

The Real Cost of Bad Practices

“Think a little food-borne illness is just a minor irritation? Think again. In the past few years, a number of companies have had major problems because of food safety issues:

- ◆ A southern California restaurant chain suffered an 83% decline in first-quarter earnings last fall, as it continued to feel the effects of an *E. coli* outbreak in 2003
- ◆ The parent of a major casual dining concept paid out one of the highest settlements ever secured to nearly 50 diners who were among hundreds infected with *Salmonella* in one of its restaurants, after a dishwasher malfunctioned and the water supply eventually ran out
- ◆ One of the country's oldest Mexican chains closed its doors forever, less than a year after a hepatitis A outbreak linked to one of its restaurants killed four patrons and sickened hundreds more, hampering the



company's efforts to emerge from bankruptcy

- ◆ More than 800 restaurants were found to have critical health code violations—and were called on the national television carpet in a prime-time NBC News "Dateline" report
- ◆ A major produce supplier declared bankruptcy after being sued by a group of convenience stores in

Pennsylvania for supplying contaminated tomatoes

- ◆ A restaurant in Chesterton, IN, closed for more than a week after a single *Salmonella* case, while restaurant owners and employees sanitized the entire premises and took a handwashing and food safety course

Incidents like these are embarrassing at best—imagine being

compelled to learn how to wash your hands all over again—and devastating at worst, causing loss of sales, brand integrity, businesses and even lives.

It's not enough to pay lip service to sanitation and safety anymore. And it's not enough to say "it's my supplier's fault" or "I didn't know that employee was sick." Legally, that doesn't cut it, to say nothing of the moral, societal and economic implications of allowing gaps in the safety net. Operators who don't follow food safety best practices at all times stand to lose a whole lot more than a few customers.

STRICT LIABILITY LAW

In fact, the notion of strict liability carries all the weight of Federal law: Operators are strictly accountable for keeping their food safe, even if the problem came through the back door, in the form of tainted product or a contagious employee. "The law presumes that you should have discovered

When it comes to food safety, one mistake can cost you your business... or worse

the problem," according to William Marler, partner in the Seattle law firm of Marler Clark, which specializes in foodborne illness complaints. "Your customers expect you to know what it takes to make sure the food you serve is safe to eat. If you sell a product that makes someone sick, then you are responsible."

"There's a lot more at stake these days," says Pat Correll, president and managing partner of CBT, which operates the Perkins Restaurant and Bakery chain. "Food safety has to be a number one priority for everyone." Perkins, for its part, has overhauled its QA practices from top to bottom in recent years, in order to head problems off at the pass.

THE WHOLE PICTURE

An oft-quoted statistic provided by the National Restaurant Association nearly 10 years ago indicates that a single foodborne illness outbreak can cost an establishment as much as \$75,000 in legal fees, medical claims, lost employee wages, cleaning and sanitation, discarded food, and lost income. As serious as that figure sounds, however, it doesn't even begin

to tell the whole picture. A working group on *Salmonella* infection at the U.S. government's FoodNet agency claimed in 1999 that the estimated annual costs of medical care and lost productivity due to foodborne *Salmonella* infections were \$500 million to \$2.3 billion, depending on the method used to calculate forgone earnings. And the Economic Research Service (ERS) of the USDA recently released a report indicating that the recent bout of hepatitis A outbreaks associated with green onions had a market impact lasting up to four months, affecting not only the growers who supplied the tainted product, but the entire supply system.

"We've had plenty of opportunity to see just what can go wrong," says Kathy Means, vice president, industry issues for the Produce Marketing Association. "Incidents like these show how devastating an outbreak can be to the entire industry."

Indeed, food safety breaches have a ripple effect that can

bring the whole system to its knees. According to ERS, the societal cost of foodborne illness is almost incalculable, including not just the cost of the illness itself, but income and productivity losses; psychological costs on the part of both customers and employees; operational costs such as clean-up and equipment upgrades; business interruption or closure; and a slew of public health costs ranging from testing animals to altering transport practices and

increasing pathogen surveillance—not to mention fines and legal costs.

