

November 6, 2003

The Honorable Timothy J. Muris Chairman Federal Trade Commission 600 Pennsylvania Avenue, NW Washington, D.C. 20580

Dear Chairman Muris:

On behalf of CSPI's 700,000 American members, I urge that the Federal Trade Commission immediately enjoin two KFC (a division of Yum! Restaurants International) television advertisements that are now being shown nationally. KFC's stated purpose is to persuade consumers that "they can enjoy fried chicken as part of a healthy, balanced diet." However, typical meals of KFC's fried chicken – with all their fat, saturated and *trans* fat, cholesterol, and sodium – are unhealthful and clearly difficult to fit into a healthy, balanced diet.

One ad ("Man Watches TV; Woman Eats Better") shows a woman telling her male companion that "eating better...starts today," and she drops a bucket of KFC fried chicken on the table in front of him (see storyboard and video, attachments 1 and 3). The implication, especially in light of public concerns and later text in the ad, is that "eating better" means eating more healthfully. However, eating KFC's fried chicken, especially splitting a bucket of 12 pieces of fried chicken, is hardly healthful, considering how much saturated and *trans* fat, cholesterol, and sodium it contains. The ad then implies that fried chicken is healthful by stating that two KFC breasts contain less fat than one Burger King whopper. Practically anything looks good compared to a Whopper, which contains 43 grams (65% of the Daily Value [DV]) of fat and 13 grams (65% of the DV) of saturated fat. Two KFC Original Recipe breasts have 38 grams of fat, which is 58 percent of the DV; 12 grams of saturated fat (60% of DV), plus probably another six grams or so of *trans* fat for those KFC outlets that use partially hydrogenated oil for frying rather than soybean oil; 2,300 milligrams (mg) of sodium (96% of the DV); and 290 mg of cholesterol (96% of the DV). The ad then states that a skinless chicken breast has "only 3 grams of fat."

³ All nutritional data – except the data for *trans* fat – are from KFC's website: www.kfc.com/kitchen/nutrition.htm.



¹ See KFC's October 28, 2003 press release at its website: www.kfc.com/about/pr.htm.

² Nutrition information about the Whopper are from Burger King's web site, www.burgerking.com/food/nutrition/nutritionwizard.htm.

That may be accurate, but it is rather disingenuous considering how few people eat KFC's fried chicken without its breading and skin.

The other ad ("Jack's Been Eatin' Chicken") also depicts a 12-piece bucket of KFC chicken and states that it costs \$9.99 (see storyboard and video, attachments 2 and 3). The chicken in such a bucket contains 3,090 calories.⁴ However, the ad links a man's looking "fantastic!" to his "eatin' [KFC] fried chicken." It asserts that one KFC original recipe chicken breast has 11 grams of carbs and 40 grams of protein, implying that it's healthful. However, the ad fails to mention other salient facts: One fried chicken breast provides large amounts of fat, including saturated and trans fat (which promote heart disease), as well as sodium. One breast provides 19 grams of fat (29% of the DV for a 2,000-calorie diet), including six grams of saturated fat (30% of the DV for saturated fat) and perhaps another several grams of trans fat. One breast also contains 1,150 mg of sodium (48% of the DV). Furthermore, the ad fails to state that few people eat only one fried chicken breast. KFC's smallest meal includes two pieces of chicken (e.g., breast and wing), and KFC suggests that a person planning to serve its chicken at a party should assume 2 1/2 pieces per adult. No valid implied or direct health claim can be made for KFC's fried-chicken meals.

KFC's ads are so outrageous that an experienced observer of the advertising industry has characterized them as "naked nonsense." A November 3 *Advertising Age* column by Bob Garfield (attachment 4) says KFC is resorting to "desperate and sleazy tactics....Fried chicken is not, never has been and never will be health food....the overriding message about healthful chicken is dangerous baloney." A November 3 *Advertising Age* editorial (attachment 5) says that the KFC ad campaign "is as laughable, and damaging, as any we can imagine or recall, and it should be pulled off the air immediately....It damages the credibility not just of KFC but of the entire marketing industry."

Section 5 of the Federal Trade Commission Act ("FTC Act") prohibits "unfair or deceptive acts or practices," and sections 12 and 15 of the FTC Act prohibit false food advertisements. Such advertisements are defined as being "misleading in a material respect," including "not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations..." In construing these statutory provisions, the

⁴ A bucket of KFC chicken contains three breasts, three thighs, three legs, and three wings.

⁵ In an ABC-TV telecast of "20/20" (October 31, 2003), *Advertising Age* columnist Bob Garfield stated that "Nobody has ever eaten one KFC chicken breast. In all of recorded history, nobody's ever done it.... The whole idea of KFC, you know, they don't serve it in a bucket for nothing." (attachment 6).

⁶ www.kfc.com/kitchen/catering.htm.

Commission said in its May 1994 Enforcement Policy Statement on Food Advertising that it will examine the levels of total fat, saturated fat, cholesterol, and sodium in food advertisements making a health claim.

The Commission went on to say (at 22) "the failure to disclose the presence and significance of risk-increasing nutrients that are closely related to the health claim for such foods is likely to constitute an omission of a material fact and render the health claim deceptive." (footnote omitted). However, the tiny, unreadable disclosures and disclaimers and qualifiers in KFC's TV commercials – whatever they may actually say (see attachment 3)⁷ – are completely inadequate to correct the net misimpression that is conveyed by the clearly visible pictures and audio parts of the commercials.

In conclusion, I urge you to protect the public health by taking prompt enforcement action against these two KFC advertisements that clearly violate the FTC Act's ban on deceptive food advertising.

Sincerely,

Michael F. Jacobson, Ph.D.

Executive Director

⁷ Each ad has a barely legible written disclaimer that appears to say that KFC chicken is not a low fat, low sodium, low cholesterol food, that each bucket also contains legs, thighs, and wings, and that one should go to KFC's website for additional nutritional information. This disclaimer does not even mention saturated fat. Moreover, the disclaimer does not present the quantitative information about the amounts of fat, sodium, and cholesterol that would allow those consumers who can read the disclaimer to assess it in the context of the parts of the ads stressing the low amounts of fat and carbs and the high amount of protein in a KFC chicken breast.

Attachments

- 1- storyboard of one KFC advertisement
- 2 storyboard of other KFC advertisement
- 3 video of both KFC advertisements
- 4 Advertising Age column by Bob Garfield (November 3, 2003)
- 5 Advertising Age editorial (November 3, 2003)
- 6 transcript of ABC-TV "20/20" program (October 31, 2003)

cc: J. Howard Beales III

Director

Bureau of Consumer Protection

Mary K. Engle Associate Director Advertising Practices Division