INTO THE FRYER; HOW NOT TO GET BURNED

NAVIGATING SENSORY CLAIM SUBSTANTIATION FOR ADVERTISING

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SOCIETY OF SENSORY PROFESSIONALS

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HOW IT STARTED…
AN UN-BRANDED CONSUMER SENSORY CLT STUDY

- Wendy's Research & Development wanted to quantify the Overall Acceptability and key diagnostic measures of our "new & improved" fries vs. the consumer perceived Gold Standard French Fry competitor.

- The Wendy's Consumer & Sensory Science Team organized and executed an un-branded Central Location Test.

- Similar to that of the ASTM standards, careful planning was given to methodology.
  - QSR restaurant locations
  - Driving Studies
  - Transportation of product

CONSUMER SENSORY DESIGN

- Testing completed in Orlando, FL with appropriate population
- Sequential monadic, balanced block design ~ paired preference
- N = 128
- Testing completed on Tuesday, November 2, 2010
- French Fries were purchased at Wendy's & competitive QSR both within three (3) miles of the testing facility



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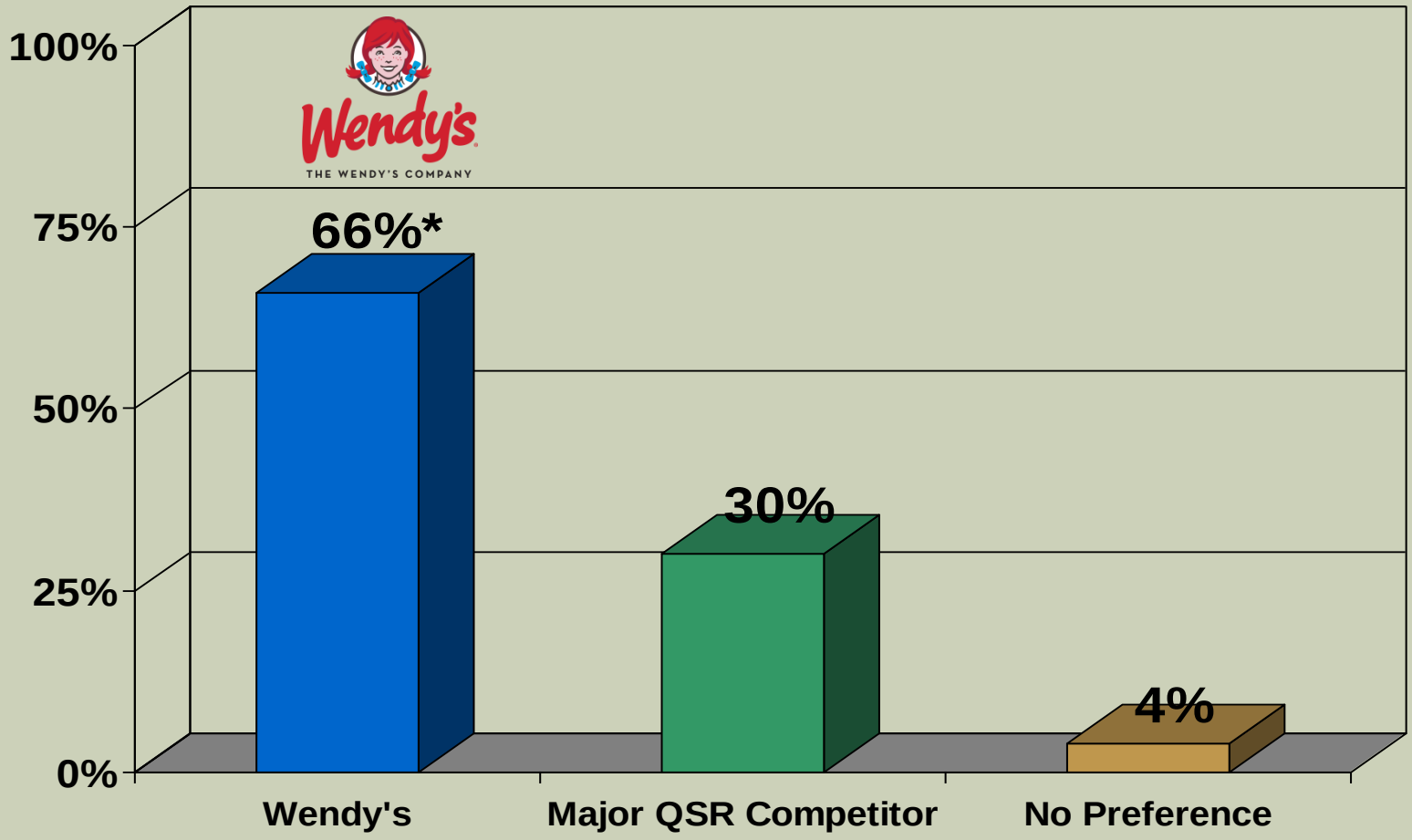
CONSUMER SENSORY RESULTS

PREFERENCE

WENDY'S FRENCH FRIES WERE SIGNIFICANTLY PREFERRED OVER MAJOR QSR COMPETITOR.



