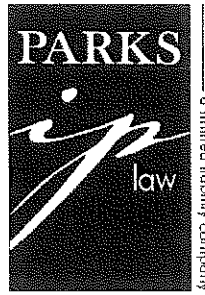


June 18, 2012



VIA FIRST CLASS U.S. MAIL

Ms. Marion Nestle
Professor of Nutrition
NYU – Steinhardt
82 Washington Square East
New York, New York 10003

direct 678-365-4419
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VITAMINWATER® Trademark

Dear Professor Nestle:

We represent Energy Brands Inc., a wholly-owned subsidiary of The Coca-Cola Company. Recently, we noticed that Food Politics used the term “vitamin Water” in the article, “New York Plans to Ban Sale of Big Sizes of Sugary Drinks,” which appeared in the June 4, 2012 edition of your publication (*see attached*). It appears that the article may have been referring to our client’s **VITAMINWATER®** brand, but because Food Politics used the phrase “Vitamin Water,” that may not be clear to your readers. Accordingly, we write to request that your writers refer to our client’s trademark properly in future stories.

The **VITAMINWATER®** brand is a hugely popular line of enhanced water products. First introduced in 1999 by Energy Brands Inc. (which does business under the trade name Glacéau), **VITAMINWATER®** enhanced waters are sold throughout the United States and in many countries around the world. The **VITAMINWATER®** trademark is federally registered with the United States Patent and Trademark Office (Reg. No. 2,974,987). Although **VITAMINWATER®** enhanced water products now coexist with other enhanced waters in the market (including SOBE LIFEWATER, PROPEL FITNESS WATER, and SNAPPLE ANTIOXIDANT WATER), none of those competitors describe their product as “vitamin water.” Instead, the standard way of referring to this category of beverages throughout the industry is as “enhanced waters.”

We would be delighted if you and your writers would write about our client’s product in your stories. However, we respectfully request that you identify our client’s trademark **VITAMINWATER®** as a brand name, or use it in a way that its role as a trademark is more apparent. It is easy for you to comply with this request. Here are some simple guidelines that you can follow in referring to our client’s trademark:

- DO distinguish our client's **VITAMINWATER**[®] trademark in writing – as one word (without a space in the middle) and in all capitals or italics or any other distinguishing manner. At the barest minimum, we request that you either use a capital “V” (in other words, “Vitaminwater”), since our client’s trademark is a proper name, or show the trademark in the unique style used on their label, with the word “vitamin” in bold, as shown at right (*i.e.*, **vitaminwater**[®]).
- DO add the registration symbol (“[®]”) at the end of the trademark to show that it is our client’s trademark and is registered with the U.S. Patent and Trademark Office.
- DO follow all references to our client’s trademark with the words “enhanced water,” because **VITAMINWATER**[®] is their brand of enhanced water.
- DON’T use terms such as “vitaminwater,” “vitamin water” or “vitamin waters” to refer to enhanced water products generally – **VITAMINWATER**[®] only refers to our client’s brand of enhanced water products, not generically to all types of water products with additives.



When you use our client’s name correctly, you help protect the integrity of their innovative enhanced water product.

We genuinely appreciate it.

To learn more about our client’s **VITAMINWATER**[®] enhanced waters, please visit their website at www.vitaminwater.com.

Very truly yours,

Angela Wilson

Enclosure

FOOD POLITICS

by Marion Nestle

JUN
4
2012

Weight of the Nation: the new "Hunger in America"?

My monthly *Food Matters* column for the San Francisco Chronicle:

Q: I forced myself to watch all four hours of HBO's "Weight of the Nation." I get it that obesity is a scary problem and I'm supposed to be eating less. What I don't get is how I'm supposed to do that when food companies can do what they want and the government lets them.

A: I am with you on this one. I also looked at the website (theweightofthenation.hbo.com) and a report from the Institute of Medicine, "Accelerating Progress in Obesity Prevention: Solving the Weight of the Nation." These all are components of a public-private partnership campaign to bring the personal and economic costs of obesity to national attention.

As The Chronicle's David Wiegand put it in his *Datebook* review (see: sf.ly/KOZvgD), the show "pulls no punches, spares neither the multibillion-dollar food and advertising industries nor public officials for not only failing to fix the problem but actually making it worse."

I thought the series focused too much on what you have to do on your own to manage your weight: take small steps, set realistic goals, focus on portion control, monitor your calorie intake.

