
The Washington Times, Washington, D.C.

Food Companies Use Humor In Defense of Ads

June 27, 2003

Marguerite Higgins

<<<>>>

This document is available on the Education Policy Studies Laboratory website at
<http://www.asu.edu/educ/eps1/CERU/Articles/CERU-0306-119-OWI.doc>

Food companies are fighting back against a series of obesity-related lawsuits with a tongue-in-cheek television commercial that pokes fun at litigation targeting the fast-food industry.

The Center for Consumer Freedom, a D.C. food-industry group, began airing a 30-second commercial on CNN and Fox News Channel yesterday, with plans to air the ad on MSNBC later next week.

The ad features a trial lawyer cross-examining a defendant, saying, "So you sold my client these chocolate chips — and look — no warning label on the box. Just pretty pictures."

The lawyer continues, "You make them taste good, don't you?" The defendant, a doe-eyed, 7-year-old Girl Scout, replies, "I guess so."

"This commercial humorously shows that if trial lawyers go to the extremes with these obesity-related lawsuits, then Girl Scouts are next on the chopping block," said Mike Burita, spokesman for the center, which paid \$150,000 for the first run of what is expected to be a series of broadcast ads.

The food-industry group will spend another \$50,000 to run 30-second radio ads next week on several FM stations and WMAL-AM. The parodies start with "According to the latest study," and continue with absurd claims such as "If you eat a wheelbarrow full of cheese fries each week, the cheese fries are to blame when people call you Big Daddy Largepants."

The center started a similar print ad campaign last year in national publications, including Newsweek and U.S. News and World Report, with the words "Did you hear the one about the fat guy suing the restaurants?" superimposed over a large stomach.

The coalition has stepped up efforts to counter a series of lawsuits seeking to regulate fast-food advertisements and to force disclosure of nutritional information on menus.

"We started issuing these sort of warnings when we saw trial lawyers go after fast food with the same model they used to go after tobacco companies," Mr. Burita said. Currently, fast-food giant McDonald's is fighting a lawsuit in New York that claims its foods, through false advertising and supersized portions, contributed to the obesity of two children.

Samuel Hirsch, attorney for the plaintiffs, on Wednesday dropped claims that the chain was not disclosing nutritional information to the public. He is now concentrating on seeking class-action status for false advertising claims.

U.S. District Judge Robert Sweet said he would make a later decision on allowing the suit to go forward. Judge Sweet dismissed an earlier version of the suit in January but allowed Mr. Hirsch to refile the complaint.

"We remain confident that when Mr. Sweet considers the case, common sense will prevail," said McDonald's spokeswoman Lisa Howard. "The fact that these type of cases focus on one type of food does a great disservice to people with obesity problems who are looking for real answers."

But John Banzhaf III, a George Washington University law professor who has led the charge for obesity litigation, said the ads are further proof of food companies taking the lawsuits more seriously.

"It's a very strange claim for food companies to make because they claim that these lawsuits are totally frivolous, yet they're running around and paying for ads to fight them. We saw the same thing with early tobacco litigation," said Mr. Banzhaf, who spearheaded litigation against tobacco advertisements in the 1970s.

Earlier this week, Mr. Banzhaf sent a legal notice to Seattle's Public Schools Board that lawyers working with the Public Health Advocacy Institute, a D.C. nonprofit health-advocacy group, would sue the board for supplying soft drinks to middle- and high school students.

Rebecca Taylor, public liaison for the board, said members had received the notice, but had no immediate comment on how they might vote on a supplier contract with Coca-Cola Co.

But Mr. Burita said the public won't allow the courts to take away their rights to eat Twinkies and french fries. "People are tired of being told how to live their lives, and these sort of lawsuits have become the breaking point for many," he said.