*Indicates significance at 90% confidence level



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WENDY'S CONSIDERS AN AD CLAIM

RESULTS AND NEXT STEPS…

Wendy's Sensory Science

- The Sensory Science team shared the preliminary consumer sensory research that indicated a strong preference for Wendy's new skin-on fries with sea salt vs. QSR Competitor.
- **From this meeting, initial discussions to explore a substantiated AD claim for use in a Wendy's marketing message was born.**
- The Wendys' Sensory Science Team was on the ground floor as an integral partner for Wendy's Claims Research. Claims team included representation from R&D, Brand Marketing, Consumer Marketing Insights, Wendy's Legal counsel and the Wendy's Advertising Agency.
- **Sensory was the catalyst in introducing the ASTM Guideline for Sensory Claim Substantiation.**

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CLAIM WORK BEGAN, BUT NOT WITHOUT INTERNAL LEGAL CHALLENGES

- Initially, the Wendy's legal team did not want to pursue an ad claim stating reasons such as:
  - Potential legal and financial risk for our business / brand.
  - Limited knowledge in advertising law and specifically, Ad Claim Substantiation.

SO… HOW DID THE WENDY'S CLAIM TEAM PERSUADE LEGAL TO CONTINUE?

- The Wendy's claim team believed the ASTM E-1958 document had enough information to pursue the claim in a scientific manner robust enough to uphold a challenge.
- Sensory presented the initial, compelling CLT work that was done on Wendy's French Fries vs. QSR Competitor.
- Consumer Marketing Insights, in tandem with Wendy's Agency partners shared research on the "power" of an Ad Claim.
- Our CMO was pushing hard for an Ad Claim.
- **<u>Outcome</u>: Wendy's Legal brought in additional outside legal counsel whose expertise was in "Advertising Law".**



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WENDY'S PARTNERS WITH RESEARCH CORPORATION

WENDY'S RESEARCH PARTNER

- Wendy's Consumer Marketing Insights Team partnered with Tragon Corporation for consultation and fielding research
- **GOAL:** To demonstrate Wendy's French Fry Superiority
- **OBJECTIVE:** To include supportable claims in 2011 National Marketing Communications

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ADVERTISING CLAIM RESEARCH METHODOLOGIES

- Per ASTM Guideline, Wendy's pursued two (2) types of claims:
  - 1.) Consumer Preference Claim
  - 2.) Quantitative Descriptive Analysis Claim
- Wendy's desired **"preference"** as the most powerful, provable consumer message for the brand – while identifying appropriate descriptive language to identify key product differences for use in advertising communication.

HOW WAS THE ASTM E 1958 DOCUMENT *(2007 VERSION)* CHALLENGED?



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THE ASTM E 1958 DOCUMENT
(2007 VERSION)

- The ASTM E 1958 document was created to provide a comprehensive approach (guide) to validating sensory based advertising claims.
- The FTC requires that each ad has a "reasonable basis" for the claim, however Television Networks each had unique requirements for claim validations.
- What is Reasonable? E 1958 states:
  - Depends on the company making the claim and its approach toward advertising.

LEGAL'S INITIAL REACTION TO ASTM E-1958 DOCUMENT

- Upon Wendy's counsel review of the ASTM E-1958 Ad Claim Document, issue was taken with the "guide" language.
- What they desired was a "vetted" approach – a detailed, step by step "how-to" document, similar to a "case study".
- **Wendy's opted for a more conservative approach due to the level of risk. Our "claimed-against" QSR competitor is of significant size and has the perceived "gold standard" French Fries. This competitor also spends substantially more in advertising than Wendy's.**



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SPECIFIC CHALLENGES AND WENDY'S APPROACH



CENSUS BALANCING

- **Ad Claim Document did not include recommendations on CENSUS BALANCING**
  - **Section 5.1.2 recommends screening recent category users.**
    - Wendy's Approach:
      - Wendy's took a "reasonable approach" – not heavy user, not light user. We utilized information from Crest/NPD to design consumer target.
        - All participants had to purchase French fries from a fast food chain (e.g.. Burger King, Carl's Jr, McDonalds, Wendy's etc.) at least twice a month.
  - **Section 5.2.2 recommends that the demographics of the sample (recruited consumers) match the target population (audience for claim).**
    - Wendy's Approach:
      - Balanced our sample based on the USA Census data. Additionally, a "readable" base (N=93) of teens (ages 12 – 17) were included.

