

## Obesity: Should Food Industry Be Blamed?

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**(CNSNews.com)** - A new book on food and nutrition places the blame for obesity squarely on the "over-abundance of food" and on the unhealthy "environment of eating" in American society. And a prominent Washington attorney, who's already engineered one lawsuit against McDonald's, says obesity-related class-action suits are on the way.

Author Marion Nestle, who has called for a junk food tax in the past, has written *Food Politics: How the Food Industry Influences Nutrition and Health*. In the book, she calls for the government to hold food producers accountable for supplying an unhealthy diet.

Critics call Nestle part of the food "Taliban," who are intent on stripping away individual choice.

In her book, Nestle blames expanding waistlines on the availability of too much food and incessant food marketing. Nestle does not believe obesity is an individual problem, but a result of marketing forces. "The over abundance of food in the U.S. makes the food industry unhealthfully competitive," she said.

Nestle is a professor and the chairwoman of the department of nutrition and food studies at New York University. She says her main concern is that "30 billion a year goes into trying to control what we eat ... We have 320,000 food products in the United States. Give me a break! You don't need 320,000 food products to have a terrific diet with plenty of fun foods to eat."

She says with such cultural forces at play, individual willpower eventually breaks down. "There is a common prejudice that people are fat because they are weak willed," she explained.

"If you are sitting there with an enormous plate of food in front of you, you are going to eat it ... Not everybody has that kind of will or that kind of strength of character to be conscious of what they're eating all the time," Nestle said.

"I see this as a societal problem, not an individual problem and we have some responsibility for each other," she added.

Nestle believes many in society are unaware of the practices employed by food marketers. "Larger portions have more calories and I think people are quite unaware of how many calories are buried in food," Nestle said. "It certainly would be easier for people to make more healthful food choices if the environment in which we are eating wasn't constantly pressuring people to eat more and doing it in a way that is so subtle that people just don't notice it."

She also reserves her greatest concerns for the effects of marketing on children, noting that since the 1970s the number of food commercials during Saturday morning television has nearly doubled. Nestle maintains, "The marketing of food to children is rather unfair in taking advantage of people whose willpower isn't formed. That's an area where we could look at some public policy approaches."

### **Twinkie Tax Time?**

Nestle has supported the idea of government subsidies for "low calorie, nutritious foods" and the taxing of foods high in "calories, fat or sugar." For example, she favors a tax on sodas to generate revenues for nutrition education. "I like the idea of a soft drink tax. It is so clearly a junk food. All it is, is sugar and water, so it is an easy target," she said.

"The tax [would be] so small that no one could accuse it of being regressive, so it would be less than a penny on a can of soda," Nestle said, adding that the government must use taxation, legislation and education as the "counterforce" to the marketing strategy used by the food industry.

Dennis Avery, director of the Hudson Institute's Center for Global Food, a non-profit organization dedicated to free market approaches to food, says Nestle's proposals amount to a food "Taliban" or "food police."

"To blame our plight on advertising is absolute foolishness," Avery said. "Is she going to take away my choices to make me slimmer? The food police can't keep me from getting fat if I want to eat," he said.

Avery believes Nestle has created a "false enemy" in the food industry. "The real problem is we are rich and inactive as a nation and we are trying to learn how to solve that and we are getting no help from [Nestle]."

According to Avery, "There is no way to legislate or enforce through the courts, moderation in eating."

John Doyle, co-founder of the Center for Consumer Freedom, an advocacy arm of the restaurant and food and beverage industry, calls Nestle's proposals an assault on freedom of choice.

"Any tax that tells people what to eat is outrageous. Any effort that calls for a third party intervention like the federal government to tell you what to eat, [is] abdicating free will entirely. What's next? The government is going to tell us when to go to bed?" Doyle asked.

"Food choices are pretty personal ... People know what to feed their children, people know what to feed themselves. No one is holding a gun to anyone's head."

### **Lawyers Eye Food Industry**

John Banzhaf, professor of public interest law at George Washington University in the nation's capital, also serves as the executive director of Action on Smoking Health (ASH) the legal-action arm of the anti-smoking community.

Banzhaf sees many similarities between smoking and obesity in class action law and believes many obesity-related suits will be filed in the near future.

While he concedes food is not addictive, Banzhaf maintains that both tobacco-related disease and obesity create huge financial burdens on American society. Banzhaf says he saw the public perception of smoking evolve from an individual problem in the 1970s to a societal problem and believes the same pattern will develop with regard to overeating.

"Smoking in the 70s was seen as an individual problem. All that changed when people saw the impact on non-smokers like second-hand smoke," Banzhaf explained to **CNSNews.com**.

He says obesity is costing society \$117 billion a year while smoking costs \$130 billion.

"You watch television any night and see these cheeseburgers, triple cheeseburgers and all these fancy dishes and I have never seen one that says 'warning twice your daily recommended amount of fat.' You ought to get the same information you get at the supermarket," Banzhaf said.

Banzhaf favors a "sin tax" to be applied to foods he deems unhealthy and would make the tax proportional to the medical care costs generated by the consumption of that food.

"If the cost of every time a hamburger is sold or every time a bowl of Hagen Daz ice cream is sold, is ten cents or 15 cents in terms of medical care costs [to society], it seems to me entirely fair to put that burden on the person who is doing it rather than where it is now, which is on the innocent non-obese person," Banzhaf said.

"We do routinely use taxes to discourage things we don't want people to buy," he added. "People are willing to support lawsuits, higher taxes, differential health insurance rates."

According to Banzhaf, class action lawsuits aimed at what he calls "the ready availability of fast foods high in fat" are coming.

"Can we bring lawsuits against companies which either deliberately deceive or deceive by failing to make disclosure and then use some of that money to force them to do right, by making these disclosures or using the money for public service ads? I think the answer is quite likely yes," he explained.

Banzhaf has already taken the first step toward wide scale class action suits against the food industry. He created what he describes as a "novel legal theory" and helped organize a recent class action suit against McDonald's for claiming its French fries were cooked in

100 percent vegetable oil. It turns out the fries were pre-cooked in beef tallow.

According to Banzhaf, this upset vegans, Muslims and Hindus, all of whom have strict dietary rules to follow. Banzhaf and his law students at George Washington won the case and received an apology from McDonalds. Banzhaf is now seeking damages for one of the Hindu defendants who ate the French fries without knowing they had come into contact with beef tallow, which is forbidden in Hindu dietary practices.

"He's literally got to make a trip to India and purify himself in the Ganges [River]. I think he wants the trip paid for and I imagine there is a considerable emotional upset here," Banzhaf stated.

Avery said the idea of a class action lawsuit related to obesity is "victimization carried to its illogical extreme." Avery believes we may reach a day when the government mandates that all "restaurants weigh everybody as they come in and size their portions accordingly."