Creating the Kosher Brand:
Commerce, Supply Chains, and Trademarks in the 20th Century Marketplace

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Under review for publication in *American Jewish History*. Please do not quote, cite, or distribute.

A note to EBHA meeting readers: This paper is written as an intervention into Jewish Studies, with the intent of showing to value of using categories from business and economic history to analyze what might seem to be religious practices. I particularly welcome your thoughts on my use of the literature in our field on brands.

In 1990, industry journals reported that Dannon had moved kosher certification of its yogurts from an individual rabbi to the Union of Orthodox Jewish Congregations of America (UOJCA, generally known as the Orthodox Union), permitting it to place the well-known U in a circle trademark on its packages. Visibly displaying the UOJCA's endorsement would, the company believed, measurably improve its sales to consumers who wanted to purchase kosher yogurt, even though the OU symbol would be added to products there already were kosher. Dannon's bottom line quickly validated this decision; an internal company report concluded that the UOJCA's endorsement increased sales by $2 million annually. Such a success, in turn, attracted a wider audience than just yogurt consumers. The impact of its certification on Dannon received broad attention in the food industry, securing laudatory coverage in staid trade journals -- and likely conversation among their readers whether they could emulate Dannon's success through a similar strategy. [1]

By the end of the 1990s, a remarkable range of new UOJCA-certified products had joined Dannon. Gatorade, Tootsie rolls and Oreo cookies, Miller and Coors beer all decided to carry its U in a circle symbol on their products, having concluded the costs of securing UOJCA endorsement were minor compared to anticipated increases in sales revenue. Since then, consistently 25-30% of the new consumer food products introduced each year are kosher certified, whether by the UOJCA or one of the other Orthodox certification agencies. Kosher requirements are now fully integrated into the operations of the American food system. [2]

The dramatic expansion of kosher food options reflects, this paper will argue, the emergence of kosher as a brand. Much as well-known product brands function to generate revenue through greater appeal in the marketplace, over the last third of the 20th century kosher trademarks gradually took on the brand-like qualities to augment the sales of products on whose labels they appeared. Kosher was not the primary brand in these instances; obviously the large Gatorade name on the label attracted more purchasers than the small OU symbol displayed as well. Nonetheless, kosher augmented the principle brand's appeal, both for observant Jews and,

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[1] *Jewish Action*, Winter 5752/1991-92, 45; *Prepared Foods*, August 1992, 15; *U.S. Distribution Journal* Sept-Oct. 1998, 98.

[2] The development of kosher food in modern America is charted in my book. *Kosher USA: How Coke became kosher and other tales of modern food* (New York: Columbia University Press, 2016).

remarkably, as a signifier containing information desired by a far larger market of non-observant kosher food consumers.

Used loosely in popular terminology, the term "brand" often functions as a synonym for image and reputation, without reference to marketplace consequences. While such usage can operate as an effective rhetorical device, it lacks analytic rigor defining what constitutes a brand. Drawing on conceptualizations developed in the extensive literature on brands in the economic and business history scholarship, I consider brands an economic category whose existence can be determined through quantifiable measures of marketplace impact and revenue. In this frame, if kosher is indeed a brand, there should be a way to measure the value of the kosher designation both to the products that the carry the appropriate information, and the institutions that place the kosher designations on foods that meet their standards. Moreover, my claim is that kosher as a brand encompasses the discreet trademarks of the varied certification organizations; collectively, these symbols communicate to consumers which products meet kosher standards.

The UOJCA was the principal organization creating a kosher brand, but its efforts were embedded in a broad effort by Orthodox partisans to expand kosher options available to observant Jews. Its activities, generally in concert with other certification agencies, made kosher designations financially valuable to food producers. The extra profits for the firms that decided to make their products comply with kosher requirements generated sufficient revenue to create a new and robust income stream for Orthodox certification organizations. The substantial monetary benefits that accrued to them as a result is a quantifiable measure of their successful branding efforts. These revenues, in turn, generated significant resources for Orthodox Judaism. Certification revenues paid the salaries of the hundreds of clergy and laity engaged in kosher supervision activities, with significant surpluses funding educational and promotional initiatives intended to advance Judaism's Orthodox denomination.

