

July 24, 2003

David Keil, President
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CERTIFIED MAIL — RECEIPT REQUESTED

Dear Mr. Keil:

The enclosed article in the July–August issue of the *Nutrition Action Healthletter*, which is published by the Center for Science in the Public Interest (CSPI), discusses the nutrient content of products sold by your and other ice cream chains. The data are based primarily on company data, supplemented by tests conducted by CSPI.

The findings of the article are disturbing, because all but a few products (such as plain sorbets, low-fat ice cream, and frozen yogurts) provide dangerously large amounts of calories and saturated fat, which promote obesity, heart disease, and other serious medical problems in both children and adults. Some of your larger “snacks” provide upwards of 1,000 calories. That is more than a healthy meal’s worth of calories, and, together with soft drinks, hamburgers, fries, and a multitude of other high-calorie foods, is a prescription for obesity, especially for young children, since their caloric needs and tolerances are less than those of adults.

Consumers can’t exercise personal responsibility without clear, conveniently available nutrition information—information that is available at the “point of sale” when decisions are made, not buried inconveniently on a web site (to which customers certainly do not have access while waiting in line) or in hard-to-find and hard-to-read brochures or notebooks. Such information would enable consumers to make informed choices before buying 250-, 500- or even 1,000-calorie items.

Nutrition information is especially important because children make up a disproportionately large percentage of patrons of ice cream parlors and usually lack the knowledge, maturity, and judgment to appreciate the risks of eating foods high in calories and saturated fat. As you know, children often go to ice cream parlors without adults, either going there by themselves or while a parent is shopping nearby. Many children are already very concerned about their weight and calories—either because they are already overweight and have been counseled to reduce their caloric intake or, especially in the case of girls, because of generalized concerns about gaining weight. In both situations, a significant percentage of children likely would be interested in the

calorie contents of your offerings and, given readable, accessible information, might choose treats with fewer calories. Therefore, the moral—and perhaps even legal—obligation to provide complete and accurate nutrition information about your products is all the greater.

Your failure to disclose such obviously material information as unusually large calorie and saturated-fat loads may violate state consumer protection laws and/or your common-law duty to disclose material facts and may invite law suits from concerned consumers, legal action organizations, or even state officials. That is especially true when the consumers are children since they are both far less likely to be aware of the health hazards associated with eating fattening foods and more susceptible to their effects. On the other hand, if information about calories and fat were squarely presented to them, many—including many girls and some boys concerned about weight gain generally, along with overweight children who have been counseled about the importance of limiting calories—will be interested, likelier to make different choices, and, as a result, eat more healthful treats.

As you may recall, three supermarket chains recently were sued for not disclosing that color had been added to farmed salmon; those chains settled and labeling has become a standard practice. Also, a major fast-food company was sued for failing to reveal a material fact—that its french fries contained beef fat—even though that fact was of concern only to the relatively small percentage of its customers who were Muslims, Hindus, Jews, and vegans.

For all of these reasons, we urge you to list the calorie (and, ideally, saturated fat) content of each item on your menu boards and/or menus.

We would be pleased to discuss this matter with you and look forward to your response.

Sincerely,

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