

Author's Right and Creativity Incentives: The Case of Gastronomy

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1. Introduction

D. Throsby (2001, p. 4) defined cultural goods as economic goods which involve human creativity in their making, convey symbolic meaning (or multiple meanings), and embody some intellectual property. As a matter of fact, cultural goods and services contribute increasingly to economic growth. For different authors, their ever greater impact may be associated either to the development of a creativity paradigm (Caves, 2000; Towse, 2001), or to the development of intellectual capitalism (Grandstand, 2000), or to the rising of semiotic products (Barrère and Santagata, 1998). Actually, the French surplus for luxury products may attest this situation. In 2006, the French exports are about 20 billion of euros (plus 11 % compared to 2005). And the external French surplus for luxury products is about 14 billions of euros. French luxury is very dynamic compared to the rest of the French economy. The tendency is confirmed for 2007 and the gap got increase.

Creation, innovation and then competition have always been decisive characteristics for the running of gastronomy and cooking. It is already true in the very ancient ages, with for instance *Sadarnapale*² who edited a law awarding any creator of a new course with 1 000 golden pieces. But you find it in the Middle Age too. In fact, a Monk of the French Abbey of Cormery, named *Jean*, decided to adorn his famous Macaroons (whose secret was fiercely kept) with his navel mark in order to distinguish his production from competitors. More recently gastronomy is known as the market whose innovation and creation are the dynamic factors. Just think of Joël Robuchon and his *potato purée with white truffles*, Ferran Adrià and his *Bikini Pizza with Sun-dried Tomatoes*, or Heston Blumenthal and his *Cauliflower Risotto*.

The nowadays gastronomy knows conflicts and oppositions between producers. On the first hand some cooks want to reproduce traditional courses, to conserve traditional practice; on the other hand, a new generation of chefs search to renew supply, to try new ways of cooking, to associate flavours, to use “molecular gastronomy” and so on. According to the period and to the bargaining power of each side, the importance of innovation and creation is moving. But this creative trend has speeding up since the beginning of the 1970's. Actually, for about forty years gastronomy has become a creative industry. In fact, during the 1970's French chefs came out of their kitchen, by launching the *Nouvelle Cuisine* movement, and act till this moment as creators of flavours, of textures and above all of atmospheres. This creative

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¹ This is a very first draft containing approximations, lacking of references and not revised English. A more accomplished version will be available at the conference.

² Sadarnapale was the king of the Assyrian Kingdom from 667 to 629 B.C.

movement developed with time (and spread out of the French boundaries) and incorporates now the entire food amenity that combines different sorts of ingredients (food, service, setting, location, etc.) and can be considered as a complex good for the economic terminology. In the core of the gastronomic amenity, there is now the chef, i.e. the creator holder of a special personality, sensitivity and transmitting those to his or her courses. This one is no longer a reproducer of ancestral recipes imagined long before by A. Carême or A. Escoffier, but his practice contributes to renew courses and then brings about numerous changes in the gastronomic heritage.

Hence, the running of the gastronomic market is embedded in the rise of creativity in cultural industries. The evolution of gastronomy follows the development of other creative industries such as fashion or Haute Couture for instance. As showed by Barrère, Chossat and Livat (2006) those luxury fields encountered deep upheaval starting from a taste aristocratic paradigm to a taste market paradigm.

Recognizing first class chefs as actors of cultural and creative industries implies to consider their recurrent claim related to their recognition as “art creators” so to introduce the question of creation remuneration, via the author’s right mechanism. Certainly, the gastronomic practice is mechanically distant from other disciplines, such as literature or music for which the recognition depicted by the implementation of intellectual property rights is in force. However, certain characteristics of gastronomy mixed to the enlargement of the activities recognised as creative ones and on which author’s rights are determined lead to consider the question of author’s right for the gastronomic creation. Indeed, French courts attributed author’s rights to wine lists, to movie dubbing, to creations linked to new technologies or to Internet, and so on³.

Why denying to the taste the capability to breed an art while one grants this faculty to hearing and to eyesight? Which reasons can be invoked?