I wish it had spent as much time on countering the actions of the food industry, called by Kelly Brownell of Yale's Rudd Center as "powerful, pernicious and predatory."

I also wish it had been more courageous in demanding that government help check the excesses of food industry marketing to make it easier for Americans to cope with the social, economic and business drivers of obesity that the series documented so well.

I saw that courage in an accompanying video for kids, which won't be shown nationally until the fall. Watch for it. School kids in a *Rethinkers* club in New Orleans wanted to improve the lunches in their school. They went into action and figured out how to make the system work for them. They succeeded by learning to "speak truth to power" and "hold feet to the fire."

Why aren't adults doing the same? For an explanation, take a look at the institute's report. Its recommendations do speak some truth to power. Although its No. 1 goal promotes physical activity (a thoroughly uncontroversial recommendation), its No. 2 is to fix the environment to make healthier food options routine and easy, especially by discouraging consumption of soft drinks.

As for holding feet to fire, the report warns that if companies don't adopt nutrition standards for kids' marketing within two years, policymakers should consider making them mandatory.

Consider? "Weight of the Nation" showed how the food industry reacted when the Federal Trade Commission tried to propose voluntary standards.

In two years? The institute already gave the food industry two years to act — six years ago. Its 2006 "Food Marketing to Children and Youth" report stated that if the industry didn't stop advertising junk foods on children's television programs within two years, Congress should legislate marketing standards.

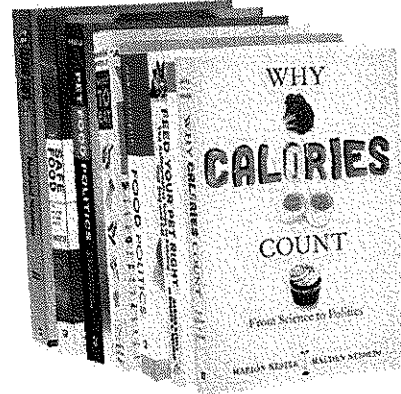
In 1968, the CBS television documentary "Hunger in America" shocked the nation and galvanized Congress to pass legislation to reduce poverty and malnutrition.

"Weight of the Nation" is equally shocking. It impressively and compellingly defines the problem of obesity, its consequences and its causes, personal and societal.

But I wish the series — and the Institute of Medicine — had been able to rise above the politics and say more about how we as a society could do better to improve school food, limit the relentless marketing of sodas and junk foods, and make it easier for everyone to afford and have access to healthier foods.

Food companies are businesses. In today's investment economy, they must not only make a profit but must increase the profit every 90 days. Business imperatives mean that they could help make healthier choices easier, but won't unless forced to. That's what New York Mayor Michael Bloomberg's proposed ban on big sodas is trying to do (see: sf.ly/L4SK0t).

At the very least, I'm hoping the HBO program will encourage viewers to press for political action to prevent obesity. If it does, history will judge this documentary to be as important a



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JUN 16 2012 Philadelphia: Consumer Cooperative Management Association

Keynote: Cooperatives and the Politics of Food, 9:00 a.m. followed by an informal workshop "A conversation with..."

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ALL TOPICS

3-7-Day AAPF(American Academy of Family Physicians) AAP(American Academy of Pediatrics) Acrylamide ACSH(American Council on Science and Health) Activity ADA(American Dietetic Association) Additives Additives Advocacy Agave Aging Agriculture AHA(American Heart Association) Alcohol Alice-Waters Allergies American-Diabetes-Association Animals Antibiotics Antioxidants Arsenic Artificial-sweeteners ASN(American Society of Nutrition) Artisan Apat Beef Bill-Marler Biotech Blogs Books Bottled-water BPA(Bisphenol-A) Bread Breakfast Breast-feeding Brian-Wansink Subway Burger-King Caffeine CAFON(Concentrated Animal Feeding Operations) calcium Calorie-labeling Calories Campbell Canada Cancer Candy Canteen Carcinogens Carpi CCF(Center for Consumer Freedom) CDC(Centers for Disease Control) CDC(Centers for Disease Control) Cereals Charis-Ross Checkoff Chemos Cheese Chicken Chickens China Chinese-infant-formula Chocolate Cholesterol Climate change Cloned-

democratizing influence on our society as was "Hunger in America."

Is This an American Beverage Association ad in disguise? What's at stake in the farm bill?

