dutch state has refrained from intervening here, at least with economic public law measures. (It does of course back private contracts by civil law.) It only feels a responsibility for the physical well-being of its citizens and hence controls whether food - an important halal product - is safe for the body, not for the soul. The Dutch state does not feel responsible for the enforcement of religious standards for food or other products.

Even if the state would get involved, it is questionable whether the specific public (Muslim consumers and traders) would even like the secular Dutch state authorities to get involved, whether they would trust it enough, or even see a task in the enforcement of their religious standards.

In the absence of such state intervention a market for private halal-certification and product-information is evolving both in West-European countries and globally, which forms an interesting case for studying both the ups and downs, strengths and weaknesses, problems and solutions of a newly emerging market, as well as for studying its capacity as a private regulator for another market, that of the halal-products that it certifies.
2. A New Market: The Demand for Halal Product Certification

2.1. The Problem: Halal Trade Fraud, Adulteration and Halal Laundering

On January 21, 2010, the Dutch TV program *Keuringsdienst van Waarde* (‘Inspection of Value/Commodities’) aired a critical documentary on the quality of döner kebab under the title ‘investigating the exotic ground-meat stick’ (‘Keuringsdienst van Waarde onderzoekt de exotische gehaktstaaf’ [http://sites.rvu.nl/page/7202](http://sites.rvu.nl/page/7202)). The journalists bought a random sample of 10 such Turkish sandwiches sold as made of “100% lamb” from different snack shops and had them analyzed in a laboratory. Only 1 of them turned out to be really that what it was pretended to be: 100% lamb meat. The others were made of: 1x 100% mutton, 1x 100% beef, 1 x 100% turkey, 1 x 100% chicken, 5 x a mixture of mutton and beef, and, believe it or not, one sandwich, sold as lamb, was made of 100% pork. Now, getting cheated is already a hassle for any consumer. But for a practicing Muslim consumer to buy lamb and get pork is a way more serious affair. Lamb is ‘halal’ or pure; pork is ‘haram’, unclean or even sinful. It is about the worst that can happen to a devout Muslim. Already to be in the neighborhood of pork or eating something that has been transported in the same van as pork is a threat to salvation.

However, the sandwiches were cheap: 2 euros on average. The TV-journalists went also to Germany - where döner kebab originated - and confronted kebab sellers there with the story. They were highly surprised: ‘Of course for 2 euros it could never have been pure lamb, as that is much more expensive! They must have put in all kinds of garbage!’ Pork, but also mutton and beef are cheaper ingredients. And Dutch consumers are known to be price buyers when it comes to food, in comparison to other national cultures - Italy, Germany, France - where food quality is higher valued and people are willing to pay higher prices for quality (Van Waarden 2006). What is
more, customers of kebab booths are not likely to be critical, sophisticated and dainty gourmets, but youngsters looking for a quick, nourishing and cheap snack.

Apart from price competition, sellers may be tempted to use cheaper ingredients than pretended in order to reap extra profits. Even if it would mean that they would cheat fellow Muslims on their road to Allah’s nirvana. Whether the incentive would be to lower costs and prices (in order to withstand or outperform competition) or to reap extra profits, the effects would be the same: lower food quality.

The temptation to follow such a strategy is of course facilitated if consumers cannot easily judge product quality. Typically, transactions involving food are characterized by information asymmetries. The seller tends to know more about the quality than the buyer. Where, when, and under what conditions was it harvested, preserved, processed, stored, and mixed? The asymmetries increase as the distance from farm to fork increases, that is, as consumers cannot themselves trace food products (any more) to the original producers and with already only a few more intermediaries and processes in the food value chain this becomes practically impossible. Furthermore, as the food chain gets longer, original foodstuffs get cut up, processed, mixed, etc. in a great many combinations, resulting eventually in the ready made foodstuffs that we nowadays find in the supermarkets, all unimaginable when Mohammed wrote his food laws around the year 600. The consumer cannot know anymore what all went in the making of the food that he gets or puts on his plate. Chewing gum, candy and chocolate contain gelatin as a thickening agent that may be derived from pork skins and bones. Many Muslims know this about candy, but less known is that it may also concern chocolate. Additives like the E-numbers 472, 441, 485, and 471 are also likely to be haram. But will Muslims shoppers go around with a long list of E-numbers, checking every individual product? The best one can do is to believe the information that the producer has put on the package. But even that requires frequently quite a leap of faith. The distances in space and culture, and the decomposition and recomposition processes, provide countless opportunities for fraud and deception. This holds all the more for halal food, as quite a few of its standards are process standards rather than product standards. The latter can in principle be
tested at the final product, the former not, making it even more difficult to detect fraud.

Notwithstanding these detection problems, stories about fraud with halal products abound. The kebab story just mentioned is only one among many cases of fraud and deception of Muslims with supposedly ‘halal’ food. In November 2009 the general Inspection Service (Algemene Inspectiedienst AID) from the Dutch Ministry of Agriculture raided Fasen Meat Trading, a meat wholesaler from Breda. Using forged documents the company sold several thousand tons of meat wrongly as halal to Muslims in France. (Volkskrant Nov. 26, 2009). In October 2009 the Belgian hall federation claimed that 60 percent of all halal products sold in that country would be impure. (http://islamineurope.blogspot.com/2009/10/belgium).

Modern methods of food preparing and processing poses special problems. Take the case of chicken filets. When Muslims buy chicken, they may be under the impression that that is halal. They think they buy halal meat, but, in our modern day and age of food manipulation they cannot be sure. In June 2003 Dutch agricultural minister Veerman admitted in a letter to the Dutch parliament that ‘in Dutch chicken products, which have been sold as halal or kosher meat, beef or pork proteins may have possibly been added’. The newspaper De Volkskrant explains: ‘Many salted Thai or Brazilian chicken filets, imported by Dutch poultry processors, are being “tumbled” The salt is washed of the chicken and the meat is subsequently again “brought up to taste” with water and animal proteins, often also pork or beef proteins. Except for being “brought up to taste”, the chicken filets are thus also made several tens of percent heavier, i.e. it allows the producers to sell water as ‘chicken’ and for the price of ‘chicken’. Such additions are permitted in the EU as there is no danger to public health danger.’ Yet it does pose a danger to the moral health and peace of mind of Muslims and Jews. And they had no way of knowing, as frequently these additions were not mentioned on the product labels, as the Minister admitted. (‘Geknoei met smaak kip niet altijd op etiketten’, De Volkskrant June 16, 2003)

Muslims are not alone in their distrust of food. According to the Consumer Monitor 2004 of the Dutch Food Inspection VWA only 2 out of every 3 Dutchmen and -women considered the food on the shelves of the store sufficiently safe. Poorest scores were there for chicken (trusted by only 33%), ready-made-meals (36%), and
vitamin tablets (43%). More trust was there in bread (82%) and cheese (80%) (Schouten and Timmers 2005).

Distrust can be expensive, especially if it gets confirmed by scientific evidence. It can be expensive for the peace of mind, but also for the purse, arguments that each may appeal to one of the two classic cultural identities of the Dutch, that of the preacher, and of the merchant. In 1978 Egypt dumped eight containers of so-called ‘Beef Lanchos’ from Dutch meat producer Zwanenberg into the Red Sea. These Lanchos were a mixture of beef fat and powdered pig bones, and were, notwithstanding the names, 99% pork. Before, Egypt did not have the right equipment to analyse the composition. Saudi Arabia did, and sold it in 1978 also to Egypt, and the fraud was detected. Subsequently, The Netherlands was blacklisted for a while by several Middle East countries (HIC interview). Sometime later, Saudi Arabia confiscated a ship full with shoes from China. The boxes read ‘manufactured according to Islam rules’, unjustified. The ship load was completely burned at the cost of the exporter, the ship was chained for 21 days, the costs, all at the cost of the exporter, and the captain and crew were jailed. (interview Farouk)

The Saudis and Egyptians could afford costly laboratory methods and protect their citizens from haram food and shoes. However Muslim consumers in Europe living in a dominant non-Muslim society have no state controls which to trust and neither can they afford such expensive investigations themselves. This case brought however the importance of halal-certification for exports home and led to the first private attempts at halal certification, encouraged by rich Middle East countries which are major meat consumers.

2.1.1. Food Adulteration, Food Laundering and Food Regulation in general

Food adulteration has been a practice from time immemorial. Bread has been diluted with plaster, sand, bone meal and even poisonous lead-white; milk with ditchwater; water has been added to wine; and beer was given a more hop-like flavor with arsenic (Rougoor 2003: 24). Time and again bunglers have popped up, in different disguises and in different markets, especially new emerging ones, and caused sooner or later scandals (see for a recent overview of food adulteration scandals Bee Wilson 2008).
The Dutch with their trading culture have in particular quite a reputation to uphold in this respect. It is not for nothing that most of the sayings in the English language that involve the ‘Dutch’ have something to do with being thrifty and cheap: ‘to go Dutch’, ‘Dutch treat’, Dutch comfort’, Dutch bargain’. And indeed, Dutchmen are more than their neighbors’ price buyers. This is also apparent from comparative advertising. While Belgian, French, German, Austrian, Italian food advertisement stress quality and enjoyment, Dutch advertisers appeal often to the price-consciousness of the consumers.

The halal cases are reminiscent of the problems with adulteration of butter and cheese in the Netherlands between the 1890s and 1910s. The invention of margarine facilitated falsification. Mixing became such a common practice that around the turn of the 20th century the word ‘Dutch butter’ became a euphemism for a mixture of butter and margarine. Cheeses were tampered with as well. The new milk centrifuges made it easier to skim the fat of the milk for butter production, before such milk was used for cheese production. In this way the same amount of milk could be used both to produce butter and cheese. Such cheese was however almost completely made up of water. Hence it became known as ‘civil engineering works’ (waterbouwkundige kunstwerken). The difference with good cheese could not be seen when the cheese was young. But after a couple of weeks it collapsed. A much publicized lawsuit in England in 1903 against a Gouda cheese with only 1.6 % fat and 57 % water did the reputation of Dutch dairy products abroad certainly no good. Such adulteration was also of concern for industry. As the reputation of Dutch agriculture and dairy worsened, they lost their traditional export markets, the surrounding industrialized nations. Ever since, trade interests have dominated Dutch food standards. (Geluk 1967, Van Waarden 1985)

Such scandals have frequently been a cause for regulation. Therefore, statutory food regulations have been almost as old as food markets. In ancient Greece and Rome there were already laws against the coloring and flavoring of wine. In Western Europe laws against adulteration of food and drink arose in the later Middle Ages. Famous landmarks are the British impure food laws from 1226 (Coates 1984: 145) or the Bavarian Reinheitsgebot for beer from 1516. The first ‘modern’ legislation dates from the latter half of the 19th century: in Britain from 1860 (the Food Purity Law),
extended in 1874, in Germany 1879, France 1885, Belgium 1890, the Netherlands 1889. Modern Dutch food regulations were created, opportunistically, with foreign trade interests in mind. The dairy scandals at the turn of the 20th century gave at first rise to specific butter and cheese laws and eventually to the more general Landbouwkwaliteitswet (Agricultural Quality Law; basis orig. 1890s), which stressed purity and honesty, in the interest of long-term trading interests, and therefore concerned only exports, not domestic trade.

More in general, much public regulation of markets has been incited by scandals and crises, as we see now again with the crises and scandals on financial markets. These destroyed the trust in specific products and producers as well as in earlier attempts at private self-regulation of markets. History abounds with them: the Dutch dairy scandals around 1890 mentioned earlier; the economic crisis of the 1930s that sparked the development of the French system of Appellation d’Origine Contrôlée (from 1935 on); in the 1980s the Austrian scandal of mixing ‘anti-freeze’ in their wine (to sweeten it). The recent animal epidemics (BSE, foot and mouth disease, pig and chicken pests) led to a tightening of veterinary inspections, animal feed standards, and got European institutions yet more involved in food regulation, occasioning now the establishment of a European food regulatory agency.

The scandals reduced the trust of the public in private forms of regulation, which had been usually tried earlier, in particular in the Netherlands, which has a rich history or private self-regulation. They made it clear that private solutions to the risks and uncertainties of the market do have problems. Detectives and other reputation rating agencies threaten the privacy of economic actors; accountants - supposed to be independent and neutral - turned out to be subject to temptations of favoritism; customs and norms of clans and communities can be quite strict market-entry barriers; associations suffer from the threat of free riders and have difficulty in enforcing self-regulation; and a proliferation of competing private standards can become self-defeating as they may obfuscate markets rather than increase transparency.

Often, a first reaction of the state to deficiencies of private risk and uncertainty reducing institutions in food markets has been to support them. It does so of course already with the basic legal infrastructure (property rights, contract law, judicial conflict resolution) without which markets, commercial risk reducers, communities,
and associations could not function. Furthermore, it increases public trust in commercial risk and uncertainty reducers, such as accountants or insurance companies, by holding these themselves to standards; it helps self-regulating associations solve collective action problems by recognizing them.

Eventually it supplemented or replaced private by public regulations. Where the market and commercial organizations produced a proliferation of standards which threatened to make markets again intransparent, it set uniform and authoritative standards: for weights and measures, pricing units, vocational training or university degrees, and food quality certificates. And it created its own enforcement organizations, such as national, regional and/or local food inspectorates.

Of course state regulation has its disadvantages. State agencies are further removed from the businesses and markets they are to regulate. That makes for greater ‘principal-agent’ problems in the administration and enforcement of regulations. The greater distance between regulator and subject may also imply less legitimacy and hence stronger incentives to evade or circumvent them. That forces regulators and courts (which enforce the rules) to increase the degree of specificity and detail of the regulations, which in turn feed sentiments about the ‘ridiculousness’, ‘unreasonableness’ (Bardach and Kagan 1982), or inflexibility of state regulation. That gives rise to political calls for ‘deregulation’, until the next scandal sets a new cycle of (re)regulation in motion.

Over time, these experiences have led to the formation of mixed public-private regulations and enforcement organizations, in an attempt to combine the advantages of both private and of public regulation. Thus the state provided backing for self-regulatory trade associations, e.g. by giving them privileged access or statutory powers such as compulsory membership or the authority to apply disciplinary law. Examples in food markets are the French wine quality regulations, enacted and enforced by private *syndicats* of local wine growers, but recognized, authorized, and backed by the French state; or Dutch dairy quality standards, specified and enforced by a sectoral trade association, which is governed by employers’ and employee associations, but which has a status under public law, and which has resources such as compulsory membership and the authority to regulate and tax industry, making their regulations formally equal to statutory law.
Following these earlier examples, can we now expect also a public regulation of halal-standards? For the time being it does not look like it. The Dutch state is declining to do so. The Food Inspectorate VWA says that it has no business controlling for religious food standards, and the publicly funded Food Information Center (Voedingscentrum) considers ‘halal not our mission. We are not there to supervise the maintenance of religious food standards.’

Still the problem of adulteration will remain. The issue is actually an especially sensitive one here. For the Muslim consumer audience this is not only an issue of honest trade, but also a moral issue, an issue of living according to the rules of Islam, an issue of salvation and access to the hereafter. The publicity over halal adulteration and laundering is likely to only have fueled feelings of uncertainty and distrust. Realizing that the risk to get cheated is high they may henceforth refrain from engaging in any kebab transaction at all. More than 200 people reacted to the documentary on the website of the broadcasting corporation, and one of the more frequent lamentations was ‘what can we still trust if even our kebab ....’.

For its part, the industry may have an incentive to clean up its reputation. Producing henceforth pure food may not be enough. As with any generic product, the reputation of their product also depends on the quality of the products of their competitors, as long as consumers cannot easily distinguish. One solution may be to try to establish a ‘brand’ reputation for their own shops or booths. At the local level that may work. Otherwise commercial third party information and certification, and perhaps self-regulation of the industry, will be needed. Therefore, private initiatives are to be expected, and indeed, they are emerging.

The current study will explore the private regulatory world that is emerging around halal food for both domestic and foreign markets, and in particular the newly emerging market for private certification services. First we will delve into the specific nature of the product to be certified, halal-food, as defined by Muslim religious rules. Then we will chart demand and supply for certification, the typical problems experienced by this market and its suppliers, and the solutions that have been sought to address these problems, both by the supplier-firms as well as outsiders.
2.2. What is true Halal? Nature of the ‘Product’: defined by Religious Norms

2.2.1. The Background: Islam, Halal, Muslims

a. Halal & Islam: two inseparable concepts

The discussion of the concept halal with all its aspects and applications is fully embedded in the teachings of the Islam; it both derives its raison d’être and its rules from the religion. Consequently, deviations and disagreements over the concept of halal come from different interpretations from the main Islamic sources, although most interviewees seem to discard these differences mainly as a “lack of knowledge”: if “they” would truly understand the meaning and message of Allah, they would certainly agree upon the rules concerning halal. However, these rules seem not to be as clear-cut as many Muslims would like to see them, which is likely to reflect the same fragmentation as displayed by the Ummah, the global community which brings together all Muslims. Therefore, to place the discussion of the concept of halal in the right context, a short discussion of the Islam and its main features is necessary.

b. Islam on a shoestring

The roots of the Islam lie in the historical-religious places of the Arabic peninsula; this is the place where Allah - the Arabic word for God - revealed its last message to

6 Please note that we do not pretend to be Islamic scholars, and do not have any intention to be regarded or interpreted as such. It is largely a description of the opinions as generally found in the literature review, and during fieldwork and consulting online fatwa sites. If any misinterpretations are present according to the view of the reader, please inform us. Also, during this paper we will make frequent use of notions such as “mainstream Islamic scholars”, “the majority of Islamic scholars”, etc. This is, roughly indicated, the opinion of the most prominent scholars of the field, following the main centers of knowledge of Egypt and Saudi-Arabia, such as the university of Egypt, DarulIftaa (an institute of Islamic Jurisprudence) MWL, (Muslim World League, a NGO founded in Mecca) and IFA (Islamic fiqh academy, academy for advanced Islamic studies, based in Jeddah).
his chosen messenger Muhammad around 600. This message as revealed to Muhammad is literally written down in the Qur’an, which is the central scripture of the Muslims and considered holy, both its physical presence as its words. It is considered to be the last and just revelation of God, which overrules the previous books of the Christians (the Bible) and the Jews (the Torah). Muhammad is the messenger of this revelation, and is seen as the perfect man and the embodiment of Islam: “he was a Qur’an walking on earth”. (Citation from Islamic scripture, in: Rippin, 2005:55) His life and actions are therefore seen as the example and even law; men should live and act to his example, and the scriptures in which his life is written down, which is the body of the Sunnah, is as a consequence the second main authoritative source of the Islam.

However, these sources date from persons living in an ancient society of some 1400 years ago: how to bring together contemporary life and the laws of that time? After the death of Muhammed, the practice of ijtihad – personal reasoning and/or interpretation of the Qur’an and Sunnah or the making of new laws – was quite common until the event described by “the closing of the door of ijtihad” around the 10th century: from then onwards, no men was allowed to make new laws, although this has been under discussion in recent years. (Vikør, 1995)7 How then to incorporate recent concepts as Biotechnology, modern society and internet in a religion based on scriptures written down in a society which existed some 1400 years ago? There are two widely accepted concepts which are able to build this bridge between those holy, authoritative yet ancient sources and present times: ijmā, or the consensus of the Ummah and/or Islamic scholars, and qiyās, or analogy. This is mainly Sunni jurisprudential theory, which “has its ultimate basis in the work of al-Shafī‘ī”; a Muslim jurist who lived around 600 BC. (Rippin, 2005:94)8

Even though these concepts allow for a modern and flexible Islam which can adapt to all places and times, it is at the same time this same flexibility that creates diversity in the interpretation and design of the Sha’ria, the Islamic laws: for some,

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only scholars are allowed to practice ijmā and qiyās, while for others the Ummah or even individual practicing Muslims are entitled to engage in these practices. Moreover, many Islamic leaders (Imams) or Islamic scholars (muftis) can make different interpretations of the same case, depending on many factors as for example ethnic identity, local practices/tradition, generation or Islamic current. This often results in different advises or answers (the so called fatwa’s) from different religious leaders or scholars: these fatwa’s are certainly no Islamic law, but are opinions of Islamic scholars that are merely advice, although Muslims often consider these fatwa’s as personal laws. These differences in Islamic thought might seem unacceptable from a “Western” point of view for law, but are generally accepted among the most prominent Islamic scholars, although within certain boundaries⁹ as indicated by the Islamic scholar and chairman of the International Institution of Islamic thought, Taha Jabir al `Alwani:

“The differences which occurred among our forebears in early Muslim history and which continue to be with us are part of this natural manifestation of variety. Provided that differences do not exceed their limits, and provided they remain within the standard norms of ethics and proper behavior, this is a phenomenon that could prove to be positive and extremely beneficial”

- Taha Jabir al `Alwani, 1993.¹⁰

It is generally assumed that these differences in interpretation are a natural consequence of inherent human differences, which is also stated in the Qu’ran:¹¹

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⁹ This is explicitly covered in the Qu’ran, which states that if you ask three different mufti’s, you’ll get three different answers, and that you can accept the one that fits your convictions best” (I don’t remember where I read this, can’t find it!!) in the ……


¹¹ This verse if mostly used for explaining why different religious traditions exist, rather than to explain the different currents or lines of thinking within Islam itself. Nevertheless, it expresses well the general point of view held by Muslim scholars in explaining the different opinions regarding issues under discussion. (as explained in the next citation by Koutoub Moustapha.)
“If your Lord had so willed, He would have made mankind one people, but they will not cease to differ, except those on whom Your Lord and Sustainer has bestowed His mercy, and for this did He create them” (11: 118-9)

It can be said then, that opposing fatwa’s are not only regarded inherent in human nature, but also are being appreciated, as long as they come from knowledgeable and sincere Muslim scholars. On ‘Islamonline’, a very popular site on which Islamic scholars can be consulted (give fatwa’s), the issue is addressed by Dr. Sano Koutoub Moustapha, professor of fiqh at the international university of Malaysia, in a fatwa issued on August 26, 2008, in which is stated:

“If the issue is controversial among Muslim jurists and the contradicting opinions are issued by qualified and sincere muftis, then one can follow the opinion that he or she is most comfortable with.”