This paper is organized as follows. Section 2 states the creative dimension of gastronomy opening it to the potential implementation of author’s rights. Section 3 deals with the possibilities offered to remunerate gastronomic creations while section 4 looks at the alternative financings of creativity –diversification that is risky for the propensity to create. Some concluding remarks end the paper.

2-Gastronomy: a creative discipline potentially eligible to author’s right

The Nouvelle Cuisine: a creative paradigm

During the 1970’s and thanks to a new generation of cooks, gastronomy has become a creative discipline. Beforehand courses proposed in restaurants were standards of the French gastronomy (beef bourguignon, sauerkraut, fattened chicken in bladder, etc.), so reproducible and whose authorship could not be attributed to a specific cook.

The emergence of the Nouvelle Cuisine paradigm is accompanied by a both horizontal and vertical differentiation. From a horizontal standpoint, the number of recipes increased significantly. This fact conveys an upheaval in the cook’ functions: he does not reproduce gastronomic classics (even if he does master them) but on the contrary does invent new recipes reflecting his own inspiration. Besides, the food amenity has become a creative service with an intellectual content that individualizes its author in the consumers’ and experts’ minds. In fact and as other creative fields (fashion, design industries, etc.) one can

³ For an overview of new fields covered by the author’s right protection, see Benhamou (2002).

notice that the *intellectual content/material components* ratio is high (Benghozi and Santagata, 2001). Indeed the original idea of the course stimulates consumption.

The relative homogeneity of the gastronomic production (in force before the 1970's) has given way to a monopolistic competition deriving from the Chamberlin model in which food amenities are becoming more and more differentiated, a part of their author.

From a vertical standpoint now, the Nouvelle Cuisine chefs were looking for a renewal of the gastronomic practice through a qualitative improvement of supply: growing rigour in the inputs selection thanks to the "seasonnalisation" of menus, research of the authentic taste of foodstuff, resort to technological innovations in order to perfect cooking, improvement of staff training are the more significant examples⁴.

The inherent creative and cultural dimensions of gastronomy

According to the market actors (cooks, consumers, experts, etc.), gastronomy is a cultural discipline and many of them define it as an artistic activity. For producers and consumers, one may understand the search of a sort of symbolic recognition but researchers specialized in the gastronomic sphere defend this conception too (Parkhurst-Fergusson, 1998, 2004; Pitte, 1991; Karpik, 2007). Gastronomy is near music or performing arts. These issue "fleeting" or "ephemeral" works such as gastronomy. Even some lawyers underline the creator approach is the same for gastronomy or for plastic arts or musical arts (Lucas et Lucas, 2001).

However we have to suggest a notable difference between music, visual arts and gastronomy. The ephemeral dimension of music or visual arts is offset with the fact that whether you attend to a concert or a play you have the possibility to take a picture, to make a movie (with cellular phones for instance) and to "despoil" in a certain way the author (and also the performers) who did not authorize you to picture him or her. The real problem is that you can earn money by selling (or broadcasting for free on the Internet) copies of what you made fraudulently. The author's right device protects authors from such behaviour by introducing forgery for instance.

The question here is: is the ephemeral dimension of music works identical to the one of gastronomic works? Of course not! Gastronomic consumers do not have the possibility to take a part of a course and to put it on the Web. The particularity of gastronomy is to propose ephemeral and evolving (i.e. perishable) works and hence that are perceived differently by each individuals⁵.

The two sides of the market have to be distinguished. From the supply side, it is quite obvious that you have a near creative act between gastronomy and music for instance. But from the demand side, things are different. Actually, consumers can not act in a similar way. In the case of music for instance, creators have to be protected against potential plagiarists or unscrupulous "consumers". However this kind of risk (protected by author's right) does not exist for gastronomy.

So the claim of gourmet cooks has to be analyzed through the light of the nature of produced services.

The opportunity of protection

There are mainly two reasons to protect an activity by the author's right mechanism. First, it is a manner to recognize the creation act of a work of the mind. So the producer is for

⁴ A charter of the Nouvelle Cuisine was edited at the launching of the movement, entitled "The Ten Commandments of the Nouvelle Cuisine". It established the rules of the paradigm.

