

## 'Slack filling' may mean you're paying more, get less



**Bill Moak**

CONSUMER WATCH

Consider alternatives; buy cheaper store brand

Upon opening a box of cereal the other day, I noticed that the cereal only filled about two-thirds of the box. The rest of the box was filled by air trapped inside the liner bag. That didn't surprise me; it's a rare occasion when you find a package is filled to the brim. It's actually somewhat defensible — because we know that some products actually do “settle” inside a package. Just about all potato chip bags contain the disclaimer: “Package is sold by weight, not by volume.”

But what is catching a lot of American consumers off-guard is that while packages may look the same from the outside, in many cases there is less product in the container than before. Adding to consumer anger is you and I are likely to be paying the same or even more for the same size — but lighter — box of goods.

This practice is known as “slack-filling,” and it's caught a lot of attention in recent years. A recent class-action lawsuit by three plaintiffs against consumer-products behemoth Procter & Gamble (which

makes Tide laundry detergent) accused the company of routinely employing “deceptive packaging containing excessive empty space to mislead customers into believing that they were receiving more laundry detergent than they actually were.” Additionally, notes class-action website Topclassactions.com, the Tide lawsuit alleges “the larger packaging used in Tide products gives P&G more shelf space for their products, giving their product an advantage in grocery stores.”

“In addition to the allegations of oversized packaging,” noted Topclassactions.com, “the plaintiffs also took issue with other aspects of the products' packaging design. The plaintiffs allege “the bottom of the integrated pour spout ends well below the rim required for the screw in cap.” They illustrated their point with photographs, noting, “There is simply no reason, even with the spigot apparatus, why the liquid detergent could not be filled to the top of the bottle.”

**See Moak. Page 2C**

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Continued from Page 1C

Also discussed was the transparent strip alongside the handle, which indicates how much product is left. By strategically placing the strip lower down the bottle, consumers can't see that the product doesn't even come close to filling the bottle. "This is a conscious effort intended to mislead the consumer," Topclassactions.com noted, "as the

Defendants knowingly and deliberately chose to add a transparent strip that would not allow consumers to see the significant amount of empty space toward the top of the container."

If you don't think it affects a company's bottom line to reduce the amount of laundry detergent by a few ounces, think again. When dealing with the huge volumes of consumer products, even a tiny change can mean profit or loss. In this intensely competitive environment, many companies so fear rais-

ing prices that they have sought to save money however they can. But some advocates claim they've crossed the line when they engage in slack-filling practices.

P&G settled an \$850,000 lawsuit earlier this year in California in which consumers accused the company of using false bottoms in their jars of Olay moisturizer to make it appear there was more product in the jar than there actually was. P&G is not alone when it comes to this issue, however; previously, advocates have

accused numerous companies of similar tactics, including The Clorox Co., Unilever and McCormick & Co. Inc.

Drugstore chain CVS paid a \$225,000 fine last year for alleged violations of California slack-fill laws.

In a June story headlined "How Do Companies Quietly Raise Prices? They Do This," the *Wall Street Journal* noted, for example, that 4-ounce boxes of McCormick's Black Pepper were quietly replaced with 3-ounce boxes, which looked nearly identical. (That's 25 percent less product for about the same price.)

Usually, when a company is accused of such nefarious practices, they will argue (often convincingly) that slack fill is necessary to protect the products inside; to deter theft (that's why

CDs are sold with those infuriating plastic frames); or to allow for proper use of the product. For example, microwave popcorn packages must have extra space to accommodate the expansion of the popcorn once it's heated. These explanations make it difficult for regulators to go after companies for using the "slack-fill" tactic. In fact, the federal regulations concerning slack-filling give six exceptions which would exclude a company from being called deceptive; some states are even more lenient.

But while this battle rages on among industries, regulators and armies of lawyers, consumers may feel they've been left in the cold when trying to make the wisest use of their dollars. So, here are a few ways you can make sure you're not

being led down the primrose path:

**1. Compare unit prices.** Unit pricing allows you to compare products by weight, by number or by some characteristic shared among brands. For example, toilet paper might have a unit price per sheet; bags of dog food have a unit price per pound. That way, you're comparing apples to apples. Most retailers have a unit price on the shelf, allowing you to make a fair comparison.

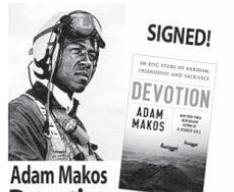
**2. Pay attention to weights and volumes.** We're all creatures of habit, and some of us are intensely brand-loyal when it comes to certain things. We're more likely to just grab that familiar jar of peanut butter and less likely to notice the weight on the jar has decreased.

**3. Use store brands.** Of course, many of us wouldn't dream of using a store-brand peanut butter or soft drinks. But often, they are virtually indistinguishable from the branded product. And, without the expense required to maintain a brand in the marketplace, it's a better deal for you. Of course (as we saw with the CVS lawsuit), it's not a total solution; still, you're likely to be paying less in the first place.

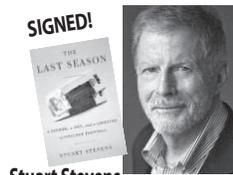
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