The paper begins by framing kosher's emergence as a brand within central concepts developed by business and economic history scholarship. It then analyzes the long history of rabbinic, pre-agency kosher certification as a form of product endorsement not dissimilar in many respects to the use of secular claims of expertise to help sell goods. It follows by tracing, historically, the developments that permitted kosher trademarks to assume two key qualities of brands identified in the scholarly literature: reducing "consumer search costs" for locating desired products and regulating supply chains that generate inputs for the end product. The paper closes by mapping the revenue implications of the success of kosher certification on the UOJCA, and, with that, the embedding of kosher practices within the American food system.

Trademarks and Brands

Trademarks are a ubiquitous feature of modern commercial society. While distinctive producer marks on products can found as early as ancient Greece, the legal protections accorded marks emerge only on the 19th century with the growth of large firms whose reputation rested on privileged use of its name and the names of its products. More localized concerns did not require the same level of legal protection because the close connection between seller and buyer protected the firm's reputation and mitigated against its theft or misuse by other parties. But when a separation emerges between a producer and its customers, "the name and reputation become intangible property rights," Mira Wilkins argued in an influential 1994 article, generating efforts by firms to secure passage of trademark legislation on a national, and in time, and international basis. In the United States, federal trademark registration commenced in 1879;

Coca Cola and Philadelphia Cream Cheese were among the first companies to avail themselves of its protections. [3]

Brands and trademarks are intimately related. As trademarks can be renewed in perpetuity, they are an attractive legal vehicle for firms seeking to develop brands. In contrast, patents have expiration dates; once their legal protection ends, the publicly available information about their composition and technical features encourage generic copying. Brands, though, are not covalent with trademarks; not all trademarks operate as brands. Functionally, a trademark holder has to intervene into the market place to turn its mark into a brand. Hence brands must have an economic element – visibility and value in a market – as well as the legal protections against copying or unauthorized use that allow the trademark holder to profit from it. [4]

Brands' marketplace power gives them considerable economic value. Indeed, brands created by many firms have outlived the corporate entities from which they originated, but retain marketplace value through a collection of words and symbols that continue to influence consumers' choices. Two features of brands stand out as particularly relevant to kosher food.

First, trademarks, operating as brands, reduce "consumer search costs" by making it easier for consumers to act on their preferences. The trademarked features of product identification – the Coca Cola logo, the Tide detergent package design – helps consumers locate the products that have the features (taste, durability, effectiveness) that they desire. The additional revenues so generated results in recovery of the extra costs for such brand maintenance due to the legal monopoly on the use of a particular name or symbol. The value of such trademarks, in turn, motivates the owner to maintain the quality of its branded products so as to induce consumer loyalty and repeat business. In legal terms, maintenance of brand quality and facilitation of consumer choice thus justified trademark monopolies. [5]

Maintenance of quality, a key benefit for consumers, generates a second distinctive feature of brands: control over supply chains. With products generated from a variety of inputs, made by widely dispersed manufacturers (eg chemicals in foods, components in computers) firms seeking to maintain a brand's quality need to control the various elements that it incorporates. Hence, hidden from consumers but critical for a brand's durability is the power of the brand over the other trademark holders that contribute to the final product. Consumers rely on the dominant brand to ensure that its components – electrical, mechanical, or edible – are obtained in such a manner as to ensure reliable and stable characteristics of the final product.[6]

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[3] Mira Wilkins, "The Neglected Intangible Asset: The Influence of the Trade Mark on the Rise of the Modern Corporation," *Business History* 34, 1 (1992), 68. See also Frank I. Schechter, *The Historical Foundations of the Law Relating to Trade-Marks* (New York: Columbia University Press, 1925); Nancy Koehn, *Brand New: How Entrepreneurs Earned Consumers Trust from Wedgewood to Dell* (Boston: Harvard Business School Press, 2001): Teresa da Silva Lopes, *Global Brands: The Evolution of Multinationals in Alcoholic Beverages* (New York: Cambridge University Press, 2007).