⁵ Some French lawyers compare gustatory works to *haute coiffure* that is for instance original hairdressing for top models, actresses or singers. Both present the same ephemeral and evolving dimensions and above all the difficulty to determine an object to protect. See for example Caron (2006), pp. 139-140.

everyone a creator and protected against potential abuse. Second, by allowing a remuneration for the author, it is a manner to allow this producer to achieve further creation acts, so to renew permanently supply and then to sustain creativity propensity in a cultural area.

As a matter of fact, this protection is based on two types of rights: on the first hand, you have *patrimonial rights*, which gives a financial amount to creation and are transferable. On the other hand, you have *moral rights* that aims to allow the creator, even if he has sold his work of mind, to preserve a right of access –inalienable and imprescriptible– on the work and then to authorize or to forbid any transformation or using of his or her work of mind (for a survey on moral rights attached to author's rights, see Rushton, 1998). The existence of a moral right based on unwritten law, inspired by J. Locke and E. Kant, is in force in the civil law countries. Indeed and contrary to common law countries in which consumers and creators are on an equal footing by means of copyright (Landes and Posner, pp. 326sq) author's right promotes creation by insuring a privileged status to author (Rushton, 1998, p.23). The author's right system is a compromise between author and consumer. It protects author but allows transmission and circulation of ideas (cf. Victor Hugo and the discussions about the opportunity of this mechanism implementation).

Gastronomy is both a creative and a cultural industry mixing subtly heritage and creativity (Barrère and Chossat, 2004). In fact, in most cases, in cultural and creative activities a protection and incentive mechanism is in force (intellectual property right –IPR– and specifically author's right constituting clearly the author's wage: the remuneration of the production act). Creator must be able to live by his work as other wealth producers.

The top class cooks' selection is operated by gastronomic guidebooks (Michelin, GaultMillau, Zagat, Mobil Travel book, etc.). That one delimits the *Grande Cuisine* field in a little number market. Ranked cooks become superstars in the Rosen (1981) or Adler (1985) sense. Nevertheless, even if Chossat and Gergaud (2003) have enlightened the determining criteria of the cooks' grading made by the GaultMillau guidebook (for the 2000 issue), the selection criteria remain impenetrable and subjective. For this point and apart from the fact that creation would be recognized and then paid (gastronomy would become a profitable activity) author's right would imply a very important effect. It would clarify the *Grande Cuisine* and *grand cuisinier* notions by offering to guidebooks a sort of *vade mecum* of creators. The selection implemented by guidebooks would get more objective and then gain in credibility (cf. recent scandals involving guidebooks, mainly the Michelin Red Guide and dealing with the attribution of stars to, for instance, a non-opened Belgian restaurant or the controversy about the death of a missing and talented French chef).

However it would be necessary to be sure that an author's right mechanism would not reproduce the dichotomy characterizing the artistic labour market (F. Benhamou, 2002, p. 159). Indeed this does strengthen the superstars position to the detriment of young and not still recognized creators lacking in dense relationship.

It would be risky for new incomers. In fact a too protective author's right system could discourage new incomers from proposing gastronomic innovation; and last but not least this could have a depressive effect on the creative propensity of all chefs.

Nevertheless and despite this potential limit, the institutional recognition of creativity issues seems significant. This one would increase both the exchange value and the use value of the food amenities.

Regarding the exchange value first. Being recognized as a "creator" would raise the reputation of a cook. He could increase his or her wage (a sort of creativity or intellectual premium used as a quality signal by consumers). Concerning now the use value. Consumption takes place in public and is subjected to conspicuous effects (Veblen, 1899; Lancaster, 1966;

Bourdieu, 1979). From a forecasting standpoint, one can imagine that author's right recognition coupled to guidebooks selection would not only increase cooks' reputation but would also stimulate consumption already rationed by supply inelasticity (Becker, 1991). As a matter of fact, the number of sitting places in a restaurant is short run fixed, but variable in the medium and long terms. However, according to Becker, the increase in the capacity of restaurant room under the demand pressure is not a good solution because rationing stimulates the social dimension of consumption.

For the gastronomic case, the limitation of the first class cooks population (determined by the gastronomic guidebooks) to the one of "creator chefs" (determined by the list of authors' right owners⁶) by holding an additional quality signal to demand could be a very attractive vector for consumers. This could logically increase their social dependency to supply.