(Mufti Sano Koutoub Moustapha, fatwa of 26-08-2008)

So despite the often found contradicting rulings, *ijmā* and *qiyāś* remain both cornerstones of Islamic Shariah. However, it should be kept in mind that these sources of Islamic law are the secondary sources after the primary sources: firstly, the holy scripture the Qur’an, and secondly the Sunna of Muhammad.
2.2.2. Unity or Heterogeneity?

As is described in the previous section, there are many contradictory opinions present within the Ummah: it is certainly not a united, coherent community. The absence of a central (living) source of authority, as for example the Pope in Catholicism, also reflects this fragmentation. Different schools within the Islam, (although only between the Shia an Sunni Islam are found large differences, within the four main current of the Sunni there exists a large consensus on most topics) and the dispersion of different Muslim communities over the globe with different ethnic backgrounds and histories enlarge the existing differences within the Ummah, although the upcoming popularity of the internet might bring different opinions closer together.

Despite this fragmentation, there is certainly a general feeling of unity present among Muslims; this is first of all reflected in the idea of the Ummah, or Muslim community: “those who follow this path of Islam form the Ummah, the community of Muslims whose common bond in religion symbolically reflects the central Islamic concept of the unity of the divine” (Rippin, 2005:5). In practice, Muslims often address each other with Muslim – “sister” or “brother”, therewith referring to the shared feeling of the Ummah. This identification with this global Muslim brotherhood creates a spiritual, historical and political connection between individuals, which goes sometimes even beyond the ethnic identity, (Jacobson 1997b: 246) and can be regarded as the “defining point of the Islamic sense of identity”. (Rippin, 2005:47)

Also, Islam is a religion which shows in general great respect for other opinions within the Ummah, and different currents do not oppose each other; scholarly discussions are more common, which is also reflected by the large body of Islamic literature that exists. And even though no single authority exists, there are several authorities that are respected by almost all Muslims. First of all, the hearth of the Islam is where it originally comes from and where the Hajj (the obligatory pilgrimage of Muslims) goes to: Saudi-Arabia. All main religious buildings and sacred places are found there. The other authority is Egypt, with the oldest Islamic university, which is very renowned, also in its education of mufti’s and Imams. Key institutes for issuing fatwa’s and discussing Islamic Shariah are for example the Dar al-Iftaa in Egypt, an important institute for Islamic jurisprudence; the Muslim World
League, an international NGO founded in Mecca; and the Islamic Fiqh Academy, (IFA) which is an academy for advanced Islamic studies, based in Jeddah.

Despite these renowned institutes, large disparities between different Muslim groups do exist, and probably continue to exist due to the diverging historical and ethnic backgrounds of the global, but also local, (for more information on the local Dutch community, see section 6) Muslim communities. This, and the notion of the Ummah, has also its consequences for the discussion on halal and Haram, as will be discussed next.

a. Halal – Harām: and something in between?

Most Muslims refer in the discussion of what is allowed and not allowed (or for that matter, good or bad) to the concepts of halal, which means permitted, and the opposite term of harām; forbidden. This dichotomy of opposites is used by most Muslims in deciding whether something is according to Islam or not, and therefore is used in many aspects of life. Or as Rippin states, it “provides an element of the foundation for Islamic ethics.” (Rippin, 2005:30) This is also reflected in daily practice of Muslims as discussed by de Koning (2008), he suggests that this somewhat black-and-white thinking might have to do with “the desire for certainty and the ability to give clear-cut answers”. (de Koning, 2008:228) As also de Koning notices, this is quite peculiar since this dichotomy does not exist in official Islamic jurisprudence, where a more refined system of classification is used. This system (called al-ahkām al-khamsa) classifies each act into one of the five categories: obligatory (wajib), recommended (mandub), permissible (mubah or halal), disapproved (makruh), or forbidden (haram). Speaking broadly, a Muslim has to adhere to the rules relating to the acts that are classified as obligatory or forbidden since ignoring these will bring punishment in afterlife, while the doubtful cases of the recommended and disapproved categories will bring reward for those who adhere to them, but no consequences for those who do not. All the other acts, which are regarded as neutral, are classified as permissible. (Rippin, 2005:97) However, most Muslims are only vaguely aware of this categorization, and is indeed more often used by the Islamic scholars than in daily practice.
How reflects this theoretical notion of halal and haram the classification of products as will be discussed in this paper? If asked, most non-Islamic, Dutch people think of halal as “food that contains no pork”. (interview Mekkafoods February 22, 2010) However, this notion of halal fails to recognize the wholeness of the term halal: it is not only a product, but a way of life; it encompasses everything of good quality, from speaking with the right (halal) words, to halal meat to the halal way of life: the Islamic way of life. Muslims discuss their Islamic identity and behavior by using the term, and also to consult Islamic authorities when confronted with doubt, as expressed in the following citation from de Koning (2008): “[The Muslim youth, red.] ask often whether he [a Islamic authority] can explain them what is allowed and not allowed in Islam, how they should behave; with other words, what is halal and haram.” (de Koning, 2008:229) Additionally, notions as halal make-up, halal banking and halal behavior are commonly used: clearly, the concept of halal encompasses far more than solely the notion of “food without pork”: it is the Islamic way of life.

It should be clear however, that this notion of halal and haram is not a clear-cut static concept, but depends very much again on the personal/cultural/ethnic interpretation as discussed in the second and third section, and can change over time and space, and depending on which scholar you consult.

2.3. Halal Product Definitions

2.3.1. General Halal Food Standards: the Devil is in the Detail

How does everything that has been discussed in the previous sections – currents within Islam, no central authority, flexible interpretation of Islamic laws and concepts as ijmā’, qiyās and the shaded area between halal and Haram – influence the discussion of halal food? In short, the Islamic way of life should be halal, and an important part

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of life – food consumption – should be halal too and is thus very much embedded in the whole discussion of what Islam is and what being a Muslim entails. Consequently, the definition of a halal product is very much related to the definition of one’s Muslim identity and the related interpretation of Allah’s commands, as for example the interpretation of the commands: for example a more strict or flexible way of interpreting the rules, depends on the Islamic current or ethnic background that defines a person.

Hence, there seems not to be such a thing as a general accepted halal food standard; even the most extreme Muslim will respect another halal food standard as long it is back-upped by a respected Islamic authority. In the first international published book on halal regulations, *Halal Food Production* by Riaz & Chaudry (2004), the halal food standards are written down explicitly, but even there it is stated that in determining the acceptability of certain foods, (in this case seafood) “one has to understand the rules of different schools of Islamic jurisprudence, as well as the cultural practices of Muslims living in different regions” (Riaz & Chaudry, 2004:13)

Moreover, they also discuss the notion of “primary” and “secondary” requirements, the former are obligatory, the latter are “merely recommendations” (Riaz & Chaudry, 2004: 65) This classification of obligatory and recommended requirements reflect possibly also the notion of the categorization of acts in the five levels (*al-ahkām al-khamsa*) as discussed in section 4. This is also reflected in the following citation from the book of Riaz & Chaudry:

“"In general, most Muslims deem meat and poultry items not slaughtered in the name of God to be haram or makrooh [disapproved red.] at best”. (p.11) Hence differences in what is accepted as being "halal" do exist. Nevertheless, it is clear that a Muslim should eat halal food, as is stated in the Qu’ran:

“O people! Eat of what is in the earth, halal and Pure, and do not follow the footsteps of Satan. Indeed, for you he is an open enemy.” (Qu’ran, Surah al-Baqarah, 168)
Additionally, a general consensus of what is accepted to be halal among scholars and Muslims in general is also certainly in existence: everything that is literally in the Qur’an, is without doubt a general ruling for what is seen as halal. The only difficulty concerning these verses is how to interpret them: differences in opinions come from differences interpreting the Qur’an, not from accepting or not accepting what is written down. The Qur’an is holy, not only what is in there, but also its physical presence, and everything that is in there, is as a result holy too: scholars will never doubt that. One example of an important verse discussing halal food is the following one, in which a couple of “primary” requirements are discussed:

"Forbidden to you (for food) are: dead meat, blood, the flesh of swine, and that which has been invoked the name of other than Allah, that which has been killed by strangling, or by a violent blow, or by a headlong fall, or by being gored to death, that which has been (partly) eaten by a wild animal, unless you are able to slaughter it (before the animal dying due to the above causes)." (Qur’an, Surah al-Ma’idah, 5.3)

This verse, together with others who discuss halal requirements in such an explicit way, can be summarized in the following rulings for halal food:

General halal food rules:
- the animal is from an allowed species (as literally defined in the Qu’ran, excludes for example pork and most meat-eating animals and insects)
- all parts of an animal that is not halal, is forbidden.
- eating blood is not allowed
- so is alcohol

Slaughtering-rules:
- the slaughtering must be done by a Muslim, Christian or Jew
- the animal should be slaughtered while blessing the animal by verbally invoking the name of Allah/God (regularly, Bismillah Allahu Akbar)
the slaughtering must be done with a sharp knife or other tool, killing the animal by cutting the animal in such a way that it dies as quickly as possible
- the animal should be alive when slaughtered

Food that contains Haram parts or which fails to adhere to one or more of these rules is by definition Haram. Further, a Muslim is only allowed to transgress these laws when there is no other choice, as stated in the Qur’an:

“But if one is forced by necessity, without willful disobedience, nor transgressing due limits, then he is guiltless.” (Qu’ran, Surah al-Baqarah, 173)

a. Underlying Principle Values

These concrete food standards are an expression of more basic principles, as were already apparent in earlier quotes and remarks. Most rules are informed by the care for human health through healthy food (therefore, no alcohol and no dead animals, implying that the animal ought to be slaughtered alive), and care for animal friendliness. Food rules can be seen - and are seen so by many Muslims - as part of the larger halal concept as discussed above, where halal embodies the Islamic way of life with respect for all that is given by Allah, including the animals. Halal slaughtering is seen as humane slaughtering; the animal should suffer as least as possible before and during slaughter, should have a good life before it dies, and experience as little stress and agony as possible right before being slaughtered. In the days when Mohammed wrote these rules down in the Qu’ran around 600 this slaughtering method was certainly a very ‘humane’ one, and it probably still is, relatively speaking. Hence halal-rules can be seen as a contribution to a long historical civilization process - see also the ban on alcohol - as is also the case with Kosher rules. However, ever since, the instrumental functions of these rules have become less prevalent as the rules, original means to a functional goal, have become goals in themselves. Observing them has become symbolic for identity, for demonstrating that one wants to belong to a specific social category.
The animal-friendly orientation of Islam has made the label “halal” very popular among some non-Muslims in Holland, since it is not only a humane handling of animals, but also results in very high quality meat: an animal suffering from stress produces certain hormones which reduces the quality of the meat, so the less stress an animal experiences, the better the meat. Many slaughterhouses therefore already turned to a more humane way of slaughtering, even before it got imposed by the government, since they recognized the higher quality from the meat resulting from animals being calm before being slaughtered.

b. Additional rules (again, very roughly stated)

In addition to these rules, many more are considered to be essential to define it as being halal, examples are for example that the animal and / or slaughtering person should face Mecca when slaughtered, that the animal should not see the knife before it gets slaughtered, that the animal does not witness other animals being slaughtered, etc. The latter are further elaborations of animal-friendly slaughtering.

c. Major points of controversy over halal (roughly stated)

The above rules are the core of what is considered halal: the majority of mainstream Islamic scholars agree upon these rules. However, there are some major items on which scholars do not always agree, or over which many Muslims remain confused. These points in the “grey area” between halal and haram will be discussed – very roughly – here.

- Machine Slaughtering

It is generally considered makruh (disapproved) if you have not visited the place yourself, since there exist so many different ways of machine slaughtering: some are generally considered allowed, others not. The main issue is whether again the basic rulings are being followed: whether the name of god has been mentioned separately for every animal that gets slaughtered, whether the animal has been cut properly and
whether the slaughtering has been done by a Muslim, Christian or Jew. However, many scholars do not see the need for machine slaughter since two to four Muslims can be as fast slaughtering the chickens by hand, so it should be avoided as much as possible.

- Food from “the People of the Book”

In the Qur’an is literally stated that: "Today are (all) things good and pure made lawful unto you. The food of the People of the Book is lawful unto you and yours is lawful unto them." (Surah al-An'am, 5) This is a sentence has evoked many discussions, and many fatwas have been issued to provide an answer to all the questions relating to this. The people of the book are the people who believe in those “earlier versions” of the Qu’ran: the Torah and the Bible, so the Jews and the Christians. Some Muslims see this as the evidence that they are allowed to eat all the food of Jews and Christians, also when the meat is not halal-slaughtered. (Pork is always considered haram) However, the prominent Islamic scholars and leaders oppose this view: they argue in general that Muslims are allowed to eat meat that is slaughtered by non-Muslims, as long as – again – the general rulings of Islamic slaughtering are observed. Many scholars also consider it permissible if a Muslim accepts non-Islamic slaughtered meat from a non-Islamic friend, as long as he or she is a Christian or Jew.

The meat of Jews is an exception, since many currents of Judaism are as strict or even more strict in the religious slaughtering of meat, adhering mostly to the same rulings: this food from Jews is called “Kosher” food. Many halal certifying bodies also accept Kosher certificates, depending from which current the Jewish certifying body stems.

- Evoking the Name of God

In short, it is literally stated in the Qu’ran that the name of God should be mentioned during slaughter: “And eat not of that whereon Allah’s name hath not been mentioned, for lo! It is abomination.” (Chapter 6, al-An' am, V. 121) So the majority of the scholars are very clear on this one: meat that does not comply with this rule, is definitely considered harām. However, many Muslims maintain that mentioning the
name right before consuming it, is sufficient. They refer to other verses to underlie this, and also state that the specific verse that indicates that naming should take place during slaughter is not stated in the Qur’an. Some certifiers that we interviewed suggested also the possibility that the exclamation ‘bismillah Allahu akbar’ (in the name of Allah, the greatest) could also be played from a tape. (cf. also Schröder 2010) But would all Muslims agree to this? If so, should it have been a Muslim who plays the tape?

- **When no other food is available: eat harām food?**

As mentioned before, a Muslim is allowed to eat harām food when there are really no other alternatives: it is then considered permissible. However, as soon as an alternative becomes available, the lesser choice becomes harām, or in some cases makruh at best. (when the alternative remains too expensive for example) Many Muslims however, still maintain that eating non-Islamitic slaughtered meat is permissible when alternatives are not readily available: for example when traveling or living in a non-Islamic country where Islamic slaughters are rarely found.

- **Facing Mecca**

It is often considered important that the slaughtering person should face Mecca when performing the ritual slaughter. However, this is not regarded as a necessity, and is more seen as recommended if possible. Or it would be regarded, as stated in the book of Riaz and Chaudry, a “secondary requirement” (Riaz&Chaudry, 2005:67).

- **Stunning before slaughtering**

The ruling for halal meat is that the animal should be alive when it gets slaughtered. Muslims should not eat dead animals, that is, humans are not supposed to be ‘scavengers’. Pre-slaughter death can be natural, result of aging, but also of pre-slaughter stunning which kills. Stunning or not is the issue that has conjured up most controversy around ritual slaughtering between on the one hand Muslims (and Jews) and animal welfare proponents or activists Most Western countries nowadays stun animals just before they get slaughtered so that they will experience the least pain. The strictest interpretation of the Qu’ran does not allow for any kind of stunning. A
somewhat more liberal interpretation allows so-called reversible stunning: the animal gets stupefied by an electric shock, which makes it unconscious for say around 40 seconds, after which it regains consciousness and is considered alive again. In these 40 seconds the ritual killing takes place. Nowadays, most slaughterhouses in Europe shoot a bolt into the animal’s brain, which renders it insensible. However, that is not reversible any more: the brain gets in part destroyed and the animal cannot fully recover, yet is still not considered dead. Most Muslims consider this irreversible form of stunning as akin to death and hence not to be in line with Mohammed’s teachings. Only the most liberal interpretation of halal rules condones this usage common in European slaughterhouses. (See on the various stunning methods and their effect on animal welfare Kijlstra and Lambooij 2008.)

- Transporting halal together with harām food

Transporting halal products together with harām food is generally assumed to be halal as long there is no option whatsoever of cross-contamination. So if the meat is thoroughly packaged, no problems should arise. The reason for this being a delicate issue, comes from Muslim minorities living in non-Muslim countries: they can never be sure whether the meat has been contaminated or haram, so they often prefer completely separated production chains over combined ones: just to avoid any chance of halal food having come into contact with haram products. In addition, the large halal international market brings about many problems too, as the complete thousands of kilometers long production and transportation chains have to be halal at every step of the process. It is very hard to control for this, although progress has been made in recent years thanks to modern ICT tracing and tracking technologies. A more extensive discussion will follow.

- Guarantee for halal status

In general, if you as a Muslim get told by another Muslim that the food that he/she offers you is halal, you can always believe him if there is no reason to doubt him. As soon there is any suspicion that the food could be haram, it is the responsibility of any Muslim to track down where the food comes from and whether it is really haram. However, if there is no reason to doubt, no checking is necessary, since the
responsibility lies with the other person: if he/she offers you haram food and claims it to be halal, then that person will receive Allah’s punishment you otherwise were supposed to get for eating haram. So many Muslims just assume that if they ask another Muslim, they are safe since that other person bears the responsibility, not they themselves (Benkheirra, 2002, in: Bonne & Verbeke, 2007). Of course this could easily lead to a situation where everyone is passing the buck to everyone else.

In short, it should be clear that the interpretation of halal rulings differ, and therewith the halal standard. It should be kept in mind, that respected Islamic scholars always have the final say on whether something is halal or not. (or actually, their opinion is that Allah always has the last word) For now, we would like to provide the reader with a text of a renowned Islamic scholar to give a comprehensive overview how the Islamic scholar discusses a salient halal issue, in this case machine-slaughtering:

“Finally, one must remember that machine-slaughter is a new phenomenon created by the rapid progress in modern technology. Thus, it is obvious that it is impossible for one to find express rulings with regards to it in the classical sources of Islamic jurisprudence. Its ruling can only be derived from the general principles and guidelines set down in the Qur’an, Sunnah and the classical works of Islamic jurisprudence. Thus, they may be some differences of opinion with regards to this issue and we respect the opinion of other scholars. However, the above is what I have understood from my teachers, especially Shaykh Mufti Taqi Usmani, upon whose Arabic work (Ahkam al-Zaba’ih) this article is primarily based.

One must also remember that this is a very important issue for a Muslim. Consuming halal food is one of the most important things for a believer, for it has a bearing on all the other worships and religious obligations.”

d. Halal in Practice?