GEOGRAPHIC BALANCE

- **Section 5.2.8.2** recommends that a national claim be based on the sample representing four major geographic regions with at least two cities selected in each region. But regional claims include four markets from the region.
  - Wendy's Approach:
    - Wendy's legal found these sections contradictory:
      - **Regional vs. National Brands**
      - **Number of Cities**
      - **Number of Respondents**
      - **Document did not address city selection that addressed CDI or BDI**
    - Wendy's legal believed that there should be some consideration to "WHO" you are claiming against. Wendy's would have made different decisions if claims were against a smaller competitor.
    - Wendy's followed the "literal interpretation" above and fielded research in 8 markets – two cities from the North, South, East and West. The number of respondents in each city reflected Category Development Indices. (Eg. Dallas and Atlanta had more respondents than Boston).
    - Net, Net: – That's a very large amount of consumers for a claim. None of the networks require 800. **What is really reasonable? How many is enough?**

TEST EXECUTION

- **Section 5.5.1 and 5.5.2** requires that handling of products after procurement be identical and that the competitive products show no signs of mishandling or abuse.
  - Wendy's Approach:
    - Methods were developed to transport products consistently across all locations maintaining the integrity of the products.
    - Transit times from procurement to test facility were calculated at different times of the day. Session times were adjusted so transit time from each restaurant to test facility were similar across markets.

TEST EXECUTION CONT'D.

- **Section 5.7.1, 5.7.2 and 5.7.3** requires that all samples be prepared and served in a manner that has little impact on perception, treats all products fairly, served under reasonable conditions and are blind.
  - Wendy's Approach:
    - Products were served upon arrival following a balanced and sequential monadic design.
    - All respondents were served a "representative" sample of French fries including natural blemishes, dark pieces or broken pieces.
    - Legal teams did not want products selected based on subjective judgments.
    - Condiments were not included, but all respondents reportedly ate French fries without condiments and were willing to do so.

TEST EXECUTION CONT'D.

- **Section 7.3** require test facilities to have experienced staff and follow double blind test procedures. Requires sponsor be anonymous.
  - Wendy's Approach:
    - Products were double blind*. Preparation staff and interviewing staff unique, and testing staff did not know the identity of the products and could not directly or indirectly inform the respondent.
    - Tragon was the agency on record, neither purpose of research, nor sponsor was divulged.

*CBS required clarification of the double blind testing method

TEST EXECUTION CONT'D.

- **Sections 7.4 and 7.5** address preparation area and interviewing area requirements.
  - Wendy's Approach:
    - *In each facility, interviewing rooms and kitchens were separated.
    - *Consumers were seated at individual testing stations each equipped with a laptop computer for data collection.

*CBS required clarification on preparation and consumer seating areas.

DESCRIPTIVE ANALYSIS

- **Section 9.2.3** requires specifically qualified panelists to measure perceived sensory attributes.
  - Wendy's Approach:
    - Tragon QDA® panelists developed sensory attributes across five modalities.
    - Tragon QDA® panelists measured perceived intensities of French fries.

- **Sections XI. 16** advises use of two of three methods (consumer data, analytical data and trained panel data) to validate a claim.
  - Wendy's Approach:
    - Consumer data identified preference for Wendy's French fries. Tragon QDA® provided language for the commercial.

SO, WAS IT WORTH IT?



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WENDY'S COMMERCIAL AIRED MARCH 2011

- Wendy's Ad Champaign

RESULTS WERE SHARED WITH QSR COMPETITOR AND THE NETWORKS

WAS IT CHALLENGED?



CHALLENGES TO ASTM E – 1958

- **QSR Competitor**
  - No “formal” challenges, however Wendy’s Legal Team received several calls from them the following day results were shared.
  - QSR competitor wanted Wendy’s to pull the ad until their Advertising counsel could review (Wendy’s did not pull).
  - Mark Inzetta said “I don’t think they felt we had the research we had, it was all defendable”.
  - **Net, net: The QSR competitor did not file a claim with the FTC nor took any legal action.**

CHALLENGES TO ASTM E – 1958

- **CBS**
  - Were consumers recruited from supplier databases in each city?
    - **YES -** CBS assumed consumers went to the Tragon website and "signed up" for the French Fry taste test.
  - Census balanced? **YES**
  - Meet specific requirements to participate? **YES**
  - Purpose of taste test never revealed? **YES**
  - Questioned test execution. **TEST EXECUTION WAS VALID. Blind, study never revealed.**

WENDY'S FEEDBACK FOR OTHERS PURSUING AN AD CLAIM



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WENDY'S FEEDBACK / FINDINGS

- Sensory Science should take the leading role in the Ad Claims Team.
- ASTM E – 1958 document was very helpful, however it was not easy to understand and interpret.
- Make document more explicit / definitive - give specific examples to better guide, perhaps a case study that is included as an appendix.
- Include cross-functional team members *(legal, marketing, consumer insights, research & development, sensory science, agency partners)* to interpret insights. It's a team effort. "Not any one of us were right, all the time".

CONTRIBUTORS

- A special THANK YOU to:
  - Mark Inzetti, Inzetta Properties *(former Wendy's Legal counsel)*
  - Janet Williams, Advertising Claims Specialist
  - Wendy's R&D, Marketing & Sensory Science Team
    - Lori Estrada, VP – Research & Development
    - Matt Dee, Director – Brand Marketing
    - Justine Looper – Manager of Consumer & Sensory Science
    - Lindsay Jack – Consumer & Sensory Science Project Specialist

Q & A