Then the creative and cultural dimensions of gastronomy are not very questionable. The opportunity of protection is more difficult to settle. Pro and anti arguments are quite balanced. So now, it becomes necessary to analyse the implementation and especially the definition of the object to protect and that seems to pose a problem.

3- How to remunerate creation?

The "work" notion is tricky to delimit. It remains vague mainly (and logically) in reason of the jurists will, for which a strict definition would imply an exclusion of new domains of creation and then would limit creation to traditional creative activities. Such an imprecision serves creation. Concerning specifically gastronomy, two "objects" to protect can be considered. Let us consider first the gastronomic service as a whole and then let us break down the gastronomic amenity into its main characteristics.

The gastronomic service considered as a whole

Gastronomic guidebooks select the best cooks by attributing them marks (GaultMillau: 11 to 19/20 and sometimes up to 20/20) or stars (Michelin: from * to ***), etc. By this means selected chefs become recognized cooks or first class cooks. Following the experts opinion (cf. the editorials of the principal guidebooks) cooks are assessed according only to the quality of the cooking. However Chossat and Gergaud (2003) showed that the evaluation realised by guidebooks is not only focused on cooking, but the cellar, the look of the venue, the employees' behaviour ... are taken into account by experts to evaluate restaurants. So the gastronomic work could logically be the entire food amenity proposed by the cook and this entity could be the basis of the author's right determination.

However, one may consider that the gastronomic service offered in a gourmet restaurant is unique so attributing an author's right to the performance issued is useless. Actually guidebooks comments (few lines to describe the service proposed, the venue and so on) often underline how much the chef personality makes his or her food amenity unique. In fact, the gastronomic service (integrating simultaneously cooking, look of the venue, service, quality of the cellar and so on) is not able to be copied: how to perform a Marc Veyrat food amenity if you are not Marc Veyrat, if you do not work in Veyrier-du-Lac? The author's personality naturally provides a monopoly without any risk of being copied, or robbed. *De facto* the author's right definition (whose objective would be to state a legal monopole on the

⁶ In France for instance there is an inscription to an author's right management company, named SACEM (for authors of music) and ADAMI (for neighbouring rights always for music). These companies collect fees owed for the using of works (Linant de Bellefonds, 2002, p. 417).

production of the chef) on his or her gastronomic production seems useless. In this case, chefs' protection can be ensured by several legal mechanisms in force in most of countries such as and among others the protection of his or her image, honour or name.

It is now necessary to determine a more precise level to find out what could be defined as the "gastronomic work" so we do not have to consider the gastronomic service as a whole but to focus on its separated characteristics.

The gastronomic amenity considered through its characteristics

The gastronomic service presents numerous characteristics. Which ones could be taken as reference to set up the "gastronomic work"? The recipe? The setting? The menu? Etc. In this layout, protecting creation becomes determinant to incite chefs not only to be creative but also to dissuade them from copying their *alter ego*. In fact, one may dread an abusive appropriation (by a dishonest fellow member for instance) of an attractive characteristic. However, the author's right mechanism enters in competition with other protection modes either depending on privative rights (patents, drawing, design, etc.) or apart from this mechanism (secret, know-how for instance).

From a general standpoint, two types of characteristics may be isolated. On the one hand, there are the ones related to external components of the gastronomic service such as the setting. On the other hand, you have the characteristics directly linked to the cooking that is among others and principally the recipe, the course, the aesthetic design of the course. Considering first the setting there is hardly anything but the economic parasitism legally sanctioned in diverse countries that could be invoked. A chef who would copy the *Atelier de Joël Robuchon* setting (black uniforms of the staff, the bar, the kitchen in the middle of the dining room, and so on) could be forced by a trial decision to change his setting and to pay a fine to the restaurant-keeper copied.

Concerning the components directly related to the cooking now, it goes without saying that the recipe, the course or the aesthetic design are notions strictly linked insofar as the recipe is a manner to proceed and so determines the making of the course and its aesthetic form.

