Cholesterol and the Law

Additional Indexing Words:
Diet   Cholesterol   Saturated fat   National food policy

In 1965 the American Heart Association recommended that the public restrict dietary intake of cholesterol and saturated fat. Recently the AMA Council on Food and Nutrition endorsed a similar policy. Will Americans be able to accept these recommendations despite a clear preference for foods which are high in cholesterol and saturated fat? Perhaps, but only if the foods which are low in cholesterol and saturated fat meet the public’s demand for good taste at a reasonable price. Fortunately, we have the technology to produce most of our favorite foods in varieties that are low in cholesterol and saturated fat. Yet many of these products are not generally available. Why?

Food laws and government policy have held back the development and sale of appetizing low cholesterol, low saturated fat food. As a result individuals are forced to choose between foods they enjoy and the often less palatable food their doctor recommends. In effect we have fostered a powerful “procholesterol” national food policy. The effects of this policy on the nation’s eating habits are evident in at least four major areas.

First, standards for labeling food products have not been imposed. On January 19, 1973, the Food and Drug Administration announced that it will begin to allowing the cholesterol and saturated fat content of foods to be printed on their label. Previous statements such as these were forbidden. Now the manufacturer may, but is not required to declare the saturated fat and cholesterol content of his product. He still may make no “claim indicating, suggesting or implying that the product will prevent, mitigate or cure heart or artery disease…”

This year’s regulations are a major step forward, but they do not go far enough. Manufacturers of foods high in saturated fat or cholesterol are not likely to call attention to this voluntarily. Therefore even the alert consumer still will not know whether to avoid these foods, or how to choose the best among several brands of a high cholesterol food. For example, most of the non-dairy creamers are made largely from coconut oil, a highly saturated fat. Their labels could state the coconut oil content. Instead, in almost all the brands the ingredients are described as “vegetable fat” or “vegetable oil,” a claim that suggests to many consumers that the cream substitute has little saturated fat. The manufacturers will almost certainly resist disclosing the true content of saturated fat in their products.

We need to require a statement on the labels of those foods that are high in cholesterol or saturated fat. Otherwise the consumer will probably not have the information he needs to choose a diet restricted in cholesterol and saturated fat.

A second problem is the legal restrictions on the sale of substitutes for important foods high in saturated fat. For example, milk may be prepared using vegetable oil in place of the highly saturated milk fat. This is called filled milk. If the vegetable oil is predominantly unsaturated, filled milk can be...

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an excellent food for persons on a cholesterol-lowering diet.\(^{16}\) Yet sale of filled milk has been illegal in interstate commerce. The federal Filled Milk Act of 1923 states,

It is hereby declared that filled milk is an adulterated article of food, injurious to the public health and its sale constitutes a fraud upon the public...It shall be unlawful for any person to...ship or deliver for shipment in interstate or foreign commerce any filled milk.\(^{11}\)

In November, 1972, a United States District Court ruled that the Filled Milk Act violates the Constitution.\(^{12}\) At this writing, the Filled Milk Act is not being enforced, but it is not clear whether the government intends to appeal the decision to a higher court. If the decision stands, an important barrier to the development of an excellent food will fall, but other legal barriers remain. Several states have their own versions of the Filled Milk Act. Also, the United States Department of Agriculture requires that filled milk be sold at an artificially high price, thus decreasing its attractiveness to the consumer.\(^{13}\)

Cheese is another important dairy product which is relatively high in saturated fat.\(^{14}\) Cheese can be made from skim milk, but most people prefer the taste of fattier cheese. Fortunately simple filled cheeses provide excellent alternatives to standard American cheeses. (Adequate substitutes for the more exotic varieties have not been developed.) Yet most supermarket managers I interviewed had never heard of filled cheese. None was stocking it on his shelves. Clearly part of the reason is the federal Filled Cheese Act which sets a small but bothersome annual tax on every grocery or supermarket selling filled cheese. In addition, the law provides that “Every wholesale dealer and every retail dealer in filled cheese shall display in a conspicuous place in his sales room a sign bearing the words “Filled Cheese Sold Here” in black faced letters not less than six inches in length.”\(^{15}\) Individual states have also passed laws which inhibit the sale of filled cheese.\(^{16}\)

Ice cream is another food high in saturated fat. More than one quarter of its calories are from saturated fat. Ice milk contains less but saturated fat still composes 15% of its calories.\(^{17}\) Mellorine is an ice cream in which the saturated milk fat is replaced with vegetable oil.\(^{18}\) Mellorine has far less cholesterol-raising effect than ice cream. Yet mellorine is illegal in many states.\(^{19}\)

Even a frankfurter may not be sold under that name if vegetable fat is substituted for part of the animal fat.\(^{20}\) This restriction applies whether or not the contents of the product are clearly labeled.