Certainly, halal as defined by Islamic scholars and generally accepted to be true, is not identical to the halal standard as wielded by the average Muslim consumer: most Muslims certainly do agree with Islamic scholars upon the general rules of halal slaughtering, but actually putting this theory into practice is a different matter. Many of our personal Muslim friends do admit that their halal consumption is not strictly as stated by the Qu’ran, but as long they do not eat pork meat they have the feeling that it is sufficient, and if not so then it “is their own responsibility towards Allah”. The majority of the Muslims probably adhere to their religious dietary prescriptions in similar ways. According to a writer on westayhere.nl (wijblijvenhier.nl), “not many Muslims follow the halal concept“. He goes on with a lengthy discussion about what halal actually is and what not by the (mostly Islamic) readers of the blog. (Yucel, 27 november 2009) In an article in the renowned Dutch magazine, Vrij Nederland, Yousif is cited stating: “I am not very principled in my halal consumption, no.” after which the writer of the article continues “we have to belief him, says Yousif, that eighty percent of the Muslims consumes as opportunistically as he does”. (Vrij Nederland, “Herrie om Halal”, 1-12-2007:1) So most Muslims do observe the rule regarding pork meat, but other haram products are not taken too serious. One of our respondents also articulated the difference between pork consumption and other “officially haram” products: give Muslim a piece of pork, and he will be highly insulted, but give him alcohol and it is not regarded a problem. (Eddouadi, March 29, 2010)

In short, Muslim consumers do not seem to be too strict in general, although it seems that halal awareness and consumption is increasing, due to factors as the higher education of Muslims, their search for the pure Islam as already mentioned before and their increased purchasing power. These factors are more extensively discussed in the

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subsequent section on the domestic market for halal products. For now, it is important to be aware of the casualness with which many – if not most - Muslims in the Netherlands approach the halal concept. Most Muslims only observe these rules in relation to their pork consumption, but otherwise they are not too strict. This should be kept into mind during the subsequent sections, since Muslims indeed do care about their meat consumption, but many are not that strict nor active in searching for answers to doubts they may have. Furthermore, introducing halal-slaughtering methods could slow down mass production in slaughterhouses, especially in the slaughtering of chicken. That could result in higher prices for such goods, and many Muslims both in Europe and elsewhere in the world may not be able to afford more expensive food.

2.3.2. Consequences for Different Types of Products and Production and Distribution Processes

These religious norms have to be operationalized by producers, traders, consumers as well as by possible certifiers in order to determine for concrete products and services whether they are halal or not. Halal standards refer both to the composition of products and to the manner or process in which they have been prepared and distributed.

a. Product Standards

This is still easiest for the composition of basic foodstuffs, like meat. Forbidden is the flesh and any other part from pigs, most carnivores, and insects, and so is blood from any animal. Furthermore, alcohol is not allowed (although there are experiments with halal-wine, with supposedly 0 % alcohol). In principle such composition standards can be tested at the point of consumption. The meat can be inspected, and certainly with modern laboratory methods it is possible to detect even the tiniest trace of pork or other haram animals in meat that is sold as halal. There have been several cases where Saudi-Arabia found such tiny traces, which made it destroy the whole shipment of which this piece was a part.
Old-fashioned food adulteration, as still in the case of the pork döner kebab sold as lamb kebab mentioned in the beginning of this study (section 2.1.), is hence less relevant for Muslims. Food adulteration for Muslims is different from the classical history of adulteration. Old fashioned adulteration is selling water for wine or sand for bread: adding cheaper ingredients - and usually heavier ones, when the price is determined by the weight - and hiding them, selling them for a more expensive one. Such old fashioned adulteration is largely banned now by state regulation, although producers and supermarkets still keep trying with less straightforward and hence apparently not forbidden forms: selling a jar of pickled onions with big letters screaming from the label ‘made with extra virgin olive oil’, while the very small lettering reveal that there is only 4% olive oil and 40% sunflower oil; or a juice sold as pomegranate juice with bright pictures of such fruits, while it contains 80% apple juice. Here it is the quantity that counts and with which the consumer gets cheated. For Muslims the quantity of the hidden ingredient is irrelevant: even the tiniest bit of haram ingredients will make the food unacceptable. What matters to them is not whether there is a cheaper and lower quality raw material added to the food, as with water in cheese or chicken filets, but that that lower quality should not be taken from a source they consider haram. Thirty percent water in the blown up chicken filets is not the real problem, it is the small amount of pork proteins used to bind the water. Also, the concern is less about the monetary value for which one is cheated, but the religious values that are violated.

b. Composed Foods

Product standards become more of a problem with the zillion composed and ready-made food products turned out by the modern mass food industry. The large majority of products displayed on supermarket shelves are such composed products. Although the modern generations have way more spare time than former ones, there is a great demand for ‘easy food’, easy to conserve/keep, and easy, quick, to prepare. But then, most likely supply creates the demand here. And supply of such food has become possible thanks to modern food, transportation and communication technology. New additives, plastics, special casings and gases preserve food longer, and more efficient logistics distribute it faster from a few centralized locations of production. Ingredients
in these composed foods can come from many sources, even unlikely ones. Muslims were not used to assorted sliced cold meats. Traditionally they bought large chunks of meat to prepare further themselves. However, in Western societies they get confronted with such cold meats and sausages, in essence combinations of minced meat with herbs, spices, preservatives, colorings, flavorings and other additives. Sooner or later they discover that these seem to taste quite well. But can they be trusted? That is indeed questionable. Just as with chicken filets already mentioned, sausages that are supposedly made only from beef could very well contain proteins from other animals. Spices and additives, like thickeners, colorants or preservatives, could also come either directly or indirectly from haram sources: some red colorants are made from lice, and gelatin in candy or puddings could be made from pork bones. Preservatives are e.g. haram if they are dissolved in alcohol (see for a list of E-numbers and which ones are halal and which haram http://www.halalaudit.nl/content.php?ID=11) Dairy products such as cheese would be haram if the milk is curdled by a rennet derived from pig stomachs.

Avoiding such composed foods becomes increasingly difficult in modern day life. Muslim immigrants in European societies get confronted with them every day, and so are increasingly citizens of predominant Muslim countries. And they have discovered their ease and taste, as is indicated by the popularity of Turkish pizzas. According to manager Rene van Appeldoorn from Mekkafood in Venlo the Dutch are now eating 80,000 halal Turkish pizza’s a week. His company produces them, altogether annually 7800 ton of composed halal foods, in addition to pizza’s also frikadellen and hamburgers.

Major producers and sellers of ready made composed foods have become quite interested in this Muslim demand. Companies such as Nestlé, Unilever, Danone, and other dairies, fast food chains like KFC, Quick, McDonalds, and Domino’s Pizza, and retailers like Albert Heijn, Sainsbury and Tesco in the UK, and Casino and Carrefour in France have discovered the halal market. They are among the most eager to find halal certificates that can ease the minds of Muslim customers.
c. Non-Food Products

Although halal rules are best known as food standards, they also may affect non-food products. Important for Muslims are in particular products that may touch the body in other ways than as food, such as pharmaceuticals, cosmetics, shampoos, or even clothes. All these are ever so many composed products which could contain traces of haram animals: gelatin in pills, starch and synthetic colorants in clothes. Halal rules furthermore can also apply to services, like halal banking, that is, banking according to the Sharia rule that it is haram to charge or may interest. Creative banks have in the meantime found ways to get around this condition. In the case of a halal-mortgage, the trick is that the bank buys the house, and sells it for a higher price back to the owner, the difference being the profit the bank expects to make. In that way the buyer pays back the loan in the form of a higher price, but officially without interest. New halal-products keep appearing, e.g. recently nursing homes and care centers for elderly Muslims, complete with halal food provision (Vk. 25-05-2009 ‘Zorg: nu ook van islamitische snit’). And what to think of the old-fashioned piggy bank (‘sparvarken’) for kids? That too would be haram for Muslim children. For the bank Fortis it was a reason to stop with its 7 year program to give children a piggy bank as present. It got immediately greeted with howls of derision as well as ‘creative’ suggestions to replace the symbol of luck and of saving with a goat or camel bank.

d. Process Standards

Particularly important for Muslims are process standards. This holds for the whole chain of production and distribution, from farm to fork, so to speak. This, halal-standards have in common with the standards for organic food or for fair trade. It starts with the farm where the animals have been bred. Animal welfare is already there a concern. Did the animals have a ‘humane’(?) life? How were they treated by the farmer? What food did they eat? Did they have enough living space and were they well-sheltered? Were they transported decently from farm to slaughtering house, e.g. not shoveled by a tractor into the slaughtering house, because their legs were too weak to stand on (a recent scandal in the Dutch food industry)? Then again a process, the actual slaughtering, is a concern, probably the most important concern in halal: the
animal should not arrive dead at the slaughterhouse, it should be slaughtered alive, while facing Mecca; by a Muslim or at least ‘someone from the book’, with a special quick method, while mumbling ‘bismillah Allahu akbar’, etc.

Subsequently, the further transport and distribution along the supply chain is an issue for regulation. Halal meat should not come into contact with haram products, i.e. lamb, sheep or beef should not touch pork, pig hairs or pig shit. There should be no possibility of cross-infection. This starts already at the farm. Halal meat should not come from animals bred on a farm that has raised also pigs. Transport to the slaughtering house should also be separate. Actually, halal animals should not be transported in a truck that has earlier transported pigs. Ideally, there should be separate slaughtering lines, separate slaughtering machines, separate knives, separate trucks, separate containers, separate warehouses, separate distribution centers, separate kitchens where the food is being prepared, even separate dining halls in which eventually the food is eaten - strict Muslims could not eat while sitting next to people who are eating pork - if that is done in restaurants or company catering places. It goes so far that even the personnel, which handles the food, should not have eaten a ham sandwich for lunch, and if they accidentally have done so, they should wash their hands extremely well before getting back to work. If one wants to be strict and principled, all these process standards regarding meat should also concern the substances included in the composed products, which in one way or another stem from animals. Being strict on these process standards would be the Muslim variation of the ‘precautionary principle’: keeping everything separate, just to be sure that cross contamination is in no way possible.

Having a separate system for processing and handling of halal products can be very expensive. Such separation can actually only be afforded by companies which work only with halal products, varying from the local neighborhood butcher to a larger pure halal producer; or it must be a very large company which can afford two separate slaughtering and processing lines, such as Mekkafoods in Venlo. The scale of the Rotterdam harbor also allows it to invest in separate storage and handling facilities for halal products. For all the others, such process standards can become very expensive.
That means that with halal products way more can be saved - and hence earned - by being not so strict about maintaining separate chains for production, storage, transport, distribution, i.e. by making more commercially efficient use of one’s installations, rather than be mixing some cheaper raw materials into the product and pretending it to be of purer composition than it really is, as with classical adulteration.

Halal fraud could hence also mean not being very particular about process standards. That is probably also the most frequent kind of fraud, as it is the easiest. What makes process standards differ from product standards is that they are much more difficult to enforce. Product standards can be enforced at the final place of consumption: by analyzing the composition of the product. Modern laboratory equipment can even identify the tiniest amount of haram-genes in the final product. But how the product has been handled during the whole supply chain can impossibly be determined at the location of final consumption. It requires a much greater leap of trust. (Hence such standards have also been called ‘credence quality attributes’ (Grunert 2005, Darby and Karni 1973).) Or very detailed and strict supervision of all the processes the product has passed through, something most certifiers cannot afford. It would also make the products much more, expensive, that is, out of reach of the average Muslim consumer. Although, it must be said, modern ICT technology can facilitate continuous chain control.

2.3.3. 100% Halal? Is that Possible?

The complexity of the halal-rules and the diversity in opinions over how these rules should be operationalized and how strict they ought to be enforced, in particular the process standards, has led to a discussion among Muslims whether advertisement claims of ‘100% halal’ can be made. Some argue that a product can be either halal or not, and that 100% suggests that also 99% or 98% halal would be a possibility, i.e. a little bit less halal. Others argue that in our modern day and age with its very different production and distribution technologies a little bit more or less strictness in following the rules must be possible. According to mr. Wahid Ramdjan from Halal International Control (HIC) it is practically impossible in the mass production slaughtering of
chickens to slaughter them unstunned. Therefore Muslims have to be pragmatic and to adjust the interpretation of the rules to the times and the current technologies. By contrast, Ms. Yasmina Ben-Koubia of the more strict Halal Feed and Food (HVV) is of the opinion that stunned slaughtering is merely tolerated. But ‘real (100%??) halal’ meat must come from animals that have not been stunned but killed alive.

2.4. The Market for Halal Products

The halal food market is big business: Islam is the fastest growing religion on earth, the average Muslim consumer spends large parts of the consumption bundle on halal meat, average Muslim consumption is rising, national grocery stores and multinationals have recognized the enormous potential of the worldwide halal market and governments of countries with large or total Muslim populations are working on becoming the main player in this booming international halal market. A new reader diving into the world of halal, will repeatedly run into powerful terms as “the booming halal market”, “huge potential”, “unexploited goldmine”, or halal being “an engine of growth and opportunity”. One of the few “western” scholars studying halal, Joe Regenstein of Cornell University, even stated that "food companies are not going to be global unless they're halal.”(Power & Gatsiounis, 2007)

Nevertheless, food companies seem to remain hesitant in entering this promising market; few have a halal-line up and running, and even less are generating large profits from the market: it has been estimated that only 10% of the potential halal market has been entered by the major companies. (KasehDia report WHF, 2009) Apparently, there seems to be some sort of hindrance which prevents companies from entering this global “gold mine”. The halal market is largely a local “uncle-and-aunty” market, depending on personal and local relationships and trust and therefore almost impossible to enter for large, western and anonymous multinationals. This is where the halal certification comes into play; but a more thorough discussion of the market for halal products is necessary first, which will be discussed next.
2.4.1 Consumer Diversity

An article in The Economist captured the nature of the halal market very well: “the halal market may be buoyant, but the waters are choppy.” (The Economist, September 19, 2009)\textsuperscript{17} These choppy waters are caused by many things, but one of the main causes is probably the diversity of the halal consumer. There is no such thing as “The” halal consumer; As regards their consciousness about consumption, four different types can be distinguished: the “natural” halal consumers in Muslim countries, who are barely aware of the existence of non-halal food; the “conscious” halal consumer in non-Muslim countries who is more aware of its consumption as he or she knows that most of the food in the country is haram; the “western” halal consumer who focuses on healthy, high quality or pork-free food and therefore chooses halal and who does not necessarily have to be a Muslim; and lastly, the “ignorant” halal consumer, who consumes halal food without knowing it as the industry in the west often completely switches to halal food production to achieve economies of scale. These groups are certainly not clear-cut, as the boundaries are blurry and some groups can exists within other groups.

The conscious halal consumer category can be further differentiated by variety of Islam and personal strictness adhered to. Sunni’s have a different conception of halal than Shi’ites, but schools within these currents may have again different rules. Beliefs may still be differently operationalized in real-life consumption choices, depending on personal character and convictions. Some may be more lax and be satisfied if they make an effort to avoid pork, while others may minutely check all the ingredients, additives and E-numbers of the food, as well as try to check it for “secondary requirements” of slaughtering, such as absence of machine or of stunned slaughtering.

The religious persuasion may be related to differences in ethnic or national origin. The Netherlands has significant groups of Muslims coming from Surinam (who again may have Indian or Indonesian roots), Indonesia, Turkey, Morocco, Iraq.

Iran, and various African countries. They all have different traditions, food preferences and concepts of halal consumption.

Furthermore there are differences in generation of having been in the west and in educational level. Although some first generation immigrants are highly educated, such as those from Iran or Iraq, on the whole the generational difference tends to have consequences for the level of education and that in turn for the trust in organizations of the host country. A higher level of education seems to be positively related to a higher trust in western institutions including in large anonymous organizations such as supermarket chains. Salima El Haddaoui, a fourth-year student at the Utrecht Polytechnic University (Hogeschool) and currently internee at HIC, did a small study among 85 halal consumers while working at Marhaba foods. She concluded that education seems to be an important factor in how persons consume halal: “A large share of the MBO students [=relatively lower education in the Netherlands, RED] do not trust anything that is in the supermarket, even though exactly the same meat lies also at the Islamic butcher”. (Personal communication, March 18, 2010) This seems also to be confirmed by a study of Bonne & Verbeke, who concluded that the group of consumers that trust both Belgium and Islamic institutions equally well, “consisted of significantly more highly educated respondents”, whereas the group that had a very low trust in Belgium institutions were generally less educated. (Bonne and Verbeke, 2008:120) One of our (younger) respondents, concurred: “The gap [between the older and newer generations, RED] is too big to close”, referring to the difference between first generation immigrants from rural areas in Muslim countries and their children and grand-children which received education including higher education in the Netherlands. (HAC interview)

All these dimensions – ethnic background, religious denomination, immigrant generation, education, and personal conviction - influence the halal consumption behavior of Muslims. They produce a highly differentiated halal market which presents quite some mysteries for the western marketer who considers entering this market.
2.4.2. The Domestic Market

The domestic market for halal products in the Netherlands is seen to be rather big, as the Muslim population is at present time estimated to be around 1/16 of the total population. These are rather imprecise estimations, as the law prohibits official data collection of religious convictions; most estimations are based on the amount of ethnic immigrants and their main religions. Nevertheless, different sources seem to report around the same number: an international research agency for the halal market has estimated that the total amount of Muslims that are living in the Netherlands around 940,000; almost 1 percent of the total Muslim population in Europe. (KasehDia, 2009) This is also in line with the estimations of an official LNV report (a governmental organization), which states that almost 1 million Muslims are present in the Netherlands. (Loseman et all, 2002) The certification agencies on the other hand seem to be a bit less strict in their estimations: almost all certifiers estimated the amount of Muslims in the Netherlands on at least 1.5 million, some even thought this would be 3 million. The safest estimation seems to be around the 1 million; this number is also reported in most newspaper and magazine reports.

Further, for the total amount of slaughtered animals in the Netherlands are no detailed numbers known since the relaxation of the rules for notification for ritual slaughter. Nevertheless, slaughterhouses need to ask permission to the RVV, the governmental body for cattle and meat (Rijksdienst voor de keuring van Vee en Vlees) for ritual slaughter. The procedure is as follows: slaughterhouses need a form with a stamp from an Imam to notify the government how big the need is for ritual slaughtered meat, which is assessed by the RVV to be reasonable, after which a slaughterhouse obtains permission for performing ritual slaughter. In practice, this results in “buying” a stamp from the Imam for commercial ends\(^\text{18}\). (Loseman et all, 2002:17) Nevertheless, it does give a rough indication of the size of the commercial market, so these numbers are still very useful. In general, has the number of ritual slaughtered animals increased over the years, which is according to the research body of the LNV, (governmental body for agriculture, nature and fishery) due to the

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\(^{18}\) For exports, an official of the importing country needs to indicate the need for ritual slaughtered meat in that country.
increasing amount of Muslims in the Netherlands. This also suggests that most Muslims stick to the dietary prescriptions of their religion over time: Halal will most likely remain an important issue for Muslims in the coming decades.

Graph 1: amount of halal-slaughtered animals in the Netherlands.

Not only is the size of the market quite large, the present growth rates seem to be substantial too. This is due to several factors. First of all, Muslims show higher growth rates as compared to non-Muslims; of the 80,388 population growth in 2008 in the Netherlands, are 72,290 classified as being “non-western”. (CBS, Population Development Data) This trend will most probably continue as Muslims – and non-western immigrants in general – have higher birth rates: where the average amount of children for a native Dutch woman is 1.78, this is 1.93 for non-western immigrants and even 2.6 for Moroccan mothers, one of the largest Muslim groups in Holland. (CBS, Birth Rates Sorted by Origin Mother) Another reason for this growth is the increasing level of living; as Muslims move up the social and financial ladder, their possibilities to spend more on halal food becomes larger. They become able to pay a premium for halal food at for example grocery stores, ready-to-meals and others: producers can therefore expand the diversity of halal products, which enlarges the market again; a
reinforcing expansion. Lastly, the earlier mentioned search for a “pure” Islam causes many (young) Muslims to deepen their knowledge about the Islam. This increased awareness for their religion and its rules, also leads to an emphasis on the halal prescriptions; Muslims are more aware of the ingredients of the food and therefore ask for stricter rules and “real” halal products; the halal consumption extents from meat to food in general, and sometimes even to cosmetics and financial products. The increasing amount of research that is done on this topic again reinforces this development: the halal market is growing, and seems to continue growing.

Lastly, as already touched upon in the previous section, the market is very much fragmented, with the consumers expressing different preferences for their halal food as they differ on dimensions such as ethnic background, generational differences and Islamic current or strictness they adhere to. This has led to a very chaotic market in which both the consumers and producers are very insecure of what this market actually consists of. The local “uncle-and-aunty” market prevails, even though large multinationals, such as Albert Heijn and Kentucky Fried Chicken are making large efforts to open this market also for the professional, organized market. This is not only hindered by the large diversity and fragmentation of their prospective consumers, but also by the large resistance of the non-Muslim Dutch population and the party of the animals. The latter has been protesting against the ritual slaughter ever since it has been legitimized in Holland, therewith arousing many protest movements and resistance of the non-Islamic population. The multinationals aiming at entering the market therefore not only has to comply to many different requirements of their diversified halal consumers, but also to the demands of their non-halal consumers. So again, another hindrance has been raised in this already complex market for halal products. However, many of the halal producers in the Netherlands do not only produce for the domestic market, but also for the export market. This market, with its very different nature, will be discussed next.