[4] The standard account of this process is Susan Strasser, *Satisfaction Guaranteed: The Making of the American Mass Market* (New York; Random House,1989).

[5] William M. Landes and Richard A. Posner, "Trademark Law: An Economic Perspective," *The Journal of Law & Economics* 30, 2 (1987), esp. 268-9.

[6] Paul Duguid, "Brands in Chains," in Duguid and Teresa da Silva Lopes, eds., *Trademarks, Brands, and Competitiveness* (New York: Routledge, 2010), 139 and Duguid, "Developing the Brand: The Case of Alcohol, 1800-1880," *Enterprise & Society* 4, 3 (2003), 405-41; see also Alessandro Stanziani, *Rules of Exchange: French Capitalism in Comparative Perspective, Eighteenth to Early Twentieth Centuries* (London: Cambridge University Press, 2012), esp. 145-67, and Stanziani, "Information, Quality, and Legal Rules: Wine Adulteration in Nineteenth-Century France," *Business History* 52, 2 (2009), 268-91.

Brands thus can function as a means to regulate a product's composition – a particularly valuable asset to making modern food kosher. To the extent that kosher trademarks could influence consumer choice and control supply chains, they would achieve the functions performed by commercial brands.

Until the mid-1940s, however, the symbols adopted by the UOJCA and other kosher certifiers could not be registered as trademarks. Relatively alone among industrial nations in the early 20th century, US trademark law did not recognize marks by anything other than a good-producing firm. Much of this resistance was an outgrowth of the anti-unionism of the late nineteenth and early twentieth century.[7] Trade unions had sought to make the union label a trademark to place on products from firms that accorded unions' collective bargaining rights as a way to generate consumer support for unions. But a series of U.S. Supreme Court decisions severely constricted use of a union label to support a consumer boycott as leverage on firms. In *Danbury Hatter* (1908), the hatters' union was held liable for enormous damages incurred by firms due to a consumer boycott, essentially eliminating this tactic. Not surprisingly, the U.S. Congress resisted passing legislation sanctioning collective marks, including those from unions, as doing so would have offered unions leverage against the Supreme Court decisions banning boycotts.

It was not until the 1946 Lanham Act that U.S. law authorized certification marks, bringing it into line with its European trading partners. Legislation distinguished them from commercial trademarks (names or symbols) associated with particular products, and instead limited their use in commerce to persons or entities other than the certification mark's owner. "The message conveyed by a certification mark," explains the legal source Bitlaw, "is that the goods or services have been examined, tested, inspected, or in some way checked by a person who not their producer, and by methods determined by the certifier/owner." Likely motivated by interest in facilitating international trade, the Lanham Act did open to door to marks such as the OU symbol receiving strong legal protection. [8]

From rabbinic endorsement to kosher trademark

Kosher as a category for food long precedes trademarks and brands – by perhaps as much as 3000 years! Kosher was neither a brand nor a trademark during this very long period. Especially in the Ashkenazi world, local rabbis and respected regional authorities – especially rabbis located in major cities – retained great power over the applications of kosher law. The only mark that might appear on kosher food was a rabbi's signature, attesting to his personal inspection, or perhaps the claim *kosher* (written in Hebrew) on a butcher shop, authorized through periodic inspections by a local rabbi. The efflorescence of rabbinic responsa on kosher controversies such as the proper separation of meat and milk and the permitted duration between the slaughter and *kashering* of cattle also signify the differences that existed in local kosher practices.[9] Small variations due to *minhag* (local custom) were frequent and could be accommodated so long as they did not contravene core kosher principles. Acceptance of the food as kosher thus rested on

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[7] Paul Duguid, "Information in the Mark and the Marketplace: A Multivocal Account," *Enterprise & Society* 15, 1 (2014), 1-30.

