
The New York Times

Striking Back at the Food Police

June 12, 2005

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Retrieved 06/13/05 from

<http://www.nytimes.com/2005/06/12/business/yourmoney/12food.html>

WHEN it comes to food fights, John Belushi's character in "Animal House" has nothing on Rick Berman. A prominent Washington lobbyist, Mr. Berman runs the Center for Consumer Freedom, a nonprofit advocacy group that is financed by the food and restaurant industries. Two months ago, after a report in a leading medical journal cast doubt on several assumptions about obesity, he pounced.

His group ran \$600,000 worth of full-page ads in a half-dozen newspapers, gloating that the study showed that obesity was not an "epidemic" but rather a lot of hype. "Americans have been force-fed a steady diet of obesity myths by the 'food police,' trial lawyers, and even our own government," the ad said.

In recent years, Mr. Berman, who is not a scientist, has emerged as a powerful and controversial voice in the debate over the nation's eating habits. In some ways, he has become the face of the food industry as it tries to beat back regulations and discourage consumer lawsuits. Food and restaurant companies, he says, are being unfairly blamed for making Americans fat and unhealthy; he adds that people are smart enough to make their own well-informed choices.

Formed in 1995 with money from Philip Morris, now known as Altria, to fight bans on smoking in restaurants and bars, Consumer Freedom has gained attention for its provocative tactics. Last year, it ran television ads that featured the Soup Nazi of "Seinfeld" fame ordering overweight people to eat salad - a clear jab at what the group considers pushy nutritionists who are trying to suck the joy out of eating.

Mr. Berman has declared war on organizations like the Center for Science in the Public Interest, the food and nutrition activist group that is run by his nemesis, Michael Jacobson. If the food police had a commissioner, Mr. Berman would cast him in the role.

Along the way, Mr. Berman and his group have earned more than a few enemies. Critics say that Consumer Freedom seizes on statistical errors and other nuances to distract from the

substance of the obesity debate. "They make a lot of noise, but nobody in academia takes their arguments seriously," said Dr. David Ludwig, director of the obesity program at Children's Hospital in Boston and an occasional target of Mr. Berman's group. "They stand for food industry freedom, not consumer freedom."

Amid the claims and counterclaims, Mr. Berman and his opponents duke it out, taking sides on major questions about obesity, including these: How did Americans become so fat? Who is to be blamed? And how should the problem be solved?

Much is at stake in the answers. In April, a study by researchers at the Centers for Disease Control and Prevention sharply lowered the number of annual deaths attributable to obesity, to 112,000 from 400,000. But the report, published in *The Journal of the American Medical Association*, said nothing of other problems that can result from obesity. Scientists have linked the condition - defined as having a body mass index of more than 30 - to an increased risk of everything from diabetes and arthritis to hypertension and heart disease.

As a result, the C.D.C., the government's primary agency for health information, still calls obesity "a very, very important health problem" and "a serious epidemic."

According to the agency, rates of obesity have doubled in the last 25 years among adults and children, and tripled among teenagers. Some scientists and public health officials have suggested that this trend, if left unchecked, could bankrupt the already faltering health care system. A study last year by scientists at the Research Triangle Institute and the C.D.C. found that states' medical expenditures related to obesity were as much as \$75 billion a year.

FOR the food industry, which has annual revenue of \$500 billion, the implications of all this are potentially colossal. Many major food and restaurant companies derive a huge portion of their revenue from products - Cocoa Puffs, Doritos, Hot Pockets, you name it - that most nutritionists frown upon. Only a handful of small lawsuits have been filed against food companies so far concerning diet and obesity, but trial lawyers are circling and are starting to turn food into the new tobacco.

Part of Mr. Berman's job is to keep that from happening. To that end, he has taken aim at Center for Science in the Public Interest - which, like Consumer Freedom, is based in Washington - because it has done more than anyone else to say the food industry has had a major role in obesity.

Run for 30 years by Mr. Jacobson, a tenacious Ph.D. in microbiology, the Center for Science in the Public Interest has consistently shined a bright light on the nutritional ills of the standard American diet. Last year it raised \$16 million, mostly from subscribers to its monthly newsletter.