2.4.3. The Export Market

The export market is very different from the local “uncle-and-aunty” market; personal connections are impossible to maintain when the meat crosses thousands of kilometres
Jerusalem Papers in Regulation & Governance

and many borders, with the ever increasing food chains. The export market is therefore far more organized as compared to the domestic market; more regulations are necessary and central checkpoints such as the national customs, prevent a very unorganized market to emerge. As was the case with the domestic market, estimations are very hard to make. Nevertheless, many estimates have been made, resulting in an often-heard estimation of around 1.6\(^{19}\)-1.8 billion\(^{20}\) Muslims, with a total market value of $634.6 million\(^{21}\), which is around 16% of the total global food industry. Further, halal consumers are very much spread out over the globe. This is not only due to the geographical dispersion of the Islam itself, but also largely a consequence of the large amounts of migrants worldwide; of the total amount of 1.6-1.8 billion Muslims (which amounts to a 23% of the worldwide population), one-fifth or 300 million live in countries as a religious minority. (Pew Research Center’s Forum on Religion & Public Life, 2009) It is also one of the fastest growing religions; Muslim families demonstrate in general higher birth rates, and many countries have an Islamic government in place which upholds the importance of Islam, as these growing populations are born automatically as being a Muslim. (KasehDia, 2009)

The question now remains: of the 1.6-1.8 billion Muslims in the world, where are the main consumers present? Riaz and Chaudry (2008) composed a list of the countries which are most important for the international halal market, either by being a main exporter or importer, or providing important certifying bodies. They categorized different countries according to their relation with halal food activities. The most important countries for imports seem to be the countries that are defined as “countries that require halal certificates for importing into that country (…)” and “countries that have strong halal activity (..) import/export trade” (p.35): we further


subdivided them according to their respective Muslim populations, which resulted in the following list of main halal-consuming countries, with in brackets the Muslim population in millions: Algeria (30.88), Bahrain (3.7), China, (25.50) Egypt (61.52), France (4.14), India (154.50), Indonesia (195.56), Iran (64.96), Kuwait (1.93), Malaysia (11.75), Morocco (29.52), Pakistan (140.27), Philippines (3.60), Saudi Arabia (22.08), Singapore (0.49), South Africa (1.05), UK (1.20), United Arab Emirates (2.99) and the USA (5.72). These data are still rather limited, as countries with not so many Muslim consumers but large purchasing power or countries with no import or export but many consumers and producers within a country are excluded, such as Turkey (65.57 million Muslims) and Nigeria (63.32 million Muslims). Nevertheless, this list does include the main actors in the global halal market, which is the main aim of this paper, so this list is still very useful. Despite the large numbers that are presented here, the majority of the market is still in the hands of local butcheries and not accessible for large multinationals. Moreover, the bulk of the halal products is still the halal meat, while in principle every single consumer product could be halal and interesting for the Muslim consumer; an increasing amount of Muslims already looks into the possibilities of halal finance, halal cosmetics and halal food, rather than just halal meat. Adding these numbers to the meat market, results in a huge potential market that is yet largely unexplored.

2.4.4. Two Halal Markets: Local “Uncle-and-Aunty” vs. Professional International Markets

A very important factor in describing the market for halal food, is the distinction between the “official” market, and the local, “uncle and aunty” market, mentioned before. These are two separate markets that include different consumers, producers and certifiers. The “official” market includes all the large-scale, exporting companies and certification agencies, which have often clear marketing campaigns, official sites and worldwide connections. Major players in Europe are Nestlé, Tesco, Carrefour,

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22 Countries that are defined as countries that have strong halal activity include also New Zealand, while this is not a Muslim country: they are very much involved in exports. These countries are excluded from the list.
Doux and Friesland Coberco Dairy Foods Holding. The “uncle and aunty” market on the other hand is mainly a local phenomenon, in which the local butcher sells halal food to a member of the same social or ethnic group, on the basis of trust. Even though – or probably because of – the local character of this market, its total market share of the halal market seems to be far ahead of the international, organized market. For example, Mekkafoods, an European halal-snacks producer has estimated that around 60-70% of their turnover is derived from their “traditional” division; the others, such as the retail, horeca and private label division generate the remaining 30-40% of the turnover. (Interview René van Appeldoorn, 2010) This is also supported by the KasehDia report on the European halal market: there is reported that the total market share of international trade is “below ten percent of the potential size”.(KasehDia, 2009)

Bonne and Verbeke (2007), who did a study among Belgian halal consumers, found that 67% of their Muslim respondents bought their meat almost exclusively at the local Islamic North African butcher. ‘For Muslim consumers in Belgium the Islamic butcher is most trusted for information about the halal status, whereas halal-labelled meat in supermarkets is often distrusted.’ (2007: 121). For them personal confidence in people is the basis of trust, rather than trust in institutions. However, they add that ‘nevertheless, second and third generation Muslims are breaking with the shopping habits of their parents based on an established personal relationship with the Islamic butcher and thus also with the established domestic and civic quality coordination mechanisms.’ The Belgian data cannot immediately be generalized to the Netherlands, which has a more diverse Muslim population as regards country of origin than Belgium - it has more Muslims from former colonies longer used to western institutions - the Belgian data give an indication of the importance of these local shops and personal trust for the older generation immigrants.

Consequently, the “uncle-and-aunty” market has still by far the largest market share, although this is likely to change: as the different dimensions of ethic background, generation (education & trust in “western” organizations), and religious current or personal strictness in halal change, the choice for a different market will change similarly. For example, if a consumer who is very strict in its belief, from the second generation, low education and from a Moroccan background has to choose, I
can state with almost 100% certainty that this person will never buy anything from the professional market, but will always rely on the personal trust relations being present in the “uncle-and-aunty” market. Conversely, a high-educated, third generation Muslim who is very strict, will possibly buy some food at the grocery stores which they do trust, such as packed meat. However, these are nice, simple cases; how about a third generation person, who is very strict, highly educated and from a Surinamese background? Once again, there is no such thing as “The” Muslim consumer; they differ largely on all dimensions and preferences, which make developments in this market very hard to predict. However, the coming and taking over of the newer generation is very likely to change the outlook of this market; not many of them will take over the small, local shops of their parents, and if they do it is likely they will professionalize this to conform to the host country’s standards. Moreover, they themselves are more used to the modern way of shopping, no longer being satisfied with small local shops in which they cannot buy all their products at once. So not only supply, but also demand are likely to decline as new generations replace the older generations.

Nevertheless, there is still a long way to go for the multinationals being anxious to enter this almost unexploited market. One of the main factors that might provide them an opening – or at least make it more easily accessible – is a certificate which guarantees the halal status of the product. Indeed, a whole market has emerged in these certificates, which leads us to the next section which discusses the market for these certifications.

2.5. Risks and Uncertainties for Muslim Consumers

Buyers in any market run certain risks and uncertainties when they engage in transactions, as has been mentioned already before. Muslim consumers who try to buy and consume in accordance with their religious beliefs are confronted with some additional or specific conditions, which further increase their risks and uncertainties. Several of these have also already been dealt with, such as the different interpretations of and confusion over Islamic food law, the importance of process standards which
are much more difficult if not impossible to control at the point of final consumption. However, there are still several other ones that deserves mentioning.

2.5.1. Ever Longer (Global) Product Value Chains

Globalization has not passed over halal markets, and neither have the advances in food technology. Food production chains have become ever longer, spanning almost literally the globe. Technological development in food has produced new methods of preservation, decomposition and recomposition of food, and has created ever more complex foods, composed of ingredients from a great variety of sources, both in terms of biological source (from which plants and animals) and in geographic origin. This makes products and markets more intransparent and increases the problems for Muslims how to be sure whether the food they find offered in the shops and restaurants is really in line with their religious teachings.

Food producers have in the process become anonymous, unknown to the final consumers. Personal contact between those raising crops and cattle and the consumers are hardly possible any more. Whom is a Muslim supposed to ask whether meat is halal or not when standing in the grocery store with a piece of meat? Where has that meat been, where does it come from? Where and how has it been slaughtered, processed, labeled, transported during the ever longer and more specialized production chains? For Muslims, this is a big issue, which still has not been solved. Many just buy their meat at the local Islamic butcher as they can return to the very convenient way of checking for halal: ask and be secure. If their fellow Muslim supplier states that his products are halal, many take his word for it, keeping in mind the Muslim principle that Allah will punish the butcher for cheating other Muslims, rather than that they themselves will be punished for eating haram. This religious rule should work as a deterrent to a devout Muslim butcher and can be a source of trust. But will the Muslim consumer keep on buying at the local butcher? Or will new generations turn to the modern shopping experience of large supermarkets where you can get all your groceries at once? But how to trust then the meat sold at that place, meat that may have passed through such a long production chain? Moreover, how is it with exporting and importing halal food, where the meat travels over thousands of
kilometers to another country with barely any possibility to check the halal status? Product standards can perhaps still be controlled for at the point of final consumption - there is technology to identify even the slightest amount of haram ingredients in food - but that is impossible for process standards.

Yet, notwithstanding the length of the product value chain, and even if the international transport flows can be controlled, ‘the difficulty of halal transportation resides still in the last meters, as the transportation flows are smallest there,’ thus Marco Tieman (2010)\(^{23}\), who has been studying and promoting halal logistics.

### 2.5.2. Muslims living in a Multicultural Society

Problems arise especially when Muslims migrate to and live in non-Islamic countries: surely, Islamic countries do usually not have other types of meat for sale. Therefore, the problem of halal versus haram food is non-existent there, except for the authorities that control imports into these countries. For the Muslim minorities in non-Islamic countries there is a real problem: often, only a few Islamic butcheries are present and the local population is not familiar with the customs of the new inhabitants. Muslims in these societies get confronted with an ever larger choice of food, opulence that eventually also appeals to many of them. Thus Bonne & Verbeke (2007: 121) cite a Muslim woman who complains about the lack of choice in the halal market, which ‘forces her to make unhygienic choices’. But even in countries with historically large minority groups, the halal issue remains salient: the population, unknown with the customs, sees this “ritual slaughter” often as a backward practice which does not fit “their” culture.

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2.5.3. Absence of the State in Regulation

What adds to the risks and uncertainties of Muslim consumers in modern day multicultural societies is that in most countries the government has as yet not seen it as its task to protect Muslim consumers against fraud with specific public economic law, similar to how it protects all citizens against unhealthy and unhygienic food, possibly dangerous drugs, infectious diseases, unsafe working conditions, etc., by public economic regulations. More in general governments have enacted ever more regulations to protect their citizens against a ever larger variety of risks, and these regulations have become also more strict, inspired as they are by the so-called precautionary principle. Yet this attitude of precaution has not as yet been extended to the risk of the Muslim publics that they might unknowingly eat haram food or come into contact with other haram products.

This is unlike in predominant Muslim countries, where religious Sha’ria food law has been translated into public law. In countries like Malaysia, Egypt and Saudi Arabia all products are required to be halal. In western countries that is rarely the case. Notable exceptions are Austria, which passed a ‘halal-Lebensmittelgesetz’ in November 2009 (Advantage Austria, 2009) and some US states such as Virginia, which passed a law to protect Muslim consumers from halal fraud in 2006 (IFANCA newsletter, April 2007). Yet, according to the main US halal certifying body, IFANCA, the halal market remains largely unregulated, despite the introduction of these laws, because ‘its enforcement has been lax with virtually no known fines levied on violators in any of them.’ (IFANCA newsletter, July 2006)

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3. The Workings of the Market for Halal Certifications

3.1. Need for Regulation, or at least Certification, of Halal

The expansion of the global and national markets for halal products, the new food technologies, the immigration flows, the multi-culturalization of societies, and the increase in international trade between non-Muslim and Muslim countries, all have increased the risks and uncertainties in transactions for Muslims. These risks and uncertainties have fueled a demand for information and for some guarantee that what is offered by food suppliers pretending to sell halal food is really what it is supposed to be. Concretely, it is a demand for reliable information, guaranteeing that the product is solidly halal.

Thus, next to a growing demand for halal food there is also a growing demand for signs of certainty that the product is what it pretends to be. Such signs can be summarized in and represented by a certificate or halal hallmark. And, as we will describe in the following chapter, next to a market for halal products, also a market for halal certificates has developed in response to this demand; a market, because the demand has been met by more than one supplier. A curious market at that, which brings together quite different worlds, something akin to the uneasy ‘combination of fire and water’, as several interviewees called it (among others interviews with HIC and HAC): commerce and religion, informal trust relations and the formal world of inspection, record keeping, paperwork and certification, cultural differences as regards food and slaughtering, both between the West and the Muslim world, but also between Muslims from quite different national/ethnic backgrounds, etc.
3.2. The Product

Three different types of ‘products’ try to satisfy this demand for certainty. First of all, it can be a brand name of the producer or seller himself. The brand should stand for the reputation of the supplier. It makes the goods and their supplier identifiable, and hence enables the customer to sanction a supplier if he experiences that the supplier did not sell the quality expected, by henceforth avoiding goods bearing this brand name. Major food retailers like Sainsbury, Carrefour or Albert Heijn do so with their name brands. Some halal food producers have been trying to build up such a reputation for halal food, notably Mekkafoods in Venlo and Wahid Meat in Rotterdam. Secondly, the guarantee can come from an external third party, a certifier guaranteeing the quality with a certificate or halal hallmark, in the form of a label on the product or a piece of paper with signatures and stamps accompanying a shipment and certifying that it is genuinely halal. Thirdly, there is still the old traditional informal form of a fatwa or religious verdict of a local imam, stating during the Friday afternoon gathering in the mosque that a certain brand is halal - permitted. Or, what happens more often, that the Imam supports a certain certificate.

Two types of certification exist. The first type certifies the product, that is, its ingredients as well as the processes by which it has been prepared or passed through, from slaughtering to distribution logistics. The second certifies a site, a slaughterhouse, factory, transport or storage building, which have the capacity to produce, process or transport halal products, and whose management has the willingness to reserve it for this. Will this site or person actually carefully control for the halal requirements? Or is he/she/it merely requesting the certificate to be able to access the halal market without really caring for the halal status of the meat?

3.3. The Customers of the Certificates

Buyers of fatwa’s and certificates are the suppliers of halal food who want to provide customers with information from third parties that their products are halal. Most of these customers are not Muslim themselves, and often trade also in haram products.
Earlier we made a distinction between local “uncle-and-aunty” shops and professional food producers. The local butchers and shoarma/kebab shops do not seem to need a certificate, as they rely mostly on personal relations and reputations. It may be that in time they also want to give their shop a bit more of a professional look, with a halal quality certificate on the wall. They may be the customers of the do-it-yourself certificates that one can download for free from the internet. These are then in fact attempts to support the brand of ‘Muhammed’s best kebab’, although they pretend otherwise, namely third party certification.

The customers of more reliable certificates are Western producers that want to export to Muslims countries and need to convince the custom authorities that their products are genuinely halal. Interested parties are also domestic retailers, such as Albert Heijn or the Hema, who in Amsterdam sells halal smoked sausages, halal wine, coffee and halal djellaba’s. Customers may also be suppliers of parts or services, such as construction companies building mosques, producers of slaughtering equipment or of floors for halal slaughter houses, or company restaurants (e.g. from Shell), hospitals or prisons that want to communicate to their employees, patients or inmates that they supply reliable halal food. For them, a halal certificate could open new markets.

Halal certification may be useful, if not necessary, for organizations along the increasingly longer halal supply chains, companies involved in the logistics along the global halal-trade highway: farmers, intermediate buyers, additives producers, transporters using various means of transport, storage facility providers, wholesalers, distributors and eventually retailers. Rotterdam has in the meantime the first halal-certified harbor in the world, with halal cays and a large halal distribution center where halal products cannot get contaminated by haram products. It aims to become the ‘halal gateway to Europe’. The organizer, Vat Logistics, which cooperates with the Rotterdam Harbor and Eurofrigo, is both HACCP and halal-certified (Westra 2007). The long supply chain makes the product very sensitive. Failure of a single actor along the chain in keeping halal products separate from haram ones can destroy the halal value of the whole shipment: a trucker who uses a truck that before transported pork and was not cleaned well enough, an employee eating a ham sandwich for lunch. Reliable certifiers need to be able to guarantee that no such cross-
contamination has taken place along the long supply chains, that every single step, ingredient, enzyme and person along this chain is fully controlled for. It seems an almost impossible task, although some certifiers do aim at controlling for all these ‘critical points’. It would require use of the most modern ‘tracking and tracing’ ICT technology, and would go beyond the already high standards HACCP certification.

3.4. The Suppliers: Imams, Producers & Certifying Agencies (and others: do-it-yourself certificates)

The market for halal certificates is – just as the market for halal – largely unorganized. This has not made it easy to describe this market in a simple and transparent manner. We have collected information about the suppliers of certificates, their structure and activities and mutual relations, using a variety of sources. We consulted the media (domestic and foreign newspaper articles, TV programs, relevant internet websites), identified a number of major players in this market and conducted interviews with representatives of certificate providers as well as some of their (organization) customers. Altogether we found the sector quite accessible. There is a substantial amount of information available, albeit scattered and rather fragmented. All those whom we approached for an interview (see for an overview the appendix) were very willing to do so, and took extensive time for us. They intended to be open and transparent - after all they are in the business of increasing transparency - yet of course they did not always speak their mind completely, especially when it came to commercial issues: prices for certificates, how many customers, which customers, market share, turnover, profits, etc. None of them publishes an annual report publicly.

3.4.1. Certificates & Certifiers

The number of halal certificates /certifiers in the Netherlands is mostly estimated, both in the press and by our respondents, to be around 30-40, including individuals, self-certifiers and local Imams who certify some products. The Turkish English language newspaper ‘Sunday’s Zaman’ of Jan. 13, 2010 cited Hüseyin Büyüközer, chairman of the Food Auditing and Certification Research Association (GİMDES),
the first body to issue halal certificates in Turkey, who noted that ‘his organization has detected some 30 certifiers in the Netherlands and another 13 in Germany which issue “fake halal certificates”’, implying that if one adds the reputable certifiers, the number would be still higher.

This group of thirty to forty can be roughly divided into three groups: the larger, official certifying bodies (HVV, HQC, Halal Correct, HIC and Halal Audit Company, of which the first three are the more established, internationally recognized bodies); the small, often individual certifiers (self-certifiers and imams); and the international certification bodies (IFANCA, JAKIM, IHI Alliance). The official and international organizations are found in both the domestic and export markets. The self-certifiers and imams are mainly operating in the markets of local uncle-and-aunty shops.

- HVV/HFFIA (Halal Feed and Food Inspection Authority)

The Halal Feed & Food foundation seems to be one of the three larger, well-established certifying agencies in the Dutch halal market, the others being HQC and Halal Correct. It is one of the oldest organizations, having its roots back to the 1960s, when the current chair, mr. Abdul Qayyoem, from Surinamese background, founded a federation for Muslims in the Netherlands, by then representing the three main Islamic groups present: Moluccans, Indians and Surinamese Muslims. This resulted in the Federation of Muslim Organizations in the Netherlands (Femon), which aimed at ‘expressing ethnicity’; Islam should be a respected religion and Islamic organizations should be treated equal to Christian ones. They lobbied both against Dutch pillarization, but also may have aimed at becoming one of the new pillars. However, too bad, when they organized, Dutch pillarization was about to break down. When the second gulf of Islamic immigrants arrived, the Moroccans and Turkish groups, the Muslim Information Center was founded, which represented all of these groups. In 1994 the Halal Feed and Food Foundation was founded, by the same person who stood at the base of Femon: Abdul Qayyoem. Presently, he argues to be the ‘biggest in activity, in history, in knowledge’. Its label is called “Halal Tayyib”.
Its approach towards halal is simple and strict. It follows the strictest interpretation of halal standards. This it does for religious and ideological reasons - it was the only organization where people refused to shake hands with the opposite gender - but also for commercial reasons. By maintaining the strictest standards its certificate should be valuable for the largest group of Muslims possible, for the whole range from fundamentalist to liberal.

The company has four main food divisions, arguing that ‘no other company is so specialized’. These divisions are: Food processing, Flavors, Ritual Slaughtering, and Enzymes & other Micro Ingredients. The third division, Ritual Slaughtering, is less important. The focus lies on processed foods and additives.

Given this orientation, the organization is ‘barely present’ on the domestic market, more on the European one, having among others Nestlé and Campina Food as its customers. Therefore, it can charge a higher price. ‘We are the most expensive one in Europe’, director Abdul Qayyoem proclaimed proudly. From the income generated they can employ a staff of 23 auditors.

Table 1. Overview of Major Halal Certifiers in the Netherlands

<table>
<thead>
<tr>
<th>HVV/HFFIA (Halal Feed and Food Inspection Authority)</th>
<th>- Main player</th>
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<tr>
<td>(<a href="http://www.Halal.nl">www.Halal.nl</a>)</td>
<td>- One of the oldest (activities started in the 60s, official certifying agency in 1994)</td>
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<tr>
<td>(mr. Abdul Qayyoem)</td>
<td>- Founded by first generation immigrants, religiously conservative</td>
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<td></td>
<td>- founder/director of Surinamese decent</td>
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<td></td>
<td>- Very strict</td>
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<tr>
<td></td>
<td>- Considered most expensive</td>
</tr>
<tr>
<td></td>
<td>- Number of Employees: 23 (auditors)</td>
</tr>
<tr>
<td></td>
<td>- Certifies for large MNOs and exports</td>
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</tbody>
</table>
| HQC (Halal Quality Control)/COHS (Control Office of Halal Slaughtering) or ‘Halal Office’ | - Quite professional  
- Yet unprofessional website  
- Reputation = name and strictness based  
- backed by Authority of MUI and JAKIM |
|---|---|
(mr. Abdul Munim Al Chaman) | - Main player  
- Founded in 1983  
- Run by Honorary Consul of Syria in NL  
- Very active in international trade; recognized by Muslim countries  
- Reputation may be based on position in international diplomatic network  
- Unprofessional website  
- Number of employees: 1+(?)  
- Uses volunteers and external laboratories  
- Strict (?)  
- Reputedly low priced  
- Recognized by the Malaysian JAKIM, and claims also to be backed by Authority of MUI, Indonesian Imam Organization |
| TQ HCC (Total Quality Halal Correct Certification) or 'Halal Correct' | - Main player, Estimated to be the largest commercial one by competitors |
(mr. Ben Ali Salah) | - Founded in 2000, by Tunisian immigrant; active since 1995  
- Expensive  
- Number of Employees: 6 (auditors) |
| **HIC (Halal International Control)** | - Chair is an imam, related to Wahid Halal Meat Wholesale; founded as certifier of that firm  
(www.WahidHalalmeat.com)  
(mr. Wahid Ramdjan and …) | - Chair is an imam, related to Wahid Halal Meat Wholesale; founded as certifier of that firm  
- founder of Surinamese decent  
- Relatively low priced  
- Certification is not a full time activity for the management, so not very commercial  
- Personnel: works with ‘volunteers’ (Muslim slaughterhouse personnel paid an extra)  
- Less strict; allows slaughtering of stunned animals  
- For these reasons popular certifier for large supermarket chains (Albert Heijn, C-1000, Super de Boer, Jumbo, Vomar) who do not want to sell not-stunned halal slaughtered meat with eye to non-Muslim customers; and want to keep prices low  
- Certifies mainly for the domestic market (???)  
- Claims backed by Cairo’s Al Azhar University |
| **Foundation National Halal Keur** | - Owns and guards a Hallmark  
- Inspections are done by HAC |
<p>| <strong>HAC (Halal Audit Company), audits the above Foundation National Halal Keur</strong> | - Recently founded by Muslim accountancy graduates of Auditor program of Polytechnics |</p>
<table>
<thead>
<tr>
<th>Foundation Halal Certificates</th>
<th>- Market share estimated by himself as 10%</th>
</tr>
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<tr>
<td>(mr. I.A. Farouk)</td>
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- **HQC (Halal Quality Control)**

The second main player on the Dutch halal certification market is HQC, or Halal Quality Control. It is part of Halal Office, a company located on the same address, but focused on different segments of the halal market. HQC certifies mostly processed halal food (though also chicken meat for supermarkets), whereas Halal Office is more focused on halal meat. The person in command of this organization, the honorary consul of Syria in the Netherlands, mr. Abdul Munim Al Chaman, states that HQC is the ‘de facto authority’. This is the internationally known organization, and its name ‘stands for halal’. Foreign ambassadors address HQC for information, and various delegations from Muslim countries visited the company for information exchange and negotiations over halal in the Netherlands. For example, Egypt no longer accepts pre-slaughter bolt stunning, that is, stunning the animal by shooting a captive bolt into the brain, damaging it permanently, but not yet killing the animal, thus allowing the animal to be subsequently killed by the ritual slaughter cut. This stunning method is not reversible, thus it is seen as already killing the animal (Kijlstra and Lambooij 2008). Egypt and other Muslim countries demand a reversible stunning method, such as with electrical shock, which stuns the animal for some 40 seconds, during which
the ritual cut can be made. The bolt method of stunning is however the usual method in most Dutch halal slaughterhouses. Mr. Al Chaman has been involved in negotiations with these foreign countries over this issue in which he more or less operated as the spokesperson for the Netherlands. Such negotiations have given him a reputation in countries like Egypt, Malaysia and Singapore, a reputation which he has subsequently used to certify halal slaughtering processes. HQC certification allows stunning, which is why Albert Heijn uses HQC to certify its halal chicken meat, produced by InterChicken. Albert Heijn does not want to risk a reputation for selling animal unfriendly meat because of its non-Muslim customers.

- **HCC (Halal Correct)**

The last of the ‘Big Three’ is Halal Correct, a foundation based in Leyden. This company has a less long history as the former two as it was founded ‘only’ in 2000, (the legal form changed from corporation into foundation, TQ-HCC, in 2008) but seems to have already built in the meantime quite a reliable reputation. This is both due to the public presence of the chairman of the organization, mr. Ben Ali Salah of Tunisian origin (cf. Siebelink 2007 for a often cited published interview with him), as well as to the relatively professional impression of their organization and its operation. It pretends to ‘screen until we cannot go any further’, i.e. back and forward into the supply chain. It emphasizes transparency, good record keeping, and professionalism as the basis for its reputation, rather than relying on age and experience or support or recognition by some external Muslim authority or by a Muslim country, as competitors like HQC and HVV do. Correct certifies both for the domestic market (about half of their customers) and for exports to foreign markets.

- **HIC (Halal International Control)**

International Control is a smaller player on the market, but still important. It was originally founded as a certifying agency for the products of Wahid Meat, the first company that started to produce assorted sliced cold meat - typically a Western meat product - for Muslims. Its founder, mr. Wahid Ramdjan is of Surinamese origin and
started after emigration to the Netherlands with a butchershop in Amsterdam. Coming from a former Dutch colony, he was familiar with this type of meat products. His firm eventually developed into a larger mat processing plant and wholesale business. The HIC certificate functioned first more or less as a brand name for his own products, but eventually certified also other companies, such as now Deen-Hobu, who sells halal beef and lamb to supermarket chain Albert Heijn. Presently, HIC has become officially separated from Wahid Meat to reduce conflicts of interest, although Wahid Ramdjjan, the director of Wahid meat, remains the spokesperson of the company. Formally, the current HIC director is an imam from Egyptian origin, who works a couple of hours a week for the company. Given that the real owner earns his living primarily as a meat producer and trader, with certification being merely a side-business, he can keep the prices for his certificates low. Whereas others ask rather high prices per kilogram meat certified, HIC maintains that it only ask for a member-fee, which amounts to about 1500 Euros a year. In order to save on costs, the company works primarily with a network of so-called ‘volunteers’, Muslims that already work in the slaughterhouses, do the ritual slaughtering there, and certify that they did so for HIC. In return they get some extra pocket money from HIC. Thus the level of professionalism is lower than in other companies, as is also the level of independence of the certifiers from those to be certified. This holds both at the company level - the link between HIC and Wahid Meat - as on the individual level where slaughters are their own certifiers. The owner legitimizes this with the argument that ‘Muslims should not pay more than necessary for halal’, as expensive certification increase the cost price for halal consumers. And these customers are low income Muslims on the domestic market. Typically, HIC seems to work more for that market than for large scale exports.

- HAC (Halal Audit Company)

The last of the five larger certification bodies in the Netherlands is the Halal Audit Company, or HAC. This company was formed only in 2003 by two Muslim students, graduating in Audit at the Rotterdam Polytechnic. One of these graduates, mr. Murat Korkmazyurek stated to be concerned about the uncertainty over the quality of meat sold as halal due to the lack of transparency that they perceived to be in the Dutch
halal market. Paradoxically, by creating yet another certifier they seemed to merely add to this intransparency. Such was however not their original intention. Their first initiative was to create an umbrella organization which should organize the existing ‘scores of logos’ that existed and confused Muslim customers. However, they did not get any response from those certifiers, so they are working on their own now. Being trained in accountancy and auditing and being, as second or third generation immigrants to the Netherlands, rather well integrated in and familiar with Western culture, organizations, and operations, they aim for a more professional set-up, following Western logistics and auditing techniques. In addition they organize trainings for in-company quality controls. Only one of their customers is non-Dutch, and about 60% is involved in exporting halal products. It has no link to the informal ‘aunty-and-uncle’ market and tries to base a reputation on similar grounds as Halal Correct; transparency, a modern approach, and professionalism. It has quite a professional website as visiting card. As part of that it has engaged in product differentiation: different certificates for batches (a specific quantity of products), systems (halal management system), production sites, and for whole corporations. In the later all corporate processes are being audited. It has developed a system of Halal Critical Control Points (HCCP) - modelled on HACCP - in order to chart the potential dangers of processes and to control these points carefully according to its own ‘Halalkeurnorm’. Because it has been around only a few years, it is as yet not as well-established as Halal Correct. It certifies among others Heinz, NIVE Egg products, Eurest Catering, Döhler Fruit Juices, Compass Food Support, Eurofrigo Storage (part of the Rotterdam halal harbor), Sodexo Food Facilities, i.e. companies of processed foods and supply chain logistics.

- Foundation Halal Certificates (Stichting Halal Certificaten)

The foundation for halal certificates is supposed to be an ‘impartial organization’ and aims at giving halal and non-halal consumers solid, impartial information about everything that has to do with halal. In addition to this, it also gives out certificates. Founder and leader is mr. I.A. Farouk. He has got involved in the business as early as the 1970s, when he was working as a translator and the Dutch government and the embassy of Saudi Arabia got into problems over halal trade. He maintains to have
been involved in the removal of a blacklisting of the Netherlands by Saudi Arabia in 1979. When he left Holland in 1981, the certification business was quite organized, but when he returned two years later, “it was war”. The aim of his foundation is to provide information concerning halal. He takes the most liberal ‘western’ approach of all: “If you translate Dutch slaughtering laws literally, they are completely in accordance with the Sha’ria. The only difference is that Muslims also call the name of God during slaughter.” According to him, this is not really necessary, as first of all, most employees of slaughterhouses are Muslims, secondly, if they are not Muslims they are Christians, and lastly, if you mention the name of Allah before eating, that is fine too. He maintains to hold around 10% of the certification market, and the companies that are certified by them are “not the smallest”. He is opposed to others charging too high a price for certification. “Eventually the Muslim consumer pays the price, as all costs get passed on to him. So if I make sure that the costs are kept low, halal meat remains at a normal price”. I.e. he is in the market segment of lower price, lower quality certificates.

- Self-certifiers

Besides the five larger certification agencies there are quite a few other certifying bodies, among them self-certifiers. These are businesses who produce or buy food, and design a label for themselves which indicates the food being halal. Though the products have ‘certificates’, in reality they are more ‘brand’ labels of the producer himself, rather than third party certificates. The brand reputation tends to be largely based on the reputation of the person behind the product or an established company. A larger and more professional organization engaged in self-certification is the snacks producer Mekkafoods in Venlo, which halal snacks such as hamburgers, sausages, croquettes, and pizza’s, to be sold mostly in small, local supermarkets and toko’s, where it has a acquired a market share for such products of 60-70%. The owner Van Eewijck and manager Van Appeldoorn are Dutch and have built a reputation from scratch by a personal approach towards the Muslim consumer over the years. They managed to establish Mekkafoods as a reputable brand, without the explicit use of any halal certificate. The company has certificates or supports from several Imams and Islamic agencies, who have visited the factory to check the halal status of the food. Yet mr. Appeldoorn says not to advertise these supports to the public, unless someone
requests them, as such supports might alienate other potential customers, such as non-Muslims, or Muslims from different backgrounds. Therefore, he prefers to rely on his brand reputation.

- **Informal certifiers**

Then there are the informal certifiers, mostly imams who certify – usually local – products on the basis of personal relations to the producers and sellers. The imam may either sign a certificate that a local butcher hangs in his shop, or orally declare that a certain product (often connected to a person) is halal. Most certifiers rejected these practices for two reasons: first, for lack of objectivity as personal sympathies or obligations may prevail over truth. Secondly, because the definition of imam is too broad in the Netherlands. Critics maintained that many of the so-called ‘imams’ lacked sufficient knowledge of halal, or even of the Islam: “98% of the Imams (…) have not studied the Qur’an (…) They became somehow an imam here, because they were famous in their village”, as one of the respondents put it (Farouk, February 10th, 2010). Certifier Ben Ali Salah of Halal Correct referred to the case of an imam who certified a sick cow as ‘halal’. He had come across several of such practices and considered these ‘below standards’:

‘I don’t even think that this would be allowed according to human standards, let alone halal standards’

- **Do-it-yourself certificates**

The next category of ‘certifiers’, or rather another form of self-certifying, is provided by the do-it-yourself certificates. These are not uncommon in this market: putting up a certificate designed oneself in order to convince the customer that you and your products are halal. Talking of external certificate-suppliers: There is even a website online where everyone can obtain their own certificate, and in which one can add
one’s own particulars. Obviously, such a certificate certifies not very much, but as long as customers are impressed it may serve a function - at least for the seller. If it would be indeed used, it would be indicative for the state the market for certificates is in: intransparency, complexity, anarchy, corruption.

3.4.2. Differences & Similarities

Now that the largest certifying bodies have been identified, some differences and similarities can be discussed. In order to differentiate their approaches towards the halal concept, we will apply the distinctions as to teachings and Muslim categories introduced before, with the dimensions of generation, ethnic background, religious current/strictness and educational level. In general, younger generations are more focused on transparency and less on informal trust relationships, whilst the older generations are more operating on the basis of their informal network and their statement that they are Muslim and thus know what is halal and what not. The ethnic background determines to some extent the approach: agencies where the origins of the founders lie in former colonies of western countries such as Surinam or Egypt seem to be more used to the western approach of relying largely on science, accountability and transparency. Agencies who have their roots in Muslim countries or countries which are less influenced by “the western” mentality seem to be operating according to the values and norms used in their country of origin. Agencies which are stricter in the interpretation of their religion and in the translation of the prescriptions of the Qur’an into practical rules are generally more inclined to apply the strictest rules possible, although the fatwa of a mufti who is regarded an authority by them will prevail. Generally, none of the certification agencies seemed to adhere to a specific school of Islam. Lastly, the educational level seems not to have a large influence on the way certification agencies work, but has more influence on how consumers perceive halal certificates and products that are sold in large grocery stores or other large companies from western origin. Higher educated Muslims are more familiar with these institutions and trust certain labels and quality guarantees such as the ISO norm or the

26 http://www.halalcertificate.com/
ingredients that are indicated on packages, while lower educated immigrants prefer to trust someone they know personally, rather than a for them unknown, anonymous and western organization.

All these dimensions will be discussed in a largely implicit way, as it impossible to give clear-cut definitions or categorizations of the agencies in each of these dimensions: in too many ways they are interconnected and overlapping, causing a categorization too blurry to use. Nevertheless, this theoretical categorization is very useful in the sense that it provides a means that it makes it easier to grasp the nature and issues involved in the market. Leaving this issues aside for a bit, the similarities of the certifying agencies in the market will be discussed first.

So to start off with, the similarities are not very hard to find: all agree that halal should not be abused, that it is a service to the Muslim consumer and that the Ummah should be supported trough these activities. In general they also seem to agree on the main halal standards, and accept the norms the other certifiers use, although there is criticism on issues as price and frequency and quality of the audits. Further, all agree that there does not exist “99%” halal; something is halal or not halal, nothing more, nothing less. Consequently, all agree that the term 100% halal is not very applicable, although most do refer to it multiple times; notably, this mostly refers to the issues of price and reliability of the audits, rather than the notion of the product being partly halal or not. The differences in the acceptance of certain halal standards are largely seen as the absence of due knowledge, most seem to agree that the cultural and ethnic differences have some influence too; often is then referred to the fact that certain schools of Sunni Islam do not accept some sorts of sea food, whereas others do. This is a general accepted difference, and can also be translated into some differences in opinion in the Netherlands.

This leads to the differences between the certifiers: what are their main differences and what are the causes? The first seems to be the approval of stunning; some argue that stunning should always be reversible, whereas others stress the importance of the most animal friendly way of slaughter; and some just reckon that the main issue is that the animal should not be dead at the time of slaughter, and all other requirements are not important. The certifiers from the first and second generation are mainly focused on fulfilling the halal requirements, so that the animal
should not be dead before slaughter, whereas the younger generations stress on top of this the importance of animal friendly slaughter methods. Certifying agencies who are stricter in their religious approach, do not accept stunning methods that are not reversible or cause permanent damage to the animal.

The next large difference is based on the strictness of auditing; how often, how strict and how far in the production chain should the audit be? For example at the slaughter site, how many Muslims need to work there in order to make the production process halal? The average seems to be around 2 or 3, although numbers between zero and twenty were mentioned too. For the agencies who have a more modern approach towards halal, a production process and ingredients which ensures the halal status of meat is sufficient to label it halal; checking once or twice a year or as the production process changes is regarded sufficient. However, for the companies based on more informal regulation require Muslim employees to work at the production site, or auditors checking the site regularly. Night shifts to check a site when it switches the process from haram to halal slaughtering are apparently not uncommon, although this results in much higher costs as compared to checking the process sometimes and relying on the rules as prescribed in the production regulations. Another issue of strictness in the auditing is the question of how far in the production chain the auditor should check before declaring a product halal; should the acceptance of basic ingredients be enough, or have each of these ingredients to be checked time and again until it cannot be checked any further? Again, this seems to be a examination of the costs and benefits involved; does the very small risk of allowing for a haram or makruh ingredient in a product outweigh the costs of tracking the origins of this ingredient, therewith increasing the costs substantially and thus increasing the price for the Muslim consumer? Is such a small risk worth the costs? This is up to the Muslim consumer and certifying agencies to answer, but so far the key actors seem not to have agreed on this yet.
3.5. Consequences of Marketization: Market Failures

3.5.1. The Importance of Credibility and Reputation; Individually and Collectively

The market for halal certificates seems to ‘work’. Or does it? There is a demand, there is supply, there are prices, transactions, turnover, and growth. But does it work well? Are there perhaps ‘market failures’?

The real value that is being traded in the market for certificates is their reputation, the trust that buyers have in it as a guarantee that what they expect to buy is what they really buy. Trust and reputation are non-tangible goods. You cannot eat them, live in them, even investing in them is difficult, at the very least quite risky. As a certificate customer you buy it, because relevant others believe it, so you hope. As long as these others take it serious and believe what it stands for, it keeps its value, following the earlier cited Thomas theorem. The challenge for certificate producers is to build and to maintain such a reputation of trustworthiness, something akin to the development of a brand name reputation. Building such a reputation takes time, but, as the familiar saying goes, ‘trust comes on foot, but leaves on horseback’. Trust in a hallmark can be suddenly gone. All it may take is a well-publicized scandal - intentional fraud or even merely a mistake - and the certificate is in crisis. Facts about scandals are not even necessary, rumors already do. And the speed by which information travels in our TV and ICT-age only amplifies that risk: rumors spread now instantaneously. With the result, that trust does no longer leave on horseback, but literally with the speed of light. Time and again scandals have brought that message home. In more recent times the BSE scandal ruined the reputation of ‘meat made in Britain’, the China milk scare (contamination with melamine), that of Chinese food producers, and the recent financial crisis dealt a blow to the reputation of financial rating agencies such as Standard and Poor’s and Moody’s, and more in general to the reputation of the banking sector as a whole and the regulators of financial markets, and repeatedly stock values have collapsed after bookkeeping frauds became known, varying from Ahold to Banco Ambrosiano to Bernard Madoff Securities (see for a nice collection: http://projects.exeter.ac.uk/RDavies/arian/scandals/classic.html). While most of these examples still concerned trust in goods that still had a tangible
value, such as beef or stores, stocks, and skills, tools, technology, rights and realty, such is not the case with the producers of quality certificates.

### 3.5.2. Easy Market Entry and Exit

In our market, that for halal certificates, the conditions for building strong and broadly known reputations are so far not very favorable. First of all, market entry is in principle relatively easy. Not many investments have to be made to merely enter the market. All one needs is a printer to print impressive looking certificates, some customers who are willing to use them on of with their products, and some people who do - or who pretend to - hold inspections. The costs are generally low, or rather, there are certificate suppliers in the market who keep the costs low, and get away with it. Possibilities for acquiring external accreditation are rare, so do not require an effort. For similar reasons, market exit would be just as easy, as not much capital is destroyed.

To be sure, market entry and exit would be more difficult if there would be a submarket of high-reputation certificates, but that is not yet the case. To enter such a layer of the market, i.e. to build a reputation takes time and effort, and once someone has succeeded in acquiring a relatively strong reputation, market exit becomes more difficult and expensive and hence less likely, as the reputation would be destroyed and wasted. That is, if several players in the market would have managed to build a strong certificate brand name reputation, that would stabilize the market. But for various reasons that is not easy and hence not very likely to happen soon.

The ease of market entry has led to quite a few market entrants. Estimates range as said from 30 to 40, with 5-6 main players. They have come from a variety of backgrounds: local butchers, wholesalers (HIC), consuls involved in international trade (HQC), students graduating from auditing programs at polytechnics (Halal Audit), or associations of Muslims (HVV).

Not all of them seem to be clearly commercially motivated. Few are organized as commercial enterprises, but have the legal form of non-profit organizations such as ‘foundation’ or ‘association’. Most of them maintain that as good Muslims they
merely want to serve the ‘interests of Muslims’ in getting access to reliable halal products Wahid Ramdjan from HIC wanted to help Muslims in the Netherlands to get used to Western and in particular Dutch meat products, such as assorted sliced cold meat cuts (‘vleeswaren’) which were new to Muslims and which may be made from different kinds of meat, thus increasing the uncertainty of consumers about what they actually buy. Later on, Wahid wanted to support his trading business with his own certificate. The Consul of Syria has been involved in international trade to Middle Eastern countries and wanted to facilitate those by setting up a more reliable certification body, something the importing countries required. Some also do not have to earn their income from certification as their main business. Thus Wahid … from HIC earns his income from his wholesale firm, allowing him to maintain lower prices for his certificates than his competitors, at least in the certification market.

3.5.3. Intransparency

The relatively large number of certifiers for such a small country makes for intransparency of the market, certainly for the final domestic consumers, but also for the direct customers of the certifiers, the local shops catering to Muslims, the supermarket chains, and the exporters of meat and other food products, among them large multinational companies. The problems are exacerbated by the fact that the information problems, already present in the market for halal products, repeat themselves here in this market for certificates of halal quality, in particular also the problems of control posed by the importance of process standards for halal products.

Add to this the differences of opinion among Muslim consumers, producers, traders, and religious authorities about what halal is or should be, whether ‘100% halal’ is a possible or sensible claim, etc. We have already sketched the sources of this variety: different variations of Muslim belief such as Sunny and Shi’ite or strict versus flexible interpretations of the holy Muslim scriptures; different ethnic backgrounds of immigrants in Europe, with different experiences with non-halal Western - or for that matter Eastern - food, depending on the colonial history of the country of origin (Turkey, Morocco, Surinam, India, Pakistan, Northern Africa, Ethiopia, Iran, Iraq, Nigeria, etc.); and the different generations of Muslim immigrants to Western Europe.
The certifiers complain themselves about this: ‘There is a lack of transparency between the certifiers. That is because many do not know the halal rules and neither do they know Dutch society very well.’ (HAC)

These intransparencies and differences of opinion form a fruitful breeding ground for dabblers. Even those certifiers that are originally of good intent, may be forced by price competition in the market to partake in a race-to-the-bottom regarding price and consequently also quality of control.

3.5.4. Price Competition and a Race-to-the-Bottom?

There seems to be indeed price competition, albeit within three different segments of the market, which each cater to different customers, willing to pay different price levels:

1- the very low price, low costs, and low quality segment: the local butcher or grocery shop who does not mind to get some confirmation by the local imam during the Friday prayer in the local mosque that he, Mohammed, is reliable and sells ‘100% halal’ meat. Basis of trust, and certification of that trust, is here primarily personal relations and acquaintance, not thorough professional inspection. The butcher may take the imam once with him to the slaughterhouse, to see how things are done there. The imams do this, not for a living, but merely to have some side income, either for themselves or for the mosque organization. This butcher could be also a customer for a nice halal certificate that can be acquired more or less for free from the internet, something to merely embellish his butcher-shop.

2- Then there is another low price - low cost market segment, but now one that cannot (any longer) be based on personal relations: the more anonymous mass market of second and third generation Muslim immigrants in Europe, culturally diverse, who increasingly shop in the large Western food retailers and department stores, like Albert Heijn, Carrefour, or Sainsbury. This market is also served by large multinational food producers, such as Nestlé or Unilever. These producers and sellers
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need a halal certificate based on some scientific quality evidence derived from systematic inspections, provided by organizations that work a bit similar to their own organization of value chain logistics and internal quality control. They want some minimal evidence of quality inspections, but it should not be too costly as they compete very much on prices with other retail chains, and are large and powerful enough to demand significant price concessions. This market segment is served by certifiers such as HIC, who certifies meat for Albert Heijn, and HQC, who does the same for the poultry supplier of AH.

3- Thirdly, there is the large export market to Muslim countries, where quality of inspection is much more important and where exporters are willing to pay higher prices for a more reliable certificate. These certifiers may even be visited by delegations of the importing countries directly. This market segment seems to be served by more professional certifiers such as HVV, Halal Correct, or Halal Audit.

Within each of these market segments there seems to be price competition, resulting in some form of a ‘race-to-the-bottom’, with the acceptable bottom being at different levels in each segment. This is made possible due to the difficulties of the consumers for whom the certificates are meant to control and value the quality of the quality control. This problem exists to a somewhat lesser extent also for the corporate customers. Respondents estimated that certification costs may range between several hundred and 50.000 Euros a year, depending on the market segment. Cheapest are of course the self-certifying websites (practically free), then the local imams, who may certify for a few hundred Euros for their mosque.

Most expensive are, according to their competitors, HVV/HFFIA and Halal Correct. Mr. Al Chaman from HQC about HVV/HFFIA: ‘I am co-founder of HVV, but left over a conflict over prices. The director, Abdul Qayyoem, wanted 8 cents per kilogram meat certified, and with all expenses, such as travel costs, that came to 15 cents per kilo. That makes the product too expensive for the customer. It is blood money. Same with Ali Ben Salah from Correct. If a new customer approaches them, they charge already 15.000 Euros to start with. Two years down the line it has become 30.000 and then they demand 7 or 7% of the invoice value charged to customers.’ HVV/HFFIA admits that it is expensive, and that it has lost almost 50% of its customers to the competitors, but ‘the customers are coming back. We may be more
expensive, but also much better. And as the market gets more professional, that starts
to count.’ And Correct: ‘We may be more expensive than HCQ and HIC, but they do
nothing. We like to compare ourselves with the large certifiers in the world.’

From among the major certifiers, HIC seems to be the cheapest. It can keep his
certification prices low, not only because the owner, mr. Wahid Ramdjan, seems to
derive his income primarily from his wholesale activities, but also because Wahid has
organized his inspections in such a way that they are low-cost. Thus, typically, HIC
employs hardly any inspectors, but rather relies on ‘volunteers’, i.e. Muslims who are
already employed by the slaughterhouse. They get a bit of extra pocket money - 100
Euros a month was mentioned - if they do the slaughtering - their daily work anyway-
according to halal rules, which include that it is done by a Muslim who mumbles ‘in
the name of Allah’ while doing so; and who subsequently certify that they have done
so. HQC concurs ‘We work with many volunteers, Muslims that work already
anyway in the slaughterhouses. Therefore we can be cheap. Why to have one’s cake
and eat it?’ But the expensive competitors are critical. HVV: ‘80 percent of what
HQC certifies is no halal. Their certificate is worth just 0.’ And Halal Correct: ‘I do
not buy myself at Albert Heijn. I do not trust it for halal, because HIC certifies it.
Albert Heijn gets its halal chicken from Interchicken, a large poulterer. That obtains
part of its chicken from a slaughterhouse certified by HIC, but it also buys from
others, where there may be no Muslims and no controls.’

Mekkafoods, as ‘western’ producer of halal products a relative outsider: ‘All
certifiers in the Netherlands are profiteers, and make easy money. They come once to
your factory, write a certificate and come never again. As a result there is no
certificate that is accepted by everyone’. Therefore, he has chosen to market his
products with his brand name as quality proof, rather than a certificate from an
external certifier. ‘Independence of the certifier and strict control should give such
certificates value, but there is neither independence nor real control.’ Mekkafoods
itself claims not to need any inspection by others, ‘We only produce halal products, so
they cannot get contaminated by others. But our suppliers of meat do have
certificates.’

The large retailers in the 2nd segment are not only price conscious, but have
also substantial market power to demand lower prices. If retail chains manage to
extract that from major food producers like Unilever, how much more will they be able to do so from small halal certifiers? Not for nothing have supermarket chains chosen for HIC certificates, for one, because HIC allows slaughtering of stunned animals, but probably also because of its low prices.

Large corporations, whether supermarket chains, food producing multinationals like Nestlé, or large meat exporters may be able to force prices down, thanks to the size of their orders. However, the costs of certification may be only minor compared to other costs. Yet, as they are often engaged in price wars for consumers, even such minor costs could make a difference in the competitive struggle.

Nevertheless, the importance of quality of certification should not be underrated. Large companies, visible to the general public, care a lot for their reputation. Lesser quality of controls may involve risks to that reputation. It might be worth to engage a more reliable certifier, even at the expense of higher costs. The costs of loss of reputation, due to a scandal may by far outweigh the minor costs of certification. Reputations take a long time to build and may be lost very quickly following a scandal, as the recent case of manufacturing mistakes of Toyota has brought home again. Even in the absence of a well-publicized scandal there can be immediate losses. As mentioned before, our interviewees referred to multiple cases where meat exporters lost complete shipments, when customs officials of Muslim countries detected traces of haram.

3.5.5. Market Failure?

The price competition, combined with the information asymmetries in the market as to the value of the certificates, and the presence of both malicious dabblers as well as well-meaning, socially concerned Muslims who feel ‘that fellow Muslims should not be forced to pay too much for their meat and other products’ could produce ‘race-to-the-bottom’ as regards the quality and reputation of halal certificates in general. A few bad apples are enough to infest the whole basket and make it smell.
This has all the elements of a typical collective action problem, familiar from other cases, varying from cartels to strikes. Everyone profits from good reputation of certification - just like anyone profits from the higher prices produced by the cartel or the higher wages produced by a strike. Yet for the individual there is a temptation to free ride: offering the goods at a price just below the price agreed in the cartel allows the individual supplier to increase his market share; and by not actively participating in the strike, an individual worker may be able to keep in good standing with his employer, to be rewarded in the future by a promotion or other individual pay raise. Similarly here, the halal certifiers have a collective interest in establishing trust in the market in the value of their certificates; but by lowering their own price a bit, at the cost of less expensive inspections, they may attract more customers for their label and thus increase their market share. The diversity of halal certificate suppliers and the Intransparency of this market - no one seems to publish publicly available annual reports - allow for that. The overall result is a bad reputation of the certification sector.

The problem is exacerbated by outright illegal copying and other fraud. Certificates from reliable certifiers are illegally copied. The meat wholesaler Fasen Meat Trading in Breda was in 2009 accused of selling several thousand tons of meat in France improperly sold as halal with falsified documents (Volkskrant November 26, 2009). In the same year, the certifier HQC claimed that Kentucky Fried Chicken (KFC) misled Muslim customers, by selling meat as halal with a document that only proved that a certain slaughterhouse could produce halal meat, not that this batch was slaughtered indeed so. Inquiries by the Volkskrant proved him right. Certificates which are downloadable for free from the internet, and which may be used by local butchers, do not help the reputation of halal certificates. The average final consumer has difficulty distinguishing the good from the bad.

Neither does another form of self-certification, namely the form as is done by HIC for its sister-organization Wahid Meat. In principle there may be nothing wrong with it, as long as it is transparent to the customers for whom the certificate is meant. Such a form of self-certification is akin to developing a brand reputation. Albert Heijn does it as well, with its own certificates for ‘healthy choice’ (gezonde keuze) or ‘AH pure and honest biological’ or ‘sustainable fish … from a guaranteed quality chain’
It becomes a problem when the self-certifier either explicitly or implicitly suggests with the hallmark/certificate that his product has been investigated and rated by an independent third person, actor. To be sure, AH uses also recognized external certificates, such as those of Fair Trade/Max Havelaar, the Marine Stewardships Council MSC (for fish; though most of its fish has only the company hallmark), Nordic Swan and Blue Angel (for ecological food), EKO and Skal (for biological food), and Better Life (for free roaming chickens and eggs).

Distrust has indeed been spreading. Various Dutch TV programs and newspaper articles already referred to before have indicated such distrust, and reasons for it. Hüseyin Büyüközer, chairman of the earlier mentioned Turkish Food Auditing and Certification Research Association (GİMDES): “From our meetings with consumers in different European countries, we have found that people are complaining about unauthorized certifiers. Some unauthorized certifiers are issuing halal certificates without even seeing the face of the owner of the production facility. This is not how it should be. Having experienced similar misuses in the past, most Muslim consumers do not trust the halal labels on products and expect to see order in the market. This also causes unfair competition and discourages other certifier institutions who exert extra effort to ensure halal standards. The opportunism has reached worrisome levels and should be stopped,” he said. Another major problem, he emphasized, is that some certifiers sell certificates for excessive prices. There are companies who must procure their halal certificates for 5,000 to 10,000 euros. This is high and way above normal costs.” (Hava in ‘Sunday’s Zaman’ of Jan. 13, 2010)

Participants in the interviews we conducted described the market as being “anarchy”; “craziness”, and “fighting and fierce competition prevail”. “It is a real us-knows-us culture, this world of the many little certification businesses. If you are not in one of their acquaintance circles, you’d better not start with I”, ‘You can get a certificate without any problems, if it is an acquaintance”. Many also pointed out to what they considered “objectionable practices”, such as “issuing halal certificates without even checking whether it is actually halal”; nepotism; ‘butchers that certify their own meat’ (referring to Wahid Meat and HIC); exorbitant prices; far too lenient or unprofessional certifiers. “The Dutch halal market is chaos”, was the headline of an
extensive article by a Dutch newsmagazine. (Vrij Nederland, “Herrie om Halal”, 1-12-2007:1)

The confusion over different certificates is not only a problem domestically, but also on the international market. Marco Tieman, owner and director of LBB Logistics, daughter of MDS Logistics, who are building the global ‘Halal SuperHighway’ and in Malaysia a huge Global Halal Hub, complained: ‘Companies that want to participate in this attractive market need halal-certification. And that is precisely where the problem lays. Every country has its own interpretation of what halal is, which is why there are different halal-hallmarks’. He adds: ‘However, the Malaysian halal hallmark has a much broader acceptance in different Muslim countries that other hallmarks; which is why many large industries that try to increase their market position in the Middle East and Asia choose to do their halal production in Asia.’ (Westra 2007: 37) He implies that if the Netherlands or other European countries want to compete in the growing global halal market, they will have to solve the problem of certification confusion. The Netherlands has made a good head start with developing Rotterdam as the ‘halal gateway to Europe’. However, for the time being the distribution centers are still largely empty. And one of the problems is that of trustworthy certification.

The confusion around and the distrust of halal certificates indicates that this market is in danger of ‘failing’. As distrust spreads and reputations decline, the value of the certificates disappears and so will the willingness of customers to pay a price for such certificates.
4. The Search for Solutions

Problems in the one market - for halal products - such as adulteration and fraud, made possible by information asymmetries, have produced the need for another product, for which subsequently a new market has been formed, the market for halal quality certificates. However, that derived market seems to experience the very same problems: information asymmetries, intransparency, amateurism, lack of economies of scale, and price competition, giving again rise to certificate adulteration, product laundering, fraud and loss of reputation and credibility. After market failures in the markets for halal products we see similar market failures in the market for halal quality certificates that are intended to provide a solution in the original market for halal products. Are there any solutions to these problems of this certification solution to the problem of fraud and distrust in the market for halal products?

4.1. Individual Strategies and Self-Organization by the Market

Of course individual certificate providers could and perhaps do develop strategies to increase their own professionalism, transparency, and reputation and indirectly with that of the whole halal certification industry. They could also engage in active publicity campaigns and advertising, spreading the word about their reliability, among the general public, and with their prospective customers.

By doing so they could help the market mechanism to organize that market itself. Competition could bring order, by selecting and giving the upper hand to the more reliable certifiers and weeding out the less serious ones and the outright dabblers, thus developing a hierarchy among the certifiers. That has happened to some extent in the market for certifiers/raters of financial products. Although there have been 92 rating agencies of financial products counted (Engelen 2010), three of them have managed to get the upper hand in that market: Standard and Poor’s, Moody’s, ad Fitch. Such has not yet happened in the world of halal certification. Yet, what the example of the financial rating services market has also taught us is that such
reputations, and hence such differentiation and ordering of the market, maybe easily lost again. After all, the current financial crisis - if there is such a thing - is also, or even mainly, a credibility crisis of those agencies that live off rating the risks of different financial investment opportunities. Weeding out the good from the bad and the ugly remains difficult if not impossible in markets plagued by information asymmetries. Customers will select on price if they cannot select well on the basis of quality, thus stimulating price competition at the detriment of quality, fueling a possible race-to-the-bottom.

4.2. Self-Organization and Self-Regulation through Associations?

What about the option of collective self-organization and self-regulation of the sector? This has been a long-time tried and trusted model of market ordering in the Dutch economy, part of what we have come to call our ‘polder model’. For centuries, Dutch civil society formed bottom-up associations and foundations that have tried and succeeded in regulating that society. In the market place these varied from the merchant and artisan guilds of the Middle Ages until the trade associations and cartels of the 20th century (Van Waarden 1992, 1995). What about a cartelization of halal certification?

Some Dutch Muslims have recently tried. The Rotterdam initiators for Halal Audit HAC started with the aim to bring all certifiers around the table to form an association, before they decided to create their own certification agency. A similar ambition had apparently mr. Farouk in Amsterdam. However, they had no success. Not only did these newcomers to the halal certification market lack the authority and standing to do so; there may have also been a culture problem involved. Centuries of Dutch history have produced cultural values emphasizing collective cooperation, supported by a variety of institutions. This may not have as yet permeated to the ‘New Dutch’, whose family histories stem from rather different cultures.

Curiously enough, initiatives for such collective self-organization are coming now from abroad, from precisely one of those foreign cultures where Dutch Muslim
immigrants have their family roots. The Turkish ‘Sunday’s Zaman’ published recently (13-01-2010) an article under the heading ‘New organization to sort out rotten apples in European halal food market’,

in which it wrote: ‘A projected umbrella organization to be dubbed the European Association of Halal Certifiers is expected to bring order and unity to the halal food sector in Europe, appealing to hundreds of thousands of consumers, yet operating without any halal supervision mechanism. A number of certifiers of halal food from Germany, France, the UK, Belgium, Austria, Denmark, Spain, Bosnia and Herzegovina and Turkey decided last week to lay the foundation for a single association to set the market in order and curb unfair competition. The establishment of the association will be officially announced in a signing ceremony in Belgium on Feb. 24, 2010 with the participation of all parties involved.’ So far, this is merely a promise for the future. It may seem reasonable to organize a sector in this day and age of globalization at a supranational level. Yet it remains to be seen whether such an international organization will not be too diverse to allow it to come to effective forms of self-regulation.

4.3. Seeking Support from ‘Higher Authorities’

A third means for bringing order in the chaotic market for halal certificates may be backing from some authority widely respected in this world as well as among the final consumers - Muslims - and therefore also the direct customers of the certifiers, the (western) producers and sellers of halal products. Dutch public authorities have done so frequently in the past with sectoral trade associations and trade unions, by giving them privileged access to the government (as currently through the Socio-Economic Council), monopoly recognition to supply sectoral public goods, as well as even endowed them with some public authority, such as the right to tax their sector or to enact binding regulations, as in the case of the statutory trade associations (PBO-product en bedrijfsschappen) and the extension of collective wage agreements. Such backing has as yet not come for the sector of halal certification. However, many Dutch halal certifiers have sought recognition and support from an authority in the international Muslim world. Could the latter offer a solution to the problems of
fragmentation, intransparency, fraud, and lack of credibility? Could it help standardizing halal certification standards and control procedures?

### 4.3.1. The Main Actors in the International Halal Market

That international Muslim world is however as fragmented as the Dutch domestic Muslim world. There are many different organizations in different places active, and they differ in belief, opinion, and operations. The Muslim world does not have a central authority like the pope in the Catholic Church.

First of all, the Muslim world is dispersed territorially. Organizations are often linked to national governments, who may support or even steer these organizations for both political/religious and for commercial-professional reasons, expecting legitimacy from these sources - religious authorities and economic prosperity - in return.