[8] Duguid, Ibid; www.bitlaw.com/source/tmep/1306_html.

[9] David Kraemer, *Jewish Eating and Identity Through the Ages* (New York: Routledge, 2007), see for example 91-3, 107-11; Zev Farber, "The Development of the Three-Day Limit for Salting," *Blessed Words/Milan Havinin* 1 (Sivan 5765-June 2005), 38-72.

the rabbi's reputation, and in many cases his personal relationship with the observant Jews in the community.[10]

This well-established practice resembles (though it far precedes) what some business historians call the "endorsement" system for product promotion. [11] Beginning in the late nineteenth century, advertising often drew on endorsements by "experts" whose knowledge or professional credentials gave legitimacy to the manufacturer's claims. To take one of many examples among late 19th century food producers, the Royal Baking Product Company promoted a testimonial from one Henry A. Mott whose advertised credentials as a PhD and U.S. government chemist presumably enhanced the company's legitimacy. Similar to how a butcher shop benefited from endorsement by a respected rabbi, Dr. Mott's reputation enhanced Royal Baking's appeal to consumers impressed by his qualifications. [12]

Industrialization and the development of processed food disrupted this long period of kosher certification through rabbinic endorsement. With food products composed of many different, often mysterious ingredients, coming from a variety of locations and combined in factories far from where they might be consumed, reliance on local rabbis to function as gatekeepers could not be sustained. Moreover, advertisements by large food companies in Yiddish newspapers claiming their products met Jewish religious requirements could easily drown out the voices of rabbis who disagreed. National distribution of food products made the *minhag* tradition untenable for manufacturers as well, since firms sought consistency in the rules they needed to follow to make their products generally acceptable to observant Jews.

The UOJCA established its certification program in the 1920s to counter the challenges to kosher posed by the transformation of the food system. To make its determination known, the UOJCA needed a mark representing their organization, not a rabbi's signature, a mark that could be recognized by interested consumers at some distance from the agency's headquarters. Such a mark also elevated the association's endorsement over that of an individual rabbi, permitting (its leaders hoped) for consistent kosher standards to take hold.

The creation of this mark reflected a dynamic intersection between this new organizational strategy and the methods of modern food. The very first kosher mark, the U in a circle symbol, emerged out of a 1923 meeting at the headquarters of Heinz food in Pittsburgh involving UOJCA leader Abraham Goldstein and an unnamed member of the Heinz company's marketing department. Goldstein arranged the meeting to discuss how to communicate the UOJCA's endorsement on the product's label so that kosher consumers realized that the new vegetarian baked beans were kosher (and free of pork). Goldstein wanted to affix the Hebrew letter *kaf* on the label; but Heinz objected on the basis that some consumers might avoid the products associated with Jews, in light of the widespread anti-Semitism of the 1920s. [13] To evade this problem the agency Heinz employed for promotion to the Jewish community devised a more innocuous mark – the U in a circle, drawing from the first and third words in the UOJCA's name.

[10] Jeremy J. Berman, *Shehitah: A Study in the Cultural and Social Life of the Jewish People* (New York: Block Publishing Company, 1941).
[11] Teresa da Silva Lopes, "Building Brand Reputation through Third-Party Endorsement: Fair Trade in British Chocolate," *Business History Review* 90 (2016), 457-82.
[12] Kerry Segrave, *Endorsements in Advertising: A Social History* (Jefferson, NC: McFarland, 2005), 6-7.
[13] Leonard Dinnerstein, *Antisemitism in America* (New York: Oxford University Press, 1994); Linda Gordon, *The Second Coming of the KKK: The Ku Klux Klan of the 1920s and the American Political Tradition* (New York: W.W. Norton, 2017).