To Mr. Jacobson, food companies have followed the profit motive, making bigger sizes to encourage people to spend more money, and engineering food that is full of sugar, fat and salt - and thus has an irresistible taste. As a result, he says, people have become fat.

To illustrate the point, he cites a study showing that many of the foods with the biggest increases in consumption in the last 20 years are among the most fattening and nutritionally unredeeming, such as salty snacks, pizza and soft drinks.

Mr. Berman, on the other hand, argues that potato chips and hamburger combo meals have very little to do with America's ballooning waistline. The real culprits, he says, are a lack of

exercise and people's unwillingness to take personal responsibility for their own diets. He points to separate studies showing that over the last two decades, the rates of exercise among American adolescents have decreased considerably, while total caloric consumption has risen only slightly.

Not surprisingly, Mr. Jacobson cites government data that show just the opposite: that the average American consumed anywhere from 166 to 560 more calories a day in 2000 than in 1980.

Run from the well-appointed offices of Mr. Berman's lobbying firm, Berman & Company, the Center for Consumer Freedom employs 25 people. Mr. Berman, trained as a lawyer, built a career working on labor issues - he campaigned against the minimum-wage increase in 1997 and worked as a negotiator for Bethlehem Steel in union contract talks - before turning his attention to obesity.

In newspaper advertising, Consumer Freedom describes itself as a "nonprofit organization dedicated to protecting consumer choices and promoting common sense." But Mr. Berman readily acknowledges that he gets the bulk of his funds from food and restaurant companies, some of which are also clients of his lobbying firm.

Mr. Jacobson, who employs 60 people at his organization, says that because of the way Mr. Berman's group is financed, Consumer Freedom is little more than a thinly veiled front for the interests of the food industry. "The companies that are working with them want their critics debunked and trashed," Mr. Jacobson said recently from his Washington office. "They can secretly participate in that by funding Berman."

Mr. Berman responds that his primary goal is to create an "intellectually honest" debate. "I'm trying to make sure the statistics are not made to seem worse than they are and to educate the public about how some people are being selective in their data," he said last month over a healthy lunch of grilled salmon at a restaurant not far from his 12th-floor offices overlooking the White House.

MR. BERMAN has always declined to name the specific companies that support Consumer Freedom. He said in an interview that there were roughly 100 companies, including some that control very large brands, but that identifying them would serve no purpose.

"I don't want these companies getting targeted for something controversial that I'm saying," he said.

A watchdog group in Washington, the Center for Media and Democracy, has posted data about Consumer Freedom's financing on its Web site. According to documents they say were obtained from a former Consumer Freedom staff member, corporate contributors to the group as of 2002 included Coca-Cola, Wendy's and Tyson Foods, each of which gave \$200,000. Cargill gave \$100,000, according to the documents, and Outback Steakhouse gave \$164,600.

Coca-Cola confirms that it is a sponsor of Consumer Freedom and calls the group valuable as "another voice in the debate." But a Coke spokeswoman, Kari Bjorhus, added that her company does "take the obesity issue very seriously."

The National Restaurant Association, which represents large chains like McDonald's and Wendy's as well as small, independent businesses, says that it is not a financial contributor to Consumer Freedom, but that the two organizations have similar goals. "We have regular

communications with Consumer Freedom," said a spokeswoman, Sue Hensley. "They have an important voice in emphasizing personal responsibility."

Not all food companies, however, are aligned in support of Mr. Berman - a situation that highlights a philosophical divide in the industry. Some companies, like PepsiCo and Kraft Foods, say that they have explicitly declined to work with Consumer Freedom and that they do not agree with some of its arguments or its approach.

"Our focus is not to engage in all the debate over whose fault it is, but to continue to work on healthier product development," said Brock Leach, a senior vice president at PepsiCo who in 2002 was given the task of helping to develop more nutritious product offerings.

A spokesman for Kraft, Mark Berling, says that the company does not contribute to Consumer Freedom because it doesn't think "finger-pointing" is the "right solution."