Key countries are Saudi-Arabia and Egypt which harbor the most important religious authorities, and where Islamic law and jurisprudence is developed, including as regards halal and haram. How to implement these rules in real life is however a different matter. In this regard Malaysia is seen as a halal authority. Not so much in the sense of theoretically defining halal, but as an example and center of knowledge of how to regulate halal professionally and commercially. It has supported if not created some key organizations in the global halal market, and has the ambition to become a central authority in halal trade. However, the country needs the support of the religious authorities as most Muslims look for final judgments towards Saudi-Arabia and Egypt. Furthermore, Indonesia tries to play also an important role, as the country with the largest Muslim population. Indonesia and Malaysia are “the only countries that have a formal program to approve a halal-certifying program.” (Riaz & Chaudry, 2001:172) Given the size of their populations, they are important export markets for other countries and therefore other exporting countries have to orient them to their standards. The major exporters indirectly play hence also a role in setting global standards, even though they are usually non-Muslim countries. Thus countries like Australia, Brasilia and New-Zealand are not only models for Muslim countries when it comes to slaughtering and logistics technology; they have also well developed professional certification bodies linked to those logistics.
The country-differentiation has already referred to another one: that between organizations with a religious and with a professional authority. Religious authorities are the Muslim World League in Saudi Arabia, the International Council of Muftis in Jeddah, the Al-Azhar University (the oldest and most respected university in the Muslim world) and Dar al-Iftaa in Egypt, the Islamic Fiqh Academy in Jeddah, the Islamic Religious Council of Singapore (MUIS), the Magelis Ulama Indonesia (MUI), and also the Islamic Food and Nutrition Council of America (IFANCA). These organizations were already of great importance before halal certification became an issue, although the Singapore and Indonesian organizations seemed to have gained in international authority due to the increasing importance of halal certification and the fact that they are based in key countries within the halal market.

In addition there are regulatory organizations that have acquired a respected position on the international halal market through their professionalism and thus hold a professional authority. First and foremost among them is the International Halal Integrity (IHI) Alliance created at the first World Halal Forum in 2006 and located in Malaysia. Its aim is explicitly to solve the problem posed by the absence of reliable certification bodies in the global halal market. On its website it declares to be “an international non-profit (their emphasis) organization created to uphold the integrity of the halal market concept in global trade through certification, collaboration and membership. The global halal industry is devoid of a significant non-government organization (NGO) presence or position that can provide accreditation to certification bodies. The main reason for this is due to the absence of a constructive platform for the industries to communicate and network. The absence of a credible reference centre for information has resulted in industries and consumers being bombarded with various interpretations of the meaning and application of halal which often contradict each other. Initial feedback has indicated that there is a significant need for a neutral platform established based on studies carried out worldwide. It was against this backdrop that the IHI Alliance was formed.” It is closely related to the Islamic Chamber of Commerce and Industry ICCI, established in 1977 in Istanbul and currently with the private sector of 57 countries as its members (so to speak a peak organization of Islamic commercial civil society), as well as to the Organization of Islamic Conference OIC (the peak organization of Islamic states). The IHI Alliance organizes congresses, forums and aims to accredit foreign certifying agencies. Typical
for its professional orientation is that the two executive directors are Malaysians trained in the UK and the US in economics, accountancy and engineering, have a strong international orientation and worked earlier for companies such as PriceWaterhouseCoopers and Carrefour. At the latter one of them developed the Carrefour Halal & Hygiene Audit System and took care of supplier selection, Halal & Hygiene training, handling customers' halal complaints, and applying halal to Carrefour's local house brands. He brought this experience in the private sector - a multinational food retail giant - into a semi-public endeavor sponsored by the Malay government in order to bring some order in the global halal certification world.

Direct initiator to the founding of IHIA was another Malay organization, KasehDia, a research agency focusing on the international halal market and publisher of the Halal Journal and market researches. KasehDia also organizes the World Halal Forum, one of the leading events on the halal market. Relating to these organizations is the Malaysian Department of Islamic Development JAKIM (Jabatan Kemajuan Islam Malaysia), which regulates national halal laws and certifies national companies. The development of the Malaysian halal industry is coordinated by the halal industry development corporation (HDC). All these organizations, IHI Alliance, the World Halal Forum, KasehDia and Jakim seem to be instruments of the Malaysian government in realizing its aim to turn Malaysia in the halal hub of the world. As they speak the same language of, and are used to similar professional procedures as US and European organizations and corporations, they seem to do so quite well. Indeed, all of the Dutch certifiers were aware of their existence, and at least three were in contact with the organizations.

Another important international body is IFANCA, the largest certifying body in the United States. Unlike in Europe, the IFANCA is an authority in the domestic market, not matched by any other agency in the US. It maintains relations with all international important agencies, establishing a firm international recognized position and becoming increasingly active in Europe.

In Europe, the first steps have been made to form Europe-wide halal organizations, but, this is still very recent and embryonic. In March 2010 the European Association of Halal Certifiers (AHC-EUROPE), an Islamic, independent, non-profit and non-governmental (NGO) was founded in Brussels by ten European
halal certifying organizations in Belgium, Bosnia, France, Germany, Spain, The Netherlands, Turkey, and the UK “with the aim to be the referential institution for halal affairs in Europe to third parties, and to encourage the quality of halal certification in Europe in assuring halal products” and to coordinate activities of and advice on halal standardization, education, training, and accreditation. President is the German Halal Control and spokesperson Mrs. Yasmina Ben-Koubia, from the Dutch Halal Feed and Food Inspection Authority (HVV/HFFIA).

As countries and companies are competing for a share or even a key role in the global halal market, they also aim at the key to the halal status of products, halal certification. So far, Malaysia seems to make good headway, thanks to its professional approach. However, it remains to be seen whether it can really assume a leading role, as any central position for Islamic matters has traditionally been held by Saudi-Arabia and Egypt. As one of our respondents remarked: “Whether Malaysia likes it or not, in the end Muslims will listen to Saudi Arabia”. Other certifiers reckoned that a worldwide authority is more likely to emerge from the younger generation Muslims in Europe rather than in Asian or Middle-East countries, as they have both a thorough understanding of the European and American modern society and business and of the halal norms and their incorporation into local businesses.

4.3.2. Seeking Support

Thus there are thus quite a few international organizations, varying from very old and well established ones like the Al Azhar University in Cairo to the very young and embryonic European Association of Halal Certifiers to list two extremes. Dutch certifiers have sought and found support from some of these international or foreign halal authorities.

The oldest Dutch organization HVV/HFFIA seems to have the broadest recognition abroad. It is certified by the two major foreign Muslim accreditation bodies, the Malaysian JAKIM and the Indonesian Assessment Institute for Foods, Drugs, and Cosmetics MUI (http://www.halalmui.org/images/stories/news/pdf/hcb15okt09.pdf). HFFIA is the only one also listed on several other smaller international websites, such as
Furthermore, it is one of the leading initiators of the new European AHC.

The MUI and JAKIM have also accredited Halal Correct, which has gotten also approval from the Islamic Board for Fatwa and Research of the Islamic University in Rotterdam. HQC is also recognized by the MUI and claims to be also accredited by JAKIM (although we could not confirm this from the website of JAKIM). But HQC seems to have in general good diplomatic relations with Muslim countries, as delegations of them have visited the honorary consul of Syria who is the figurehead of HQC, among others to discuss the acceptance of different stunning methods. HIC claims proudly that it is backed by the Al Azhar University. The younger certifier Halal Audit HAC says to be in contact with all of these organizations, but there is no formal approval yet. Farouk’s Foundation is neither accredited. Not surprising that those that are not, tend to downplay its importance. HAC maintained that the recognized organizations that were on the list did not have to do anything to get on there. They found it a bit dodgy. And Farouk: “I just got a request from a Dutch firm that wants a certificate, but wanted to know whether I am recognized by the large mosque in Paris. What the hell! I am a Dutch firm. What does this mosque have to say about me? My certificates are legalized by all important embassies here.”

The Halal Industry Development Corporation of Malaysia, a country which, as a modern industrialized, politically stable and economically prosperous country as well as an Islamic one, aspires to become the global hub for the production and trade of halal products and services has by now recognized 47 certification bodies in 23 countries for exports to the Malaysia. Their list illustrates the fragmentation of the Dutch market for halal certification. The small Netherlands is listed with 3 recognized certifiers, whereas major meat/food exporting and/or larger countries like Argentina, Brazil, Belgium, Denmark, India, Pakistan, Thailand, Indonesia, and Japan have only 1 recognized certifier, and the US, China, France, Germany only 2.
4.3.3. A ‘Reverse California Effect’?

Malaysia’s accreditation seems to become a bit of a global standard. It is imposed and enforced by making certification by a recognized certifier a condition for access to the country and hence also for access to the developing global halal hub there, assuming that really comes to something. In a way this is a kind of ‘California effect’, a concept developed by David Vogel (1995). The essence of this principle is that a large market (like California or now Malaysia, and as its standard acquires broader recognition, more of the Muslim world) can impose standards on imports, thereby de facto forcing its regulations onto producers and traders abroad, a kind of ‘governing across borders’. Part of the ‘California effect’ is subsequently that the producers abroad, which have managed to conform to the standards of ‘California’, have acquired an interest to lobby their own government for adoption of these standards, as it gives them a competitive advantage over their local competitors. Vogel’s case of California suggests imposition of regulation from the West to the East. A ‘Malaysia Effect’ would be similar, but now from the East to the West. One might call it a ‘reverse California effect’.

In this way it could be that the Malaysian standards are gradually become recognized globally. But elevating these standards to global importance would mean also that Malaysia would acquire a competitive advantage as production location for halal products. As Tieman argues, this could go at a loss to the Dutch economy: disappearance of potential suppliers/exporters to Muslim countries to produce in these very countries.

4.4. State Aid?

Therefore, some regulation by the Dutch state might be needed to bring order in the market for halal certification, in order to facilitate transactions and to encourage exports and growth in the market for halal products. Also, because the effects of international certification are as yet unsure, given the fragmented structure of authority in the global Muslim world. The credibility problems are in the here and now and call for a solution soon. Mr. Ali Eddaoudi, the main Muslim chaplain of the
Dutch Armed Forces, and as such not only responsible for spiritual advice to soldiers but also for organizational advice to an organization that has to feed Muslims, is all in favor of the development of a national halal certificate in the Netherlands. Such a standard should in his vision be accredited both by leading international religious and professional Muslim authorities (‘If you have both Saudi Arabia and Malaysia you’re in.”) as well as by the Dutch government. Most of the other interviewees agreed, with the exception of HVV/HFFIA which objected to the government playing a key role in this, or any other overarching organization, as they regarded themselves already as the supreme Dutch halal authority. But thinking that of oneself is not sufficient. It is rather the others who have to bestow such authority on you.

4.4.1. The Public Interest. For which different ‘Publics’?

Should there be such a public national halal standard? There are enough public interests at stake here. In the first place of course for the specialized public of ‘Muslim consumers’ and ‘Muslim traders and other businesses. But there are also interests of the whole Dutch public involved: honesty in trade, general safety and security of products, combating fraud, and last but not least export interests: the reputation of Dutch products in international Muslim markets with their fast growing purchasing power. After all, the Dutch have quite a history in trading with ‘the East’. History could repeat itself. Just as the requirements for ‘certificates of origin’ of the belligerent countries during the first World War imposed on imports from the Netherlands forced the country to replace a variety of private quality labels in the Dutch dairy industry by publicly sanctioned State Butter and Cheese Certificates (‘Rijksbotermerken’ and ‘Rijkskaasmerken’), import barriers in Muslim countries could force the Netherlands to create publicly sanctioned halal certificates.

Product quality certificates are clearly a ‘public good’ as defined in economics: they are non-rival and non-excludable. These characteristics they share with all publicly available information. The information the labels provide are accessible/readable by all. And they may be useful to all (even for those with anti-Muslim feelings and animal activists; for them it may be a sign not to buy this good); albeit that some consumers may attach more importance to it than others. However,
that holds for many more public goods that are usually paid out of tax income. Free streets, squares and parks are available to all, but usually enjoyed by the citizens living in the neighborhood. Sanitary inspection of meat, as by the Dutch Food Inspection, is for all, but only non-vegetarians profit from it.

Yet, though public goods, they apparently can be privately financed. Some are willing to pay a price for them. However, these are not those for whom the certificates are intended, the consumers. The certificates are paid for by the producers and sellers. And that is exactly part of the problem, the moral hazard problem that this way of funding introduces, the temptation to be flexible with enforcement, and to aid in ‘halal’ product laundering.

4.4.2. The Possibilities of Private Law

Of course the state does in principle already provide support for economic transactions through private law, Commercial law, contract law, tort law provide institutional frameworks for private commercial transactions and protect transaction partners from the dangers of fraud and deception - and these concern of course also transactions over halal products. Under the Dutch Civil Code, Book 6 art. 193 and 194, false product certification would be considered misleading advertising, and that would be a case of tort, which would justify a claim for compensation. Since 2005 there is also a European directive which forbids and sanctions dishonest trade practices (2005/29/EG), including such misleading advertising. Book 3, art. 44 and 228 of the Civil Code deal more generally with ‘errors’ (*dwaling*) in transactions, like saying something about a product that is false, or withholding relevant information in a transaction. That in itself alone could be a reason for retroactive annulment of the agreement, which means that the one for whom the information was hidden can claim his money back. If the ‘error’ was made intentionally, that too would be a case of torts, and justify a claim for compensation (Verkade 2009).

Such protection from fraud through private law has however a number of serious drawbacks. First and foremost it is only a solution for the domestic markets; cross-national consumer transactions may be regulated under different legal systems.
and these tend to differ substantially as regards contract and tort law, ease to litigate, average tort damages awarded by the courts, etc.

But even at the national level there are hindrances that reduce the effectiveness of private law. Protection requires action and initiative by the aggrieved party. He/she has to summon the seller to court if he/she believes to have been cheated. Access to the court involves costs, such as fees for the court and for legal advice and lawyering. And there are also the emotional costs of getting involved into conflict. It may be that most people nowadays have legal aid insurance, and in the Netherlands there is also publicly funded legal aid for low income citizens; however, even if the costs would be little for the plaintiff, the potential benefits are also likely to be very limited. For one, the Netherlands does not have very fierce tort litigation tradition. Damages awarded by Dutch courts tend to be very low. The Netherlands scores - on a continuum of countries ranked from high to low average damages awarded - at the far lower end; with the US being on the opposite extreme of the continuum (Van Waarden and Hildebrand 2009). Punitive damages are non-existent. Plausibly, the plaintiff will have to do merely with his ‘money back’. That might still be worth something to him if the transaction concerned an expensive good, such as a house, a car, or a kitchen. However, food prices tend to be low, so the damage of ‘money back’ will be peanuts. That means that the monetary punishment for a swindler will also be peanuts. Bundling claims in class action suits are no alternative, as these have been rather difficult under Dutch law and Dutch legal traditions, (although recently such initiatives have had some success in cases of financial investment transactions).

The damage due to halal cheating can however be rather high for a devout Muslim. The loss in monetary terms may be negligible; the loss in moral terms may be not. The true believer might feel remorse over having sinned or be fearful about getting punished by Allah in the hereafter. Yet he is unlikely to get any monetary or other compensation, awarded under tort law by a Dutch judge for such moral suffering. If only, because no judge would be able to express this ‘damage’ into a monetary figure.

Of course it might be a bit of a different story with commercial transactions between different larger organizations: producer or wholesaler versus retailer, or wholesaler versus catering organization or fast food restaurant chain. As they buy
large quantities, ‘money back’ might mean something there. Furthermore, such larger and publicly visible corporations tend to be very sensitive to blemishes on their reputation for fear of buyers’ strikes, and a court case could generate bad publicity for their reputations. The latter is likely to actually be the most severe punishment.

Another problem with sanctioning under private law is the issue of proof. How to prove that the product was not halal? Dutch law maintains rather strict norms for proof and causality. For halal products the problem is exacerbated by the importance of process standards as compared to product ones. Just as it is not easy to control and guarantee process standards, it is also difficult to prove that a certain product is not halal, i.e. that the animal from which the meat stems was not slaughtered according to halal rules. Furthermore, a Dutch secular judge would have to decide in such a case what really halal is and what not, in order to judge whether some product is not halal. If he would do so, he would elevate private religious standards to public case law, i.e. turn Sha’ria law into Dutch law, something which could cause quite a backlash among Muslim bashers. But reaching such a verdict in the first place might not be easy because of the different opinions among Muslims about ‘real halal’; which also means that any legal verdict might not be accepted by all of the Muslim community.

It should be noted that the Dutch legal system has a way out of the dilemma that it is financially irrational for plaintiffs to litigate in case of low losses - low damages. The Netherlands had a rich world of less formal alternative dispute resolution (ADR) institutions, especially for handling civil cases (Blankenburg 1997, 1998, Van Erp & Klein Haarhuis 2007, Van Waarden and Hildebrand 2009). These provided for easy and cheap conflict settlement, with low entrance barriers and quite some legitimacy. The variety is great: from informal complaints procedures, arbitration bodies, mediation, ombudsman-like institutions, to consumer tribunals and rent commissions. The Dutch state supports such private adjudicating institutions by backing them with statutory powers. This came in several forms. First, by formally recognizing them. Secondly, by enforcing final ADR-decisions, through their registration in court. Third, by having state courts referring to precedents set by decisions of these private institutions or by referring to their codes and the customary law they developed. Fourth by referring complaints in first instance to such institutions. Such private adjudicating institutions did not only function as an
alternative to the courts, but also as a filter to them. Blankenburg (1997: 58) found that only 1 percent of the complaints for the rent committees were taken to court after the committees had given their advice.

For consumer affairs there are 47 product specific consumer tribunals recognized and coordinated by the Foundation SGC (Stichting Geschillencommissies voor Consumentenzaken) for products and services, varying from air conditioning to companion animals and funeral services, but there is no one for halal products, not even one for food - indicating that people usually do not sue for something as cheap as food.

4.4.3. Regulation through Public Economic Law

There is recently a trend towards more consumer protection under public law, in the wake of the decades of market liberalization. Even the most diehard neo-liberals have in the meantime discovered that information and power asymmetries need to be corrected for, and that the weaker parties, less powerful, less well informed, need some protection by an authority that can wield state power.

Thus in 2008 a new Law on Dishonest Trade Practices has been enacted, following an EU directive …, which incorporated elements of public law, notably Art. 194-196 Book 6, of the Dutch Civil Code. This made it in principle possible to for the state to take the place of, and represent the interest of, consumers: to prosecute businesses caught engaging in unfair trade practices. Furthermore, it made also ex ante action possible. Whereas under public law aggrieved parties can only complain after they have been cheated, under public law it is possible for the state to take precautionary measures, namely to inspect businesses on whether they perhaps are engaging in misleading product labeling and advertising, or even outright fraud, even before there is a victim.

In order to carry out this new state activity, a new agency has been created. In line with the copycat policy fashion to establish everywhere and for everything new market supervisors (‘toezichthouders’) - it seems to have become the one solution for all problems - a Consumer Protection Authority was established, with the task to
protect the interests of consumers in a diversity of markets. This new ‘authority’ has now come to share responsibility for consumer protection next to already existing ‘authorities’. In food and agricultural inspection these are the VWA (Food and Commodities Inspection) and the AID (General Inspection service, a kind of specialized agricultural police which controls also for hazardous forms of fraud and misleading advertising), both of the Ministry of Agriculture. Furthermore, under the Economics Ministry, there are the Dutch Competition Authority NMa (isn’t competition a form a consumer protection?), and specialized sectoral regulatory agencies, such as for telecom, finance, or health care, which are to guard the interests of consumers of these services. Some of these ‘authorities’ have, together with the Ministry of Economic Affairs, created a consumer information website ConsuWijzer. For misleading advertising there is furthermore a privately organized but publicly recognized Advertising Code Committee (Reclame Code Commissie).

Notwithstanding the overkill of consumer information and protection ‘authorities’, these public agencies pay as yet no attention whatsoever to halal products for the close to one million Dutch Muslim consumers. A search for the topic ‘halal’ on the websites of the Consumer Protection Authority, the VWA, NMa, AID, the Advertising Code Committee, and even the official commodities information website ConsuWijzer result in exactly ‘0’ search results. Apparently the topic has not even crossed the mind of the respective state authorities. For other cases of misleading advertisement there is more attention, such as for promotion of food and herbal products for medicinal properties, or for toys that look so much like real food that children might be tempted to swallow them.

The ConsuWijzer does list quite a number of private product hallmarks, with some brief information on them, something which could be considered a de facto public recognition of such private hallmarks. Yet, there is no reference whatsoever to a halal certificate. In the category food only seven hallmarks are listed: two deal with animal welfare (free roaming chickens), two with biological food (Demeter and EKO-keurmerk), two with environmental friendliness (Groen Label kas, Milieukeur) and one with healthy food (‘Ik kies bewust’). Alone for the construction industry, the website lists already 22 different hallmarks.
Official hallmark recognition is provided in the Netherlands by the Council for the Accreditation (Raad voor de Accreditatie). Again, no single halal hallmark has been recognized by this semi-state body. Was that because none passed the accreditation standards? Or did the owners never applied for such recognition, perhaps being of the opinion that recognition by a secular state would not help in increasing their credibility among the specific public that they are focused on, the Muslim, at home and abroad. Hence, halal as food standard has as yet not been publicly recognized in the Netherlands, and apparently neither in the EU nor other EU member-states.