15 comments

27 people like this

Tags: Obesity, Obesity-in-kids, Obesity-policy, San-Francisco-Chronicle

Comments

Food Politics » Weight of the Nation: the new "Hunger in America"? | Food News • June 4, 2012 • 9:01 am

[...] Food Politics » Weight of the Nation: the new "Hunger in America"? This entry was posted in Blog Search and tagged don, eating, food, forced, francisco, lbo, hours, [...]

Food Politics » Weight of the Nation: the new "Hunger in America"? | Healthy Foods • June 4, 2012 • 9:06 am

[...] wants that if companies don't adopt nutrition standards for Excerpt from: Food Politics » Weight of the Nation: the new "Hunger in America"? -- Tuesday: First Lady Michelle Obama Unveils New Healthier Food [...]

Emma • June 4, 2012 • 11:22 am

Agreed. I like the series, but what I continue to find frustrating is that lack of information about we can do as a society to combat the big food & big ag powerhouses. I do, as Michael Pollan suggests, vote with my fork, but all that winds up meaning is that my family & I eat well and are at a healthy weight & BMI. Surely there is something bigger we can do that would allow the entire nation that opportunity as well.

Debra @ Blue Raven Wellness • June 4, 2012 • 1:11 pm

Big Food needs to have its wallet, not its feet, held to the fire, but if you, as an individual, are waiting for that to happen before you lose weight/get healthy, you may live your life as an overweight/sick person.

If you live in a food desert, I'll admit you may have a big challenge finding food that doesn't have Big Food stamped all over it. But in most places it is possible to vote with your fork everyday. This has two results: 1) It puts financial pressure on Big Food to make changes, and 2) You and your family eat better and regain health and vitality. It may take a while, but I believe it will work, and in the meantime, you feel great!

It's my job to help people learn to choose and properly prepare these real foods, thereby losing weight, lowering blood lipids, gaining energy and feeling their best.

Windy Daley • June 4, 2012 • 2:20 pm

I love the "vote with your fork" comments. Perfect!

As a teacher, I'm horrified at the school food that is presented to children—from those huge dairy posters (of famous people with milk mustaches) to the colored marshmallow cereals and corn dogs for breakfast.

However, I've witnessed a small miracle happening—more and more students choosing to bring healthier meals to school. It's small—but grass roots.

As one cafeteria lady said to a student who asked her what choices were available: "I've got sugar, sugar, and more sugar," she replied.

The first step could be to change school foods. Many children have no choice, and by the time they are out of kindergarten, they are addicted to fast/processed foods. The children of that New Orleans school are making history. They are freeing themselves from fast food slavery. How brave. Perhaps others will follow.

Debra @ Blue Raven Wellness • June 4, 2012 • 5:42 pm

Windy: Your last four words say it all. We may not all be able to storm the statehouse, circulate petitions or march on Washington, but we can practice a kind of quiet activism and "perhaps others will follow." I believe they will.

The Personal Is Political: How to Beat "Big Food" in Your Own Kitchen | Blue Raven Wellness • June 4, 2012 • 8:31 pm

[...] post on Marion Nestle's blog Food Politics got me a little riled up. I felt a blog post of my own coming on and here it [...]

Joe • June 4, 2012 • 10:11 pm

In defense of school food they have been operating under government control since the 1940's. How is that working out? Most school cafeterias are self supported business entities and must have participation to stay open which means answering the call of supply and demand.

Anthro • June 5, 2012 • 10:00 am

I'm with Emma on this. I too, vote with my fork, but I didn't as a child—we need to act on behalf of children and it will take more than a few of us setting a good example.

I'll say it again—if healthy people who eat properly, but own stocks in BigFood, they are still part of the problem. They are requiring BigFood to keep on pushing their products to achieve the required "growth".

Invest elsewhere.

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Policy Comments-Policy-Monitoring ConAgry Conflicts-of-
interest Consolidation Consumer Reports Cookie-dough
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systems Food-trade Food-waste FOP(Front-of-Package)
Labels Fortification Framingham-Heart-Study Fruits-and-
vegetables FTC (Federal Trade
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GAO GAO(Government Accountability
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(Genetically Modified) GMA(Grocery
Manufacturers Association) Grated Green-food
HACCP(Hazard Analysis and Critical Control Point)
Hannaford Health-aura Health-claims Health-entireties
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