"A widespread outbreak of foodborne illness is a public health crisis," concludes Jim Mann, executive director of Handwashing for Life (HFL), an industry alliance committed to the reduction of foodborne illness. "When government authorities implicate a foodservice operation as the cause of an outbreak, it is a crisis with implications both legal and commercial."

Food Safety, By the Numbers

Estimated number of foodborne illness cases annually*	76 million
Number of hospitalizations	300,000
Number of deaths	>5,000
Medical costs and productivity losses	\$5.6–9.4 billion
Number of known foodborne illnesses	>250

SOURCES: CDC; USDA

* The discrepancy is due to uncertainty about underreporting

Savvy companies know that prevention is key—no matter what the cost. Over the last three decades, Darden Restaurants (parent of Red Lobster and Olive Garden) has instituted dozens of Total Quality Management policies and procedures, ranging from comprehensive food safety training and certification to employing a third-party audit system. This dedication to corporate quality assurance isn't just reactive—it's part of the company's Mission Statement. And the cost of such vigilance is a non-issue. "Quality doesn't cost, it pays," is how Tom Chestnut, Darden vice president quality assurance puts it. "This [level of commitment] has been part of our culture for 30 years."

THE INDUSTRY'S PROBLEM

According to recent data from the Centers for Disease Control and Prevention (CDC), cases of some of the most deadly forms of foodborne disease have actually decreased in current years, including *E. coli* O157:H7, *Campylobacter*, and some forms of *Salmonella*. Yet this is small comfort to any operator who does get caught up in a foodborne incident. And the more the press and public take up the gauntlet—from "Dine at Your Own Risk" coverage on television, to widespread clamoring to have health department inspection results made public—the more the problem becomes the entire industry's.

GOT INSURANCE?

Even for the best-run operations, the risk of foodborne illness will never be zero. That's why it's important to carry adequate insurance to protect your business from the financial consequences of an outbreak, closure or lawsuit.

"Most incidents are covered by the operator's general liability policy, which covers the expenses of third-party claims from patrons if they slip and fall in the parking lot or get sick from eating your food," says Dan Knise, executive vice president, Restaurant Insurance Corp., Greenwood Village, CO, which has partnered with the National Restaurant Association to design policies for independent restaurants. "If a third party sues, and you are found liable, it's the liability policy that will pay." (Property insurance, on the other hand, covers first-party loss, such as fire damage, while Workers' Comp covers injury to employees.)

In this era of escalating litigation, many insurers are moving to limit their own exposure by excluding or limiting coverage of foodborne events, and even a good standard policy may only cover only \$1 million per claimant and \$2 million per event, according to James Chippendale, president of CSI Insurance Management, a brokerage located in Dallas. There are far fewer companies out there who will insure restaurants, and the price of the typical policy has gone up from 30-100% in the last few years, says Chippendale, particularly in the wake of 9/11. Some underwriters won't even touch inclusive liability insurance for sushi restaurants or oyster bars.

Business Interruption Insurance covers "Acts of God" (if you close for three weeks to renovate for a fire, for instance), not the type of negligence implied by a food safety breach. Food Contamination/Spoilage enhancements—if they're written at all—are intended to cover such problems as a power outage, and may be severely limited as to the amount paid out. The solution is, get enough liability insurance to cover the perceived risk.



shop around, and you will probably end up paying more, but it would be insane to do without it."

And what of a company fields dozens of lawsuits, paying out millions of dollars after a large outbreak? "They'd have to have a special fund," says Chippendale. "Otherwise, you'd need millions and millions of dollars' worth of insurance, and only large companies can afford something like that." The odds may be slim, but recent events have proved that it can indeed happen.

And only the largest companies can afford coverage for supplemental Contaminated Products Comprehensive Insurance, which is designed for companies that manufacture, distribute or sell "ingestibles," to cover accidental and intentional contamination from bacteria and viruses, as well as mixture errors, mislabeling, chemical toxins and foreign objects. Says Chippendale, "We've never even been asked, it's so costly."