"We feel we have a responsibility to address consumers' concerns over obesity," he added, "so we're responding by reformulating many of our products, providing more product information, creating smaller sizes and adjusting our marketing practices."

To Mr. Berman, that is "appeasement" and will not work. "You can't accommodate these people," he said, referring to the Center for Science in the Public Interest. "They're not going away. If you create some healthier products, they'll go after all the unhealthy ones you still make."

So in turn, Consumer Freedom goes after that group, as one prong of its strategy. Another is to become an authority on health and obesity information. Consumer Freedom staff members post articles daily on its Web site and publish booklets with titles like "An Epidemic of Obesity Myths," dense with statistics and references to scientific studies.

The booklets and articles make for interesting reading, but many scientists question whether much of it really matters. For instance, Mr. Berman says that Arnold Schwarzenegger, Mel Gibson and Michael Jordan all have body mass indexes above 30 and thus are classified as "obese."

So, too, is Mr. Berman. At 6-foot-3 and 255 pounds, he has a body mass index of 31.87. Despite his "obesity," Mr. Berman says he is "perfectly healthy."

These are useful points, but Dr. Ludwig of Children's Hospital said that people like weightlifters and professional athletes who are technically overweight because of muscle constitute a very small percentage of the population.

And while it is certainly possible to have an index above 30 and still be healthy, that is not true for a majority of people who are obese. Dr. Glenn A. Gaesser, a professor of exercise physiology at the University of Virginia and a supporter of many of the efforts of Consumer Freedom, says that roughly 30 percent of obese people have none of the classic metabolic problems or other risk factors. The other 70 percent are indeed at risk for a host of troubling and costly obesity-related health problems, he says.

ONE scientist who objects to Consumer Freedom's statistical nit-picking is Katherine M. Flegal, a senior research scientist at the C.D.C.'s National Center for Health Statistics and an author of the study in The Journal of the American Medical Association that found fewer deaths linked to obesity. "I think people have overinterpreted a lot of what we said," Dr.

Flegal said in a recent interview. "Just because you don't have a risk of excess death doesn't mean you're healthy."

And for Dr. Ludwig, the fact that the study's findings were less dire than previous studies does not shake his belief that there is a looming public health disaster. Dr. Flegal's study, for instance, did not directly address the sharp increase in childhood obesity. "Once obese children enter adulthood," Dr. Ludwig said, "then all of the previous relationships that have been observed may no longer apply because they'll be carrying those extra pounds for so many more years."

"In other words, with regard to the childhood obesity epidemic," he added, "we are still in the quiet before the storm."

Mr. Jacobson says that it is shortsighted for Consumer Freedom to make such a big deal over the number of obesity deaths. He contends that obesity is just one symptom of the prevalence of horrible diets, and that the same eating habits that cause people to gain weight may also deprive them of essential nutrients, antioxidants and fiber to help keep their bodies healthy and free from chronic disease. "It's all related," he said.

MR. BERMAN is undeterred by such criticism. In fact, he thrives on it. He calls Dr. Ludwig a "waistline scaremonger" and says that Mr. Jacobson has a "messiah complex."

Instead of easing up on its criticism of the C.D.C. for having to change the figure on obesity deaths, Consumer Freedom is turning up the dial. Using internal C.D.C. documents the agency posted on its Web site, the group recently completed a report that accuses the C.D.C. of deliberately inflating its statistics and covering up that it has done so. The C.D.C. said it did not want to comment on that report.

And the group is planning a new television commercial assailing the food police. The ad shows a hand yanking an ice cream cone away from a little boy and grabbing a beer away from a guy at a bar. "Do you ever feel like you're always being told what not to do?" the ad says. "Find out who's driving the food police at consumerfreedom.com."

To Mr. Berman, nothing less than the vitality of the food industry and the personal freedom of all Americans are at stake. "There are attempts to create ill-conceived regulations at the state level and there will certainly be rogue lawyers filing obesity lawsuits against companies," he said. "And if Michael Jacobson has his way there will be a tax on every food product that is not a vegetable. We can't let that happen."