Thirdly, government does not give incentives to food companies to pursue the development of new low cholesterol, low saturated fat foods. Food development and marketing are expensive—the cost of a nationally marketed failure is five million dollars or more.\(^{21}\) Companies face difficult economic decisions especially when a new low cholesterol product competes with other high cholesterol foods in their product line.

In spite of this, we have learned to produce excellent low saturated fat, low cholesterol foods. This was strikingly demonstrated at the St. Paul’s School of Concord, New Hampshire.\(^{4}\) A team of nutritionists from the Harvard School of Public Health helped the school modify the recipes for their usual foods. Major food companies cooperated and vegetable-oil-filled hot dogs, a cholesterol-free egg mix, a corn-oil-substitute cheese, a highly polyunsaturated margarine and a soybean oil nondairy creamer were served in place of the more commonly used foods. Vegetable-oil-substituted ice cream was made on campus as was a low butterfat milkshake. The result was good food, student acceptance, and a substantial drop in the boys’ serum cholesterol. The National Diet Heart Study demonstrated similar results for several hundred middle-aged volunteers.\(^{5}\)

Each new food product needs a major selling point that will bring it to the consumer’s attention. The major selling point for low cholesterol, low saturated fat foods is obviously the probable health benefit of lowering blood cholesterol. Until recently, federal regulatory agencies severely limited the degree to which a marketing campaign could be based on the theme of lowering cholesterol. The regulatory agencies are now more tolerant of marketing campaigns based on lowering cholesterol. However, it is not yet clear whether they are willing to permit marketing campaigns which are sufficiently aggressive to enable new low cholesterol, low saturated fat foods to be sold effectively.\(^{6,8,22}\) If initial marketing is inhibited, sales will be limited, costs high, and storeowners reluctant to give valuable shelf space to the product. Faced with an uncertain market, many prudent companies will decide not to produce low cholesterol, low saturated fat foods at all.

This vicious cycle must be broken if Americans are to have a realistic opportunity to choose a low
cholesterol diet. This can be done. The company’s financial risk in developing and marketing these products can be shared through government research and development grants or contracts. Responsible, honest, but aggressive advertising must be allowed and encouraged. The public and the medical profession should have access to a list of low cholesterol, low saturated fat substitute foods. Physicians and consumer groups should encourage local food stores to reserve a section for low cholesterol diet foods.

The fourth problem area involves the policies of the major institutions which directly choose the recipes and menus for many Americans. For example, the United States Government supplies meals to millions of servicemen and civil servants. State governments, hospitals, universities, and major businesses serve millions more.

An important illustration of an institutional food policy is provided by the School Lunch Program. Each year government provides billions of lunches to school children. Two years ago nutritionists reported an analysis of the fat content in a sample of school lunches. On the average 50% of the fat was saturated, a value even higher than that in the average American’s diet.

The explanation for our procholesterol food policy is complex. The most restrictive legislation was passed before we began to understand the relationship between diet and heart disease. Its purpose was to protect the consumer from deception and shield certain producers from competition; health implications were considered only occasionally. Until recently few physicians and fewer politicians recognized the impact of food policies on national eating patterns. The effects of food legislation on cholesterol levels of Americans have not been a focus of major concern.

Ultimately each individual should be free to adopt a high or low cholesterol diet as he or she wishes. But the policies of government and industry profoundly influence the comparative attractiveness of the alternatives. Present policy unnecessarily encourages eating patterns which lead to high cholesterol levels. Physicians spend much time treating the effects of atherosclerosis and much energy urging patients to practice preventive medicine. Therefore physicians have a special interest in laws and policies that hinder their efforts. I also believe we physicians have a responsibility to speak out on these issues.

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Acknowledgments

My thanks to Dr. Margaret Bean for her advice and assistance.

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Circulation. 1973;48:225-228
doi: 10.1161/01.CIR.48.2.225

Circulation is published by the American Heart Association, 7272 Greenville Avenue, Dallas, TX 75231
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Print ISSN: 0009-7322. Online ISSN: 1524-4539

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