The recipe and the course

A recipe can be inventive but is it even so a work of the mind implying the implementation of an author's right? Theoretically in order to get an author's right on a work, it is necessary that this one combines principally three conditions: (i) it has to be perceived by mind; (ii) it has to be objectively described; and (iii) it has to be original.

The two firsts elements do not pose a difficulty of application insofar as on the one hand the result (the course deriving from the recipe) is perceptible by senses and mind and on the other hand the recipe can be described in an objective way. However, the original dimension of a course is particularly difficult to establish. It has been indicated above that present gastronomy is founded on a creation paradigm⁷. Therefore chefs have to be original comparing to there their competitors. However, in this domain, the dichotomy between creation and reproduction is not easy to establish. Actually creation does not mean "spontaneous generation" or ex-nihilo elaboration. In actual fact, chefs draw their inspiration from the French gastronomy standards or heritage in order to create variant versions of courses, or to renew them. From that point of view, creation is not total; it focuses only on a

⁷ This paradigm derives from the Nouvelle Cuisine one but has erased its excesses.

more or less important part of the course. In the absolute, the originality degree of a recipe can only be restricted unlike a priori a musical work. However the creativity of a musical work can also be questioned insofar as the composer draws his inspiration from his preferred musical pieces. For instance, among others, F. Schubert did not hide the fact that for a part of his Piano Sonata in A (D. 959) he took the model from L. van Beethoven and his piano sonata n°23 *Appassionata*. For the case of gastronomy, one can take an illustration from Joël Robuchon and his famous *purée*. This course develops novelty through its know-how, through the technical skill (it is a sort of re-invention of a very old course), but it remains a real *purée*, so a traditional course from the French territory that is legally impossible to protect.

Regarding the “course”, i.e. the instantaneous making of the recipe, some authors exclude it at first sight because of its ephemeral dimension. Yet without a permanent existence of the work there is no author so no author’s right (Laligant, 1992). The only recognition possibility would be for courses created by cooks but implying conservation techniques avoiding perishable dimension such as under vacuum preservation or freezing for instance. It is quite amazing to observe that the means susceptible to be used to transform a course in a work of the mind neglects the ephemeral dimension of gastronomy! Conservation is quite incompatible with the principles underlying gastronomy: freshness and fleeting nature of courses.

However is the ephemeral dimension a decisive element able to prevent gastronomic courses to be defined as work of the mind? Really, some ephemeral works accept the definition of author’s right. Just think of performing arts, Land Art or music. From that point of view, there is the same link between score and concert, text and play, or recipe and issued course. Both constitute in their categories the two faces of a same work. Comparing music and gastronomy, one can note that a piano score is written and so sight-read to be played and in the same way a recipe is written to be performed and enjoyed.

Insisting on the objective proximity between gastronomy and music for instance leads logically to an implementation of IPR to gastronomy. In broad outline, the civil law countries such as France admit two protection mechanisms: the author’s rights and the neighbouring rights. In fact, a course assessment depends not only on the recipe (the originality for instance) but also on the quality of ingredients and above all on the kitchen staff skill. These have to be virtuosos⁸. So the IPR device could be applied to recipes (incumbent: cooks), to the restaurant owners (in the line of the music producers and distributors), to the members of the kitchen and room staffs, through neighbouring rights (in the same way of singers or music performers). These last ones give a concrete nature to the recipe. Actually first class chefs do not take part to the realisation of a recipe. They are “*au passe*”, that is physically at the junction point between the kitchen and the restaurant room. They have a checking role.

However most of the time this analyse crashes into the vision of lawyers. Truly these consider a recipe as a sequel of instructions or methods, say know-how, but not as a work of the mind (know-how can not be protected by the author’s right mechanism). It is the reason why they accept to protect the literary expression of a recipe (through a book of recipes) but absolutely not its reality that is the course.

Whether the recipe is a specific know-how, it can be differently valued. In fact, a recipe is a practical and technical data set non available for the public which provision can be contractually admitted. In that case, a cook could cease his know-how to other professionals

⁸ How could it be possible to let a piano beginner interpret a piano sonata of L. van Beethoven for instance? The performer has to be a virtuoso to transmit to people the virtuosity of the music composer. The same reasoning can be applied to gastronomy.

on remuneration conditions through a franchise contract for instance. This process is currently used for fast food catering market or for the middle-of-the-range restaurants. However it is counter to gastronomic precepts and in particular to the expected creativity of the courses. Gastronomy is a craft discipline lying on the chef personality and then can not be merged with the duplication implied by the commercial franchise principles.