There is also Business Income Insurance, which covers for loss of income in case the insured's business is shut down by a covered cause of loss. It also often pays for such expenses as the rebuilding of an accounts receivable data base, cleaning computers, leasing temporary office space, and similar losses associated with an incident.

"The coverage is out there, but you have to do your homework, and read the fine print," says Chippendale, who recommends using a broker who specializes in the special needs of restaurants. "You'll definitely have to

And despite the growing specter of supply line problems like mad cow, *Listeria* in packaged foods, and contaminated produce, the widespread adoption of HACCP procedures by both the food and foodservice industries have made it all too clear that small, controllable measures like time/temperature control and proper hand-washing are still the culprit in all too many foodborne illness incidents.

THE SIMPLEST FIXES ARE SOMETIMES THE BEST

According to the new "Annual Food Safety Audit Trend Report," compiled in 2004 by the Steritech Group, the food handling factors significantly associated with the occurrence of an investigated foodborne incident (IFBI) were: incorrect storage of food; reuse of food; lack of employee handwashing; lack of thermometers; and the presence of any food protection violation. In addition, low overall inspection scores were also associated with IFBI. And according to studies published by CDC, the factors most commonly associated with foodborne illness are: improper holding temperature; poor personal hygiene; inadequate cooking; contaminated equipment; and food from unsafe sources.

Yet there is ample evidence that the message still may not be getting through. As measured by the FDA in 2004, 64% of full service restaurants were out of compliance on holding and time/temperature issues, and 42% were in arrears on personal hygiene issues (such as handwashing facilities and practices, bare-hand contact, and eating and drinking restricted to nonfood areas.) Results were a little better for the quick service segment, at 43% and 31% respectively. By contrast, 13% of full service restaurants and 2% of quick service restaurants were out of compliance on food from unsafe sources, according to FDA.

Such statistics suggest that the oft-quoted "We can always do better" is vastly understated.

TIMELINE FOR DISASTER

When foodborne illness occurs a sequence of events is set in motion. While each outbreak situation will be different there are a number of things in common with all outbreaks. Here's a typical sequence of events:

HOURLY	ACTIVITY	IMPACT
0	<ul style="list-style-type: none"> Everything seems normal at work Employees at work, Suppliers, banks, customers content Infection occurs 	<ul style="list-style-type: none"> Business as usual
4	<ul style="list-style-type: none"> Customer(s) are at home and sick Vomiting, diarrhea, cramps, etc. Infection continues 	<ul style="list-style-type: none"> Business as usual
5	<ul style="list-style-type: none"> Customers begin arriving at hospital Emergency room investigation 	<ul style="list-style-type: none"> Business as usual Infection continues Tracing of infection begins
6	<ul style="list-style-type: none"> Health authorities, police contacted First contact with restaurant operation 	<ul style="list-style-type: none"> Operation closes Employees sent home
7	<ul style="list-style-type: none"> Media begins reporting incident First radio & television, then newspaper 	<ul style="list-style-type: none"> Operation closed Regular customers eat at competitors
8	<ul style="list-style-type: none"> Employees start calling about work 	<ul style="list-style-type: none"> Employees laid off Good employees hired by competitors
8-48	<ul style="list-style-type: none"> Regulators start work Suppliers contacted/rescheduled 	<ul style="list-style-type: none"> Processes & practices questioned Credit flag on your account
24-48	<ul style="list-style-type: none"> Clean out & testing 	<ul style="list-style-type: none"> Costs begin to accumulate
48-96	<ul style="list-style-type: none"> Need to restock, reschedule & supply 	<ul style="list-style-type: none"> Credit limits tested
96-120	<ul style="list-style-type: none"> Restaurant reopens <ul style="list-style-type: none"> Customer count @ 20% Customer count @ 50% Customer count @ 80% 	<ul style="list-style-type: none"> Cutting all variable costs Advertise or close permanently??? Looking for new staff Rescheduling of staff
120+	<ul style="list-style-type: none"> Lawsuits, damages & fines begin 	<ul style="list-style-type: none"> Attention to business suffers

SOURCE: Handwashing for Life