To sum up: So far, Dutch authorities have refused to get involved with measures under economic public law as regards halal, as they do not consider themselves responsible for the enforcement of religious norms. And even if they would be willing to engage themselves, Muslims might be wary about entrusting the quality of their religious safety to a secular western public authority; although that might be less the case with foreign Muslim countries, which want to import Dutch goods. They see on Dutch products only ‘made in Holland’, but they are interested to know whether these are halal, as only halal stuff passes their customs inspections.

That attitude is quite unlike with e.g. the EKO-food standard, which could be considered also a ‘religious’ standard, as it stems from anthroposophics. This has been officially recognized by the EU, even in a directive. And it is also a bit different of the way the US has handled the issue of religious food standards.

4.4.4. Public Regulation of Religious Food Standards in the US

In the US there has been a history of public involvement with religious food standards, from which something could be learned. Since 1915, starting in New York, altogether 22 US states have enacted Kosher Fraud Statutes under pressure from Jewish lobby groups. These laws were a reaction to similar problems as now experienced by the European Muslim community. Non-kosher foods were being sold as kosher, and the states felt a responsibility to protect their Jewish citizens from such fraud. It was a form of private - public cooperation: the definition of halal was made
by orthodox Hebrew rabbis; the enforcement of the standards was a public responsibility (We owe this information to a presentation by Tetty Havinga).

These Kosher fraud statutes were eventually challenged in US courts (a.o. in 1992, 1994, and as recently as 2002) and found unconstitutional, as they infringed upon the constitutional separation of church and state: rabbi’s had become state appointed officials in order to be able to define the standards that public authorities were to protect, and with there regulations state laws publicly recognized and legitimated orthodox Jewish standards. In reaction to these court decisions some states changed the ‘kosher statutes’ into ‘kosher disclosure statutes’: forcing sellers to be more transparent about their kosher claims (a.o. New Jersey).

In the Netherlands the latter might be less of a hindrance. The country does not have such a strict separation of church and state. Quite the contrary: there is a long history of cooperation between state and church, as e.g. apparent from the public funding of private religious organizations (schools, hospitals, broadcasting associations, etc.). Principles such as ‘sovereignty in own circle’ and ‘subsidiarity’ legitimated private initiatives and private responsibilities of organizations of civil society, but at the cost of the general public. Therefore, the Netherlands neither knows a ban on private and public cooperation, as was also a problem in the US. New Deal programs involving public-private cooperation, such as in farming, endowing private actors with public authorities were also declared unconstitutional in the US, while such forms of public-private cooperation have a very long history in the Netherlands.

4.4.5. New Public-Private International Partnerships?

Considering this history it would be conceivable that a new form of public-private cooperation could develop around the enforcement of halal claims. In principle halal certificates could be protected by private law, by general requirements of honest trade. However, that would require a formal registration of the term ‘halal’. Registration as copyright or brand under intellectual property right legislation is of course not possible, as that is only relevant for when someone pretends to be able to claim the ‘property’ of the term. Obviously that is not possible with the term halal.
Separate public legislation, analogous to that in the US would have to be drawn up. That would require at least two minimal conditions:

a- the Muslim community is able to agree on a common definition of ‘halal’ and its concrete operationalizations when it comes to specific products; this notwithstanding the heterogeneity of this community

b- Public authorities would be willing and able to enforce private standards.

In general, this would be the world upside down: rather than having private organizations aiding in the implementation and enforcement of public regulation, as has been quite common in Dutch history, here we would have a case of the opposite: the public implementation and enforcement of private regulation.

However, recent history has seen the emergence of similar cases. In our globalizing world, more and more standards are drawn up by international private NGOs or other bodies; and these are then subsequently adopted by nation-states for public enforcement in their jurisdictions. Such has been the case in the regulation of global financial markets or in fair trade and sustainable development. In the financial sector private parties partook in setting the standards in the so-called Basel I and Basel II agreements, which have subsequently been implemented by nation-states (a.o. Underhill…, also for the WRR Engelen 2010). another case is that of the EU and its member states adopting and sanctioning the certificates for sustainability, drawn up by private international bodies such as the Forest Stewardship Council or the Marine Stewardship Council. If the Muslims manage to get their act together and agree on international halal standards, these could possibly also be adopted and enforced by nation-states. Attempts in this direction are currently made both by public actors such as Muslim States that combine religious authority and public authority and sanctions (Malaysia, Indonesia, Thailand, Saudi Arabia, Turkey) as well as the emerging international private organizations of halal certifiers, such as the recently founded European Association of Halal Certifiers. (see Sunday’s Zaman article).

Indeed, the Turkish see possibilities for forms of cooperation between international private associations and national public governments. The Turkish GİMDES head Büyüközer noted that: “Perhaps the key factor to the success of the new European association will be support from governments. If they would take
necessary measures to force certifiers to operate in line with the rules defined by the European Association of Halal Certifiers (AHC), then we will see a faster transformation for the better in the market.” He stressed that the success of the association will also be for the benefit of the economies of the countries involved, since they will have a chance to rejuvenate their domestic markets and diversify their trade base. “Once a healthy halal certification system is established in Europe, more consumers will look for halal labels, and this will boost demand more than anticipated,” he explained. (‘Sunday’s Zaman 13-01-2010)

It would require that the Muslim world manages to agree on a uniform standard for halal products, which would not only satisfy the needs of Muslims, but which would also be acceptable to non-Muslim societies including their animal rights movements. Some of the international halal organizations established by modern Muslim countries like the JAKIM and IHI Alliance (Malaysia), the World Halal Council (Thailand) and the very recent European AHC might be able to provide such a basis for public-private regulation of global halal markets.
5. Some more General Conclusions

What can we learn from this halal certification case as regards markets and the securing of the public interest?

1- It makes sense to distinguish between: a) a public good; b) a public interest; c) public finance of either; d) public provision of the good or service; versus private provision, paid for by the public.

2- A publicly displayed hallmark, a quality certificate or any other form of information about the nature and quality of a good or service is a public good, insofar as it is available to all: that is, it satisfies the theoretical conditions of a public good: non-excludable and non-rival, as the information is publicly available to all. As source of information it is akin to a road direction sign. A hallmark points the direction out for a consumer looking for the ‘road to halal goods’.

2a- It could be made into a private good if it would be made available only to those who pay for the information, who pay to know whether the good is of high quality, in our case whether it is truly halal or not. (Like a road sign that would lighten only to those with a chip with them for which they have paid.)

2b- It could also be turned into a club good, available only to those who have paid to become a member of a club, or who otherwise have made offers or incurred costs in order to be able to join the club. Examples are general of specialized consumer associations who make product comparisons and rate their quality comparatively, information which becomes subsequently only available to those who have paid a price to join the club (membership dues). Or free maps for members of automobile clubs.
3- Problematic is that here a price can indeed be charged, but the only party usually willing to pay for it is the one who profits most, that is the producer or seller whose good or service is certified.

3a- This financial dependency relation creates a moral hazard problem for the certifier: will he be extremely strict in rating the quality of the seller, who is also paying for the rating. Both the certifier and the customer are caught in a dilemma. On the one hand they profit from a good reputation of the certificate, a poor reputation makes the certificate useless. However, a good reputation requires a solid and strict inspection of the quality and if possible also some exclusiveness: the rating gains in reputation the more exclusive it is, i.e. the more producers/sellers are refused a certificate or get a lower rating. On the other hand the rater/certifier wants as many paying customers as possible, and conducive to that is less exclusiveness and less strict rating. The customer has to be kept satisfied. ‘Wiens brood men eet, diens word men spreekt.’

4. Thus a quality certificate can have both the characteristics of a public or a selective or even private good. That makes for a tension here; a tension which includes the possibility of bias, fraud, deception, and hence undercuts the very value of the information. If those for whom the information is made distrust it because they suspect bias, the certificate becomes worthless.

5- There are publics and publics, i.e. broader and more limited ‘publics’, general or more selective/exclusive ones. In between general public interests and private c.q. particularistic interests there is something else: a public interest for a limited public, a special public, so to speak a specialized public interest, or a collective interest for a selected public, selected collective

5a- A product quality rating such as a halal certificate can serve both the interests of a more selective public, in casu the public of Muslim consumers; but also the interests of a broader public, that of citizens in the Netherlands, or even of the whole world. Clarity and transparency about the nature of a good,
and reduction of the possibilities of fraud and deception, make for more and easier economic transactions with less transaction costs thus reducing the costs of the products exchanged; i.e. more sales, exports, production, employment, economic growth, prosperity.

5b- That is, the advancement of a private interest, or, less exclusive, of an interest of a exclusive collective, can nevertheless be in the public interest. That means that private interest theories of regulation (Stigler etc.) differ less from public interest theories of regulation (some references, e.g. UK … diss Johan den Hertog) than is commonly thought: public regulations enacted at the instigation of private particularistic lobbies can nevertheless serve a public interest as well: the private interests of GM are a public interest of the auto workers, the citizens of Detroit, and more in general the US economy. A private lobby for a public regulation does not necessarily imply that it will always be a biased regulation, serving some particularistic interests at the expense of others.

6- A halal certificate: can hence be a public good; serve the public interest; but still be provided by a private actor. These actors can differ, notably as regards whether they operate on markets, that is, how they fund it. The actor-source of the certificate can be:

6a- Commercial (i.c. as good on a market), by a Commercial info provider, with or without a monopoly, selling its information or rating onto a market; and bought either by a1) private actors as if it were a private good, which can be both consumers or producers/sellers; or a2) it can be ‘bought’, c.q. financed by the general public i.c. the state, out of tax income.

6b- Non-commercial, by a collective actor such as an association of consumers or producers/consumer association or a sectoral trade association (example of automobile club ANWB in the Netherlands who put up the direction signs on the streets; it was originally a private initiative, privately funded and provided for typical public goods); similarly financed by: b1) voluntarily the members of the association; compulsory, if the association
manages to get a monopoly of a good or service dearly wanted or needed by the members; out of commercial side activities of the members; or b2) by direct or indirect public funding: state subsidies for the goods provided by the association; or by the members, who are forced to join and/or to pay by the state (c.f. NL statutory trade associations, product-en bedrijfsschappen): compulsory membership/joining; and verordeningen/decrees of the association, transformed by the state from private into public regulation, by adopting it in public law, and enforcing it among the members (kind of pay of taxes by a subgroup of citizens and to be used for public goods only relevant for that public (cases: vocational training, generic advertising, collective research...)

7- Where this does not work, where there are too many parties in the market, too much ‘working of the market’, too fierce competition, all leading to intransparency, opportunities for fraud and deception because of ‘certificate adulteration’, loss of public trust in the certificate, less willingness to believe it, to ‘buy’ its message; inflation of the certificate; there more public involvement may be required to ‘stabilize the value of the certificate’.

7a. This could be similar to how the state has over time come to protect and stabilize the value of a currency. A quality certificate has, in a way, characteristics of money: like the state certifies the value of a piece of paper or a coin, collectively labeled as money; so can it do with the value of another piece of paper, labeled as quality certificate. It defines and fixes values.

8- That public support for private regulation/certification can come in different forms:

a- monopolistic recognition of one or a few certificates; by rating their quality as information providing certificates; and either only allowing those on the market and forbidding others, or by recognizing (accrediting) a few with a state hallmark, like a Royal Warrant (sign of hofleverancier) but still allowing others that do not manage to earn the state ‘hallmark for hallmarks’. It implies
that the state discriminates on the basis of quality; something which would require legal permission for the state to discriminate between different certificate providers.

b- exclusive recognition of only one private rating/standard;

c- turning the private certification literally into a public one, by elevating it to the status of a publicly sanctioned standard (like our decimal weights and measures)

d- using the private one to inspire the formulation of a real public standard.

9- In the latter case (8c and d): the public good, serving a public interest, is also provided by a public actor, and funded out of public funds, that is, from our collective resources compiled out of taxes paid by all citizens under threat of public sanctions, in the end the public monopoly of the legitimate exercise of force.

9a- However, those public funds could still be provided by different publics: by a more general and broad public (the whole population) or a more specific one (e.g. only those profiting from halal certification). The latter could be collected by a special tax on halal goods, imposed by broad public authorities using public powers only on members of the more specific public, the buyers of halal. A real-existing example is that of car owners who pay a road or gasoline tax, which is earmarked to be used only for collective goods relevant for them, such as sufficient and well maintained public roads.

10- The last question that remains is then ‘How efficient is such public provision of public goods in the public interest?’ Especially in comparison to private provision of such a public good, such as through the public funding of activities of private organizations, who acquire such funding e.g. in a public tender, where various private parties compete with each other for the public order. With this we are back where we started: state or markets?
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Appendix 1. Dutch Television Documentaries on Halal


RVU. *Keuringsdienst van Waarde onderzoekt de exotische gehaktstaaf* (http://sites.rvu.nl/page/7202)


Appendix 2. List of People Interviewed

- 10-02-2010 mr. A.I. Farouk, Association for Halal Certificates, Amsterdam
- 20-02-2010 mr. Wahid Ramdjan and the imam of HIC, Rotterdam
- 22-02-2010 mr. Renê van Appeldoorn, Mekkafoods, Venlo-Kaldenkirchen
- 24-02-2010 mr. Ben Ali-Salah and colleague, Halal Correct, Leyden
- 05-03-2010 mr. Abdul Munim Al Chaman, HQC and Halal Control Office, The Hague
- 10-03-2010 mr. Murat Korkmazyurek, Halal Audit Company, Rotterdam
- 15-03-2010 mr. Abdul Qayyoem and imam, HVV/HFFIA, The Hague
- 18-03-2010 ms. Alima El Haddaoui, intern at HIC and author of thesis
- 30-03-2010 mr. Ali Erdem, sales manager ANUR snacks (part of vd Laan), at Paris Halal Expo
- 30-03-2010 representative of Robert Co (major Danish halal producer), at Paris Halal Expo
- 30-03-2010 mr. Zetali, Qibla halal (Swedish), at Paris Halal Expo
- 30-03-2010 ms. Fabienne Frebat, private label meat producer for Carrefour, Casino, Paris Expo
- 30-03-2010 representative VDE Foods, producer of Halal snacks, Belgium, at Paris Halal Expo
Appendix 3: Some Samples of Certificates:

Stickers to be put on Halal Products:
Halal Certificates Foundation
Halal Slaughtering Control
Halal Production Control

HALAL CERTIFICATE

Certificate No.:
100201-01 HCN DAAAA_BBBBB

Upon request from Leverancier B.V., HOLLAND
In which it certifies that they comply with the rules and regulations of the Halal slaughtering and or production rules and they request the Halal Conform Quality Control The Netherlands to control the conformity of the production of the shipment mentioned under, for export, with the Islamic rite. After ensuring the conformity of the production, we issued this certificate.
This certificate is only valid after being signed, stamped and obtaining the unique certificate number with which we can follow the shipment and the certificate. Please contact us for any information related to this or other certificates.

CONSIGNMENT DETAILS

Quality / Quantity and packaging:
CHICKEN LUNCHEON MEAT “XXXXX” BRAND,
2000 CARTONS 24X340GRS.

Identification:

Gross Weight: 20,000 KGS
Net Weight: 16,320 KGS
Producer: Leverancier NL
Slaughter house: NL 0000EG, NL 1111EG
Importer: Afneren LTD., etc etc, P.O. BOX 99999, etc ergens
Exporter: Leverancier of iemands anders B.V. NL, adres etc.
Certificate of Origin No.:

Invoice No. / Date:

Transportation Method: Vessel : M.v. “Cap Bizerta” (or substitute)
Transportation Details: Container no.: SUDU 135284 9
Loading Port: Antwerp
Destination: XXXX, Turkey
Health Certificate no.: 111111 2 d.d. 01-01-2222
Slaughtering Date: 13, 14 January 2010
Production Date: 14, 15 January 2010
Expiry Date: 13, 14 January 2013

Halal Control Office:
Stichting Halal Certificaten Nederland

Signature & Name: Ibrahim A. Farouk
Date: 03 January 2010

Stichting Halal Certificaten Nederland – Van Mussenbroekstraat 1A H – P.O. Box 94397 – 1090 GJ Amsterdam
KvK (CR) Amsterdam : 34266996 - Tel: 06-20661055 – E-mail: info@halalcertificates.com - www.halalcertificates.com

© Frans van Waarden & Robin van Dalen
Halal Certificaat

Wahid Halal Meat BV
Groothandelsmarkt 217
3044 HH Rotterdam
NEDERLAND

Hierbij wordt verklaard dat de producten goedgekeurd zijn volgens de islamitische normen.

Rotterdam, 1 februari 2010

Magdy Ahmed
(Chairman HIC)

Certificaatnummer: 100201-WH
Vervaldatum: 30 juni 2010
Stichting HALAL CORRECT CERTIFICATION (TQ HCC)

Halal Correct Standard richtlijnen: TOHCC 2200:2001

Versie geldig 2009/2010

I. Definities

Halal: Betekent in het Arabisch toegestaan (volgens de Islam betekent dit geoorloofd naar de Islamitische normen). In de richtlijnen wordt dit woord gebruikt om aan te duiden of het product waarover wordt gesproken toegestaan is voor moslims om te eten of niet.

Haram: Betekent in het Arabisch verboden en hiermee wordt aangeduid dat het product verboden is voor moslims om te eten.

Koran: Het heilige boek van de moslims.

Soenna: De traditie en levensloop van de heilige profeet Mohammed.

Fatwa’s: Islamitische rechtspraak van erkende Islamitische geleerden en Imams.

Sharia: Islamitische grondwet.

K'a'ba: Is een kubusvormig gebouw en staat in de grote moskee in Mekka. Het is het centrale heiligdom van de Islam.

II. Informatie over Halal Correct Audit

De laatste jaren zien wij dat het religieuze bewustzijn van vele moslim consumenten in de hele wereld groter wordt, wat met zich mee brengt dat de vraag naar authentieke Halal levensmiddelen groeit. Naast vlees zien wij dat bij andere levensmiddelen ook veel andere punten die te maken hebben met eten, aandacht krijgen. Bijvoorbeeld: oliën, kleurstoffen die in het moderne voedsel wordt gebruikt. Tevens zien wij dat anno 2008 nieuwe technologieën en ontwikkelingen de markt hebben veroverd. Dit heeft veel langstelling gewekt bij de moslimconsumenten, echter maken zij zich wel zorgen over de waarborging van de authentieke Halal-kwaliteit van levensmiddelen. Daarom is de vaststelling en goedkeuring van de Halal procedures bij de verwerking van consumeerbare en niet-consumeerbare goederen erg belangrijk geworden voor zowel de consumenten als de producenten. Om dit hele proces te waarborgen zijn er Halal Correct Audits ofwel inspecties nodig om dit uit te voeren. Bij zulke inspecties is het belangrijk, dat het hele proces van A tot Z wordt gevolgd en gecontroleerd. Bij de inspecties gaat het erom dat de normen voor Halal levensmiddelen worden gehanteerd om zo het eindproduct 100% Halal te verklaren en zodoende een Halal certificaat te verstrekken aan het productiebedrijf. Deze normen zijn vastgelegd in onze richtlijnen.

III. Stichting Total Quality Halal Correct Certification

Stichting TQ HCC is een organisatie die internationaal Halal-kwaliteit certificaten verstrekt conform de geldende kwaliteitsnormen gebaseerd op de HACCP en ISO principes en volgens strikt Islamitische normen gebaseerd op:

- De Koran (heilige boek van de moslims).
- De Soenna (de traditie en levensloop van de profeet).
- Fatwa’s (islamitische rechtspraak) van erkende islamitische geleerden en Imams.
- Goedkeuring van: THE ISLAMIC ABOARD FOR FATWA & RESARCH (de Islamitische Fatwa Raad in Nederland)

De Stichting TQ HCC opereert in Nederland en in verschillende Europese landen en is gevestigd in Nederland.
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Fake ‘Do-it-Yourself’ Halal Certificate that we made from the web (at our address in Almere):

Halal Slaughter Certificate

Organization Name do hereby testify that shipment of meat beef/calves/buffaloes/goats/chickens has been slaughtered according to the Islamic Rights and Principles. Accordingly, this meet is HALAL and suitable for Muslims use. Necessary actions have been taken to prevent mixing HALAL meat with HARAM ones. Slaughtering process has been performed in slaughter house where bigs slaughtering is prohibited.

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