The recipe and the aesthetic form

The aesthetic form of courses, that is the positioning of ingredients on the plate, the glass or some other container, also their colour or texture, depends on the indications contained in the recipe. So it seems to be difficult to implement author's right to the aesthetic form of courses.

However things are different if we consider only the form. The author's right is theoretically applicable to original forms whether they lean on the author's personality. Nevertheless another device is usable: the pattern and design device can be invoked to protect a new aesthetic form. This was the case for a cake presenting special stripes or also a salmon and melon original cascade that were putted down and then protected by the French *Institut National de la Propriété Industrielle* (INPI)⁹. The protection conditions allowed by the pattern and design device are more restrictive in terms of duration (France: maximal duration, 50 years) and more costly (paying registration, tariffs depending on the extent of protection) than those offered by the author's right (France: 70 years after the author's death; costless mechanism).

Eventually, even if chefs claim for their artist's recognition through the author's right device, things are not so easy. This analyse shows that the gastronomic service considered either as a whole or through its characteristics is not a favourable ground for the author's right for different reasons indeed but the result is the same. Has the dual dimension of author's right, say both economic -creation remuneration- and symbolic -creator status- (Moureau, Sagot-Duvauroux, 2002, pp. 45-46), as consequence to conceal the real quest of cooks: a symbolic recognition? Actually, whether their motivation was only focusing on financing, would they persevere in this intrinsically not profitable segment with so weak recognition chances? Would they continue to create new recipes or new mix of flavours? *In fine* would they carry on being creative?

The attractive dimension of the creator status (and then the artist status) seems to explain to a large extent the cooks' decision. Accordingly cooks have found some substitution strategies able to indirectly finance their creative activity through the acquisition of rights. By this means they certainly handle much more money than the author's right would entitle them to gain. In fact, first rank cooks act as *Grands Couturiers*: the rights using derived from their creative activity represent their principal financing source allowing them to continue their most prestigious activity.

4- The cooks' indirect rights quest as an alternative source to finance their gastronomic creativity... but exactly risky for creativity

Many diversification strategies built on reputation

Ceteris paribus gastronomy is a non profitable activity. This context underlines the question of financing. Investments are heavy and running costs very high. The generally admitted use

⁹ *Industrial property is not intellectual property.*

of receipts is the following: for € 100 receipts in France: 40% for wage bill, VAT for 20%, 30% for ingredients and food stuff and 10% for taxes, investments financing, remuneration of the owner and profits among others.

Looking at this decomposition, the financial interest to belong to the top-of-the-range segment of the catering market is not very obvious. Profit margins are significantly higher in the middle-of-the-range segment (brasserie, bistro) for which productivity is upper, the staff is limited, the tables turnover also upper because of a shorter consumption time. Besides young cooks tend to desert the top segment for the middle one that is significantly more profitable.

First class chefs are aware of this worrying situation. So they have imagined some new financing ways in order to continue their first creative activity. To do it they use their reputation that consequently get significantly increase. Actually opinion surveys show most of the time that even if gastronomic restaurants represent less than 1% of the catering market supply their chefs are very well known¹⁰ - .

Diversification strategies lead to a paradoxical situation: to carry on their creative activity chefs are obliged to extract them from the gastronomic segment. The economic context in force in the gastronomic segment is near the one of others luxury fields such as fashion for instance. The luxury management is moving and luxury business models too. In fact gastronomy is now in part dependent of luxury groups and we see today that creators maintain and enhance their reputation thanks to derived activities. Moreover it is significant to notice that the part of the flagship in the total turnover of gourmet cooks is not only decreasing but also very low¹¹.

Diversification is polymorphous. Some chefs are consultants for international hotel groups, some work for agro-industrial companies in order to issue ready-to-eat courses for supermarkets, some open souvenirs shops adjoining their restaurants, some invest in the middle-of-the-range segment and even open fast food restaurants. Sometimes these investments can be very numerous. Let just think of Joël Robuchon who opened gastronomic and middle class restaurants in Paris, London, Las Vegas, Macao, Hong Kong and New York. Hence most of the time they publish recipes books, propose cooking courses, propose top class rooms labelled by some prestigious associations (Relais & Châteaux, etc.), they invest in spa, piscine, and so on.

These various devices tend to compensate the very low profitability of the gastronomic activity, but tend to divert them from their principle trade.

Risks for creation

Diversification involves some risks and the most important one consists of behaving as a free rider that is earning rents from diversification without carrying on with creative research.

Another effect of diversification strategies is to maintain or even to increase the star phenomenon. Above we have underlined the consequences of the star system development on both the exchange and the use values of cooks. Each consumer is in a position to hold a part of the cook at home (kitchen utensils, apron, recipes books, etc.). Concerning the superstar phenomenon two effects have to be signalled: the first is related demand and the second is dealing with gastronomic guidebooks.

First, in the experts' opinion, chefs' selection constitutes the means to establish the population of *grands cuisiniers* in France, England, in the United States, in Japan now and so

¹⁰ A specific opinion survey (published in 2000) showed that more than 90% of the French people know Bernard Loiseau when the French gastronomic segment represents only 1% of the catering market supply.

¹¹ You have the cases of Georges Blanc, Alain Ducasse or Anne-Sophie Pic.

on¹². So, guidebooks contribute to build the creative reputation of chefs. However, the inertia of this population is very important and guidebooks can only marginally modify their selection each year at the risk of loosing any credibility¹³. So the distinguished problem that poses the lack of creativity is that from the moment that there have been creative actions, it becomes very difficult for experts to sanction its later decrease or even disappearance. Guidebooks are then victims of the cooks' reputation.

Concerning now demand, the reputation effects present the same difficulties. Really, in the Becker's (1965) view, we can pose that gastronomic consumption presents an instrumental function. It is not only a means to eat, but constitutes principally an indicator of the level of human and social capitals. Being a gastronome is above all a conspicuous, cultural and symbolic activity. From that point of view the consumer's behaviour can be analysed through the rational addiction concept. Initiated by Marshall (1891), this notion was taken up and conceptualized later by Becker and Stigler (1977), then by Throsby (1994). In this terminology, experience and then specialisation in a kind of cultural consumption increases knowledge capital of a human being in this precise field. Thus, the investment in human capital was so important to acquire a good knowledge of the specific cultural field and of the meaning of creativity and of its representatives that it could be too costly for consumers to change regularly of superstars. From that point of view, scarcity of producers-creators is auto-maintained and the composition of this market does only vary marginally. So, chefs tend to behave as gastronomic "bureaucrats" for who once ensured the continued existence of their selected situation, more interested in catching rents of diversification than to remain creative.

5- Concluding remarks

Gourmet cooks' discourse deals with the necessity to apply author's right to their creations in order to attract young talents and to incite confirmed chefs to remain creative and to improve gastronomy. However analyse showed the real difficulties to implement author's rights to gastronomy and more specifically to find an *object*, say the precise "gastronomic work", to protect. The idea is interesting but quite impossible to implement.

Then, we focused on the problem of reputation and noticed the cooks' quest was more linked to a search of artists' status than to a search of protection. In order to improve and enlarge their reputation chefs diversify their activity and then earn a lot of money. But the diversification strategies may lead to free riding and to a decrease in creativity.

But is not it possible to interpret this movement not as a risk for creativity but on the contrary as a modification of the nature of creativity? Creativity would thus take place not only in the kitchen but outside and for instance in the management forms.

¹² According to the country, there is some alternative means. For instance in The US Zagat is a very famous guidebook (principle: collect opinion of consumers), but in France and Italy, etc. experts' books are the ones which determine the gastronomic rules. Add to this the role of critics and the emergence of blogs and other opinions websites, kinds of word-to-mouth of the contemporaneous times.

¹³ Really, whether a guidebook modifies deeply its selected population of chefs each year, it appears in the specialists minds as a non credible guidebook because of the necessity to appear as a long run specialist thinking before selecting and then being sure of its selection.

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