It was easy for kosher consumers to recognize but not likely to be noticed by anti-Semites who also might like vegetarian beans as well. [14]

Without realizing it, Goldstein and the UOJCA had taken the first step in a branding strategy. Goldstein's initial approach was rooted in the Jewish endorsement tradition, creating a mark that signified kosher through an abbreviation -- the first letter in the Hebrew word for kosher. Additionally, he was likely influenced by contemporaneous regulations in New York State (where he lived) that closely regulated use of the Hebrew word kosher on the stores that claimed to sell kosher meat so as to curtail fraud. His reflex was to extend these methods by placing a signifier for the Hebrew word kosher – the letter *kaf* -- on a national branded product, relying on the Hebrew form to communicate its acceptance by rabbinic authorities.

It took an advertising agency steeped in modern product promotion to conceptualize a quite different communication strategy. Adopting the U in a circle symbol referenced not to kosher in generic terms, but to the organization which it represented – the UOJCA. The UOJCA's reputation functioned to reassure consumers that the product met kosher standards. Relying on symbolic, rather than literal, representation was a well-established method in commercial practices, artfully generating symbolic representations of a firm – the RCA dog, for example – to communicate with and reassure potential consumers. Goldstein absorbed the significance of this modern strategy. A decade later, when he created the Organized Kashrus Laboratory, he followed a similar approach by fashioning a K in a circle symbol (a literal abbreviation for his new agency) to put on the products it endorsed.

Establishing kosher certification agencies also was a response to the seeming unending controversies over corruption. Jewish communities were riven for decades with fractious debates over whether foods endorsed by rabbis actually met kosher requirements. The rabbinic endorsement or *hashgacha* was a traditional aspect of his duties and the income so generated formed an important supplement to the congregation's salary. Yet, since rabbis relied on payments from the firms whose products they assessed for compliance with kosher law, corruption – and suspicions of such—was baked into this system. The subtitle, "The controversy over the supervision of Jewish dietary practice in New York City," of Harold Gastwirt's 1974 study conveys the endemic character of the disputes over *kashrut*, from the failed appointment of Jacob Joseph as Chief Rabbi in the late 19th century to the discovery of organized crime's penetration of the *schoctim* union in the interwar years. [15]

The certification agency structure guarded against corruption by eliminating direct payments by a business to the supervising rabbi. Under the agency system, a firm interested in securing kosher endorsement of a product first would arrange the necessary rabbinic review and inspections of the manufacturing process. Payment of an initial fee depended on the complexity of the initial evaluation and was not altered by a positive or negative result. Once certified, the firm would contract with the agency for the ongoing reviews necessary to ensure that the product continued to meet kosher standards, again with fees paid to the agency. The agency would then compensate the supervising rabbis (or other trained personnel) directly for their services as employees (part or full time), without reference to whether their efforts permitted firms to secure

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[14] *Kosher Food Guide* July1935, 6; Gil Marks, *Encyclopedia of Jewish Food* (Hoboken: John Wiley, 2010), 327.
[15] Harold P. Gastwirth, *Fraud, Corruption and Holiness: The Controversy Over the Supervision of the Jewish Dietary Practice in New York, 1881-1940* (Port Washington, N.Y.: Kennikat Press, 1974); Jeremiah Berman, *Shehitah: A Study in the Cultural and Social Life of the Jewish People* (New York: Bloch Publishing, 1941), 294-327; Max Block, *Max the Butcher: An Autobiography of Violence and Intrigue* (New York: Lyle Stuart, 1982).

certification. Since the kosher inspectors would be paid regardless of their decision, Goldstein and the many agency administrators that followed him felt that the financial incentives for corruption were largely removed.

Despite the initial hopes for kosher certification, the agencies languished, with only a small number of firms signing up, most of them small. In 1956, the UOJCA endorsed 471 products manufactured by 156 companies, an average of but three per firm. The report trumpeting its success unintentionally offered an underwhelming list of new certifications: bulk items such as oils and shortenings, cake flour and toppings, mushroom and corn products, potato chips and egg noodles. Many more endorsed products were not food items at all, including detergents, silver polish, and soap pads. This was hardly enough to satisfy the culinary and gustatory expectations of observant Jews![16]

Instead, the dominant suppliers of food deemed by rabbis to meet kosher requirements came from firms that eschewed the use of kosher symbols altogether. These were the traditionally Jewish firms of Manischewitz, Rokeach, and Goodman's (among others) who serviced the Jewish market. In addition to making ethnic Jewish food (eg borscht) in the 1950s they also branched into more American-style products for their Jewish customers. Manischewitz, for example, made kosher meat baby food in the 1950s along with kosher cake mixes. Rokeach went so far as to approach marketing guru Ernest Dichter in 1961 to see how it could make its products more competitive. Among his advice: there was no need to adopt kosher certification, as the firm's name was sufficient to assure consumers of its products' kosher status. In other words, the company had no need for a separate kosher trademark on their labels. [17]

These firms adopted a different approach that was rooted in the endorsement system. Each had a board of rabbis that certified the company, not individual products. The standards and procedures they required, the level of inspection they followed, indeed all information on their standards remained confidential and interior to the firm. What reassured observant consumers was the reputation of the rabbis involved. Manischewitz, for example, promoted how its kosher practices were regulated by "the Manischewitz Board of Rabbinical Supervision" composed of Rabbi Eliezer Silver (identified as "Chairman of the Presidium of the Union of Orthodox Rabbis") along with the "eminent Rabbis" I. Siegal and P. Gutman.[18] Such an approach was, in effect, an extension of the traditional endorsement system, with the firm tethering the rabbis' reputations to itself. Since the firms' brand was itself, simultaneously, the sign its products were kosher, there was little need for a separate kosher mark.

Brand development Part I – reducing "consumer search costs"

Mired in relative obscurity, and worried about the inroads from the Conservative branch of Judaism in the 1950s, the UOJCA decided on a dramatic change of direction. In 1956 it hired an experienced advertising person, Ben Gallob, who set out to prove to non-Jewish firms that the kosher symbol had economic value by increasing the market for their products. The Lanham Act

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[16] Kashruth Division, UOJCA, 1956 report, box 5, folder 7, Union of Orthodox Jewish Congregations of America Records, American Jewish Historical Society, henceforth UOJCA records; Kashruth Division, UOJCA, 1955 report, box 4, folder 5, UOJCA records.
[17] Ernest Dichter, *A Motivational Research Study of the Major Problem Areas for Rokeach Within the Kosher Food Market* (New York: Institute for Motivational Research, 1961), 112-3, Ernest Dichter papers, Report 1368C, Hagley Museum and Library.
[18] Manischewitz advertisement, *New York Times* April 9, 1957, 28.

had been on the books for a decade at that point, but the OU had not appreciated the opportunities it gave them. It took a person experienced in secular public relations, and the branding strategies commonly applied by mainstream firms, to open the UOJCA's eyes to this new way of marketing its kosher symbol.

Gollob's efforts began in 1956 by formally trademarking the U in a circle symbol. While in use since 1924, it had never gone onto the official U.S. trademark registry. He then moved systematically to create value in the OU label, a venerable advertising strategy for developing a brand's identity. Promotion to food manufacturers stressed the value of the UOJCA's large synagogue network as an information conduit to kosher consumers eager to purchase new processed foods. Gollob launched the *OU News Reporter*, a glossy monthly newsletter sent to Orthodox congregations and (in time) 35,000 individual subscribers to create a medium through which companies availing themselves of OU certification could swiftly reach kosher consumers. The inaugural issue announced OU endorsement of Megowan-Educator Food Company cracker products; two years later the certification of ReaLemon fruit drinks; in 1967 recruitment of 160 A&P products to the OU list; and in 1974 the addition of Ovaltine and Pillsbury Cake Mixes to a kosher home's options. Firms received extra copies of the OU Newsletter that featured their products so that their salespeople could use the OU's endorsement to secure product placement in supermarkets.[19]

The UOJCA relentlessly promoted its symbol to food manufacturers as an entrée into Orthodox synagogues (and not just a kosher endorsement), offering an argument that could persuade companies that otherwise had no interest or understanding of kosher. Indeed, the *New York Times* noted in 1960, in a direct reference to the UOJCA's strategy, that "most synagogues maintain bulletin boards on which are posted the names of new products that bear the "U" identifying them as kosher." Dozens of papers across the country carried press releases issued whenever a product secured the right to display the OU symbol, with larger feature articles appearing in the *Wall Street Journal*, *Good Housekeeping*, and *Time* magazine. The UOJCA also planted articles in the trade press to generate a higher awareness of kosher, and to help food manufacturers understand how to reach this market. "Kosher foods are coming into their own," *Food Processing* told its readers in 1958; and that once a product secured UOJCA approval, "a substantial information service is made available to the producer, by which he can introduce his newly-certified products to a large segment of his new market." In these strategies the UOJCA presented its trademark as a communicative device that would encourage consumers to buy products to which it was affixed. [20]

To put its efforts in the language of brand development, reducing consumer search costs formed a central axis of the UOJCA's initiatives. It followed a number of strategies to make finding OU certified food easier, beginning with a major change in its kosher food guide. Its "Kashruth Directory" had appeared within the slim UOJCA newsletter, *The Orthodox Union*, since the early 1930s, and then moved into its *Jewish Life* magazine following World War II. Its cumbersome format (as a section within a periodical) was ill-suited for the directory to serve as

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[19] Material on Gollob's initiatives may be found in box 9, folder 3, Benjamin and Pearl Koenigsberg papers, Yeshiva University Archives; Trademark Registration Number 0636593; Report of the Joint Kashruth Commission, 1962, box 8, folder 1, UOJCA records; *OU News Reporter* May 1956, May 1958, May and September 1974, box 15, folder 4, UOJCA records.

[20] *New York Times* Jan. 22, 1960, 18; "Summary of Highlights of the Public Relations Program," April 1, 1963, box 9, folder 5, Benjamin and Pearl Koenigsberg papers; *The Key to the Kosher Market* (1967), 30-33, box 15, folder 3, UOJCA records.

guide to kosher products. As part of the post-1956 reorientation of its certification program, the UOJCA renamed its guide the "Kosher Products Directory" and issued it as a physically separate publication. To encourage use as a handbook for permissible foods, it had a convenient hole punched in the upper left corner and displayed the admonition to "Hang me in your kitchen." The attractive format delineated convenient product categories (e.g. ice cream) with housewives (assumed to be the family's shoppers) invited to join the free mailing list for the quarterly updated versions of the Kosher Products Directory along with the more frequent *OU News Reporter*. The OU distributed 253,300 copies in 1959, plus an additional 100,000 copies of its Passover product directory. [21]

To food companies the OU similarly emphasized how use of its symbol made it easier for kosher consumers to locate the products they wanted. The very title of its 1967 pamphlet oriented towards food manufacturers, *The Key to the Kosher Market*, conveyed its core argument. "Jewish homemakers reject many pre-packaged foods because they lack rabbinic endorsement," the UOJCA explained. "The evidence is clear," it added, referencing its own consumer market research, that a visible kosher endorsement generates "a substantial plus factor in additional sales." It emphasized the many channels it possessed to promote a firm's products, especially its synagogue network and women's organization. The UOJCA also offered to work as, in essence, marketing consultants, helping firