

Sugar wars: Coke faces first salvo in US false advertising lawsuit

By [Sharon Snell](#)

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Coca-Cola's claims that their sugar-sweetened beverages (SSBs) are not linked to obesity, diabetes, and cardiovascular disease will be tested in a [lawsuit](#), which could turn the whole tide on the so-called sugar wars.

Multi-billion dollar adspend

According to its 2015 annual report, Coca-Cola's turnover was \$44,294bn. They spend \$3,9bn on advertising and \$6,8bn on marketing that year.

In the lawsuit, advocacy group, [The Praxis Project](#), alleges Coke deceives consumers about the health impact of their products.



[123rf.com](#)

It claims that the soft drink manufacturer does so independently, and also with the assistance of and through statements made by the American Beverage Association (ABA), a trade organisation which Coca-Cola funds and materially directs.

The NGO says Coke and ABA have engaged in a pattern of deception for years, aimed at misleading and confusing the

public (and governmental entities that bear responsibility for the public health) about the scientific consensus that SSBs are linked to obesity, type 2 diabetes, and cardiovascular disease.

The lawsuit also claims that the company engaged in a pattern of deception to mislead regarding its advertising to children despite the company's [Responsible Marketing Policy](#), which makes the commitment not to advertise directly to children under 12.

It has also provided a plethora of examples where Coke and their executives had knowingly shifted the responsibility for the obesity and diabetes epidemics away from SSBs to a lack of physical activity.

What Praxis wants

Praxis seeks permanent injunctive relief, requiring Coca-Cola to:

- cease all deceptive advertising and promotions that imply in any manner that sugar-sweetened beverage consumption is not linked to obesity, diabetes, and cardiovascular disease, and conversely is healthy;
- cease all advertising that reaches children under the age of 12 in significant numbers;
- fund a public education campaign to inform consumers about the association between sugar-sweetened beverage consumption and obesity, diabetes, and cardiovascular; and
- disclose publicly their files on the potential health implications of consuming sugar-sweetened beverages.

Global assault on sugar

Praxis quotes the American Heart Association recommendations that a daily maximum of six teaspoons of added sugar for adult women and children, and nine teaspoons for men. In comparison, a 16-ounce bottle of Coke, has 12 teaspoons of sugar, a 15-ounce bottle of its Minute Maid cranberry grape juice beverage has approximately 13 teaspoons of added sugar, while a 20-ounce bottle of the company's vitaminwater has eight teaspoons.

The World Health Organisation (WHO) Commission on Ending Childhood Obesity has made a call to governments to implement a 20% effective tax on sugar-sweetened beverages. Providing the [key note address](#) at the National Academy of Medicine, director-general of the WHO, Dr Margaret Chan said:

"When crafting preventive strategies, government officials must recognise that the widespread occurrence of obesity and diabetes throughout a population is not a failure of individual willpower to resist fats and sweets or exercise more. It is a failure of political will to take on powerful economic operators, like the food and soda industries. If governments understand this duty, the fight against obesity and diabetes can be won. The interests of the public must be prioritised over those of corporations."

Impact in South Africa

Given its growing levels of lifestyle conditions such as obesity and diabetes, South Africa is one of the countries that has heeded the WHO's call through implementing a tax on SSBs (planned start date of 1 April 2017), a move that the local beverage industry has been [staunchly opposing](#), largely through its industry association, Beverages Association of South Africa (BevSA).

Phil Gutsche, who is the chairman of Coca-Cola Beverages Africa has labelled this tax as "[murderous to our industry](#)" and "[discriminatory](#)" and claims that it would have the effect of [taxing children and the poor](#). He averred that it had more to do with increasing revenue coffers rather than health.

If the lawsuit is successful in the US, it could have an interesting trickle-down effect on other parts of the world, including South Africa.

Coke foresaw risk

It would appear that Coke has foreseen the imposition of a levy on its products, and even legal action. Among the key risks to the sustainability of the business [2015 Annual Report](#), Coca-Cola listed that obesity concerns may reduce demand for some of their products due to:

- new or increased taxes on sugar-sweetened beverages by government entities to reduce consumption or to raise revenue;
- additional governmental regulations concerning the marketing, labelling, packaging or sale of their sugar-sweetened beverages; and
- negative publicity resulting from actual or threatened legal actions against them or other companies in their industry relating to the marketing, labelling or sale of sugar-sweetened beverages may reduce demand for or increase the cost of their sugar-sweetened beverages, which could adversely affect their profitability.

The lawsuit, which was launched on 4 January 2017, is being brought under California's unfair competition law and false advertising law to stop Coca-Cola and the ABA from conducting false and misleading marketing of their sugar-sweetened beverages. If successful, it would have a significant impact on Coke's business and opens the floodgates to product liability claims.

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