



October 16, 2019

Eben Shapiro – Deputy Editor

Time Magazine

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Dear Mr. Shapiro:

I am writing in regard to your article "[Americans Choose Bottled Water for Safety and Quality. Are They Right?](#)" published on [www.time.com](http://www.time.com) on September 26, 2019. This story by Seth M. Siegel makes numerous false and misleading statements, which the International Bottled Water Association (IBWA) wants to correct so that Time readers are not misinformed about bottled water quality, safety, and regulation.

As your article points out, a very large percentage of people who buy bottled water cite "safety" and "quality" as key factors. However, there are many other reasons why consumers are drinking so much bottled water. Results from IBWA's 2018 Consumer Harris Poll show taste (97%), price (88%), ready to enjoy (can be consumed at room temperature as oppose to soda) (77%), convenient on the go packaging (76%), no artificial sweeteners (65%) and no calories (64%) are also significant reasons people are choosing water. Most people (74%) drink both tap water and bottled water, and they are deciding what type of water is best for them based on taste, convenience, and quality.

It is very important for people to drink water. IBWA and its members promote and encourage the consumption of all water — tap, filtered and bottled. Bottled water is a healthy alternative to carbonated soft drinks and other sugary beverages. This is particularly important as our nation faces increasingly high rates of obesity, diabetes and heart disease. Bottled water is the No. 1 packaged beverage product in the United States (by volume) for the third year in a row. In fact, since 2006, 69 percent of the growth in bottled water consumption has come from people shifting away from carbonated soft drinks and fruit drinks to water. See this [consumption shift chart](#):

<https://www.bottledwater.org/public/Bottled%20Water%20Fewer%20Caloric%20Drinks.png>

The article uses a 10-year-old Government Accountability Office (GAO) report to falsely state that *"about 70 percent of the bottled water sold in the U.S. was not subject to Food and Drug Administration (FDA) regulation . . . because [of] . . . intrastate commerce."* This is simply not

true. This report says that 70 percent of the bottled water inspections between the year 2000 and 2008 were conducted by state officials, but this doesn't mean that FDA doesn't have jurisdiction over bottled water plants in these states. The GAO says: "State officials performing inspections as part of an FDA contract perform inspections the same way that an FDA inspector would perform an inspection." And: "States that conduct contract inspections are audited by the FDA district offices to ensure that their inspections are equivalent to FDA inspections." These state officials are using the federal Food, Drug, and Cosmetic Act as the basis for their inspections.

In addition, the suggestion that FDA doesn't have jurisdiction over food products, including bottled water, that are only sold in intrastate commerce is not accurate. FDA's jurisdiction over bottled water products (and any other products regulated by FDA) extends not only to those products that move in interstate commerce but also to those products sold within a single state that are enclosed in packaging materials that have moved in interstate commerce. Known as the component theory of FDA jurisdiction, courts have long held that if any component of a food product moves in interstate commerce (e.g., in the case of bottled water, that could be a cap, a label, etc.), FDA has jurisdiction over the finished product, regardless of whether the finished product itself moves in interstate commerce [see *United States v. An Article of Food*, 752 F.2d 11 (1st Cir. 1985)]. For bottled water, if the plastic used in the bottles, the plastic used in the caps, the paper and ink used on the labels, any other outer packaging materials, and even the water itself comes from out of state, then FDA has jurisdiction over that product. In today's commercial society, that will almost always be the case. Congress has recognized this fact by enacting a law that expressly presumes that all food and beverage products are sold in interstate commerce. For more information, see U.S. Code 21 U.S.C. § 379 (a).

It is important to note that federal law requires FDA bottled water regulations to be as protective of the public health as standards set by the Environmental Protection Agency (EPA) for tap water. In fact, in some cases, such as lead, the FDA bottled water regulations are more stringent than the EPA tap water standards. In addition, on a gallon-for-gallon basis, bottled water is required by law to be tested for safety at least 30 times more often than tap water.

The article also falsely states, "*The [FDA] allows bottlers to fill bottles with tap water. While the water is usually treated, this is not a guarantee.*" Again, this is not true. FDA has a strict standard of identity (SOI) for "purified" bottled water. Many bottled water companies use public water sources for their purified bottled water products. However, it is important to note that this is not "just tap water in a bottle." Once the tap water enters the bottled water plant, several processes are employed to ensure that it meets the standard for purified water in the U.S. Pharmacopeia, 23rd Revision. These treatments may include one or more of the following: reverse osmosis, distillation, micro-filtration, carbon filtration, ozonation, and ultraviolet (UV) light. The finished water product is then placed in a bottle under sanitary conditions and sold to

the consumer. The chemical and physical quality of this water is not the same as water that comes out of the tap. If the finished water does not meet strict FDA regulations, then it is deemed adulterated and subject to recall. Moreover, if the source of a bottled water is a public water system and it is not treated to meet the definition of purified water, then it must be labeled as such to indicate that it is from a municipal source. IBWA is not aware of any bottled water products that use a municipal source that do not treat the water to meet the SOI for purified bottled water.

Mr. Siegel's article goes on to cite a 20-year-old study by the Natural Resources Defense Council (NRDC) report, describing it as "a scientifically rigorous study," when in fact this dated report has long been extensively and exhaustively debunked by scientists, who found it was filled with flaws and misinformation. In citing this report, the article claims that "about a third of the bottles examined had levels of bacteria or chemical contaminants about state or industry standards or guidelines." Again, this is simply not true. The Drinking Water Research Foundation (DWRf), in its review of the NRDC report found that "[of] more than 1,200 bottles of bottled water [tested] for 57 contaminants . . . the survey could only find four results where federal health standards were exceeded. Closer inspection reveals that two results . . . were in fact quite likely false positives because they could not be replicated in subsequent tests as required by federal standards. The other two exceedances were for a fluoride standard . . . [and] the levels found in the bottled water are below the EPA health-based fluoride standard for public water systems." In the same paragraph the article cites *Consumer Reports* in stating "several brands of bottled water contained potentially unsafe levels of arsenic." The truth is, of the 130 bottled water brands tested by *Consumer Reports*, only two exceeded the FDA standard for arsenic. While even one bottled water product exceeding the FDA standard is too many, it is important to note that the vast majority of bottled water products sold in the U.S. are below the 10 parts per billion (ppb) limit.

The article also challenges the safety of plastic bottled water containers, which again has been debunked. As with all food packaging materials, bottled water containers must be made from food contact substances approved by FDA. This means the plastic and glass containers used for bottled water products have undergone FDA scrutiny prior to being available for use in the marketplace. FDA has determined that containers used by the bottled water industry are safe for use with food and beverage products—including bottled water—and they do not pose a health risk to consumers. For more than 30 years, PET plastic has been approved as safe for food and beverage contact by FDA and similar regulatory agencies throughout the world. PET plastic is used in the containers for many other beverages, including soft drinks, juices, beer, wine, and spirits.

FDA has found that the levels of migration to food of the substances due to the use of the plastics in contact with food are well within the margin of safety based on information available

to the agency (i.e., toxicological testing has demonstrated that the cumulative dietary concentration of these migrants resulting from the use of the plastic materials in food packaging is at least 100 to 1000 fold lower than the level at which no toxic effect was observed in animal studies). This means no short- or long-term health effects are likely to occur, even from life-long, daily dietary exposure to these substances migrating from plastic food-contact materials.

TIME's inference that bottled water stored in a hot place is not safe to drink is simply not true. Claims that plastic bottled water containers stored in warm environments (e.g., a hot vehicle) "leach" unnamed chemicals that cause breast cancer or other maladies are not based in sound science and are unsubstantiated. Single-serve bottled water products are packaged in PET plastic containers, do not contain ingredients capable of producing dangerous substances under conditions of normal use, including being subjected to hot temperatures. There are no studies that prove this theory. These allegations have been perpetuated by viral emails, social media channels, and other media hype and only serve to frighten and confuse consumers. PET plastic does not contain phthalates, as your article suggests. Polyethylene terephthalate (PET) gets its name from the primary chemical used to make PET – phthalic acid. Phthalic acid is not a phthalate. Phthalates are chemical additives to plastic that make some plastics pliable. An example of a phthalate added to plastics is Di-2-ethylhexy phthalate (DEHP). PET plastic does not contain DEHP or any other phthalates.

IBWA does urge consumers to handle and store bottled water containers with the same care and respect as they would any other food or beverage product. Proper storage helps ensure product quality. IBWA wants consumers to enjoy the freshest, cleanest water possible, and, as with any food product, bottled water should be stored in a cool dry place, away from household solvents, fuels, and other chemicals, and away from direct sunlight.

In his conclusion, Mr. Siegel uses the aforementioned sensationalized false information to press for improving drinking water infrastructure. However, if he or Time editors had spoken with IBWA, you would have found that we support improving the nation's drinking water infrastructure. A strong public water system is important for providing citizens with clean and safe drinking water. People in the U.S. are making great efforts to live a better lifestyle by choosing healthier foods and beverages, and drinking water – tap, bottled, or filtered – should be encouraged. But to discourage people from drinking bottled water—with the high rates of obesity, diabetes, heart disease—is not in the public interest. Bottled water provides a safe, healthy, convenient beverage choice.

It is unfortunate that both the author and *Time* magazine did not contact IBWA for a response to these false statements. We kindly ask that you update the story to include the industry's

point of view. As the article stands, it perpetuates the spread of false information and does nothing more than confuse and unnecessarily scare your readers.

Sincerely,

Joe Doss

President and CEO

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**About IBWA**

*The International Bottled Water Association (IBWA) is the authoritative source of information about all types of bottled waters, including spring, mineral, purified, artesian, and sparkling. Founded in 1958, IBWA's membership includes U.S. and international bottlers, distributors and suppliers. IBWA is committed to working with the U.S. Food and Drug Administration (FDA), which regulates bottled water as a packaged food product, to set comprehensive and stringent standards for safe, high-quality bottled water products. In addition to FDA regulations, IBWA member bottlers must adhere to the IBWA Bottled Water Code of Practice, which mandates additional standards and practices that in some cases are more stringent than federal and state regulations. A key feature of the IBWA Bottled Water Code of Practice is a mandatory annual plant inspection by an independent, third-party organization. [www.bottledwater.org](http://www.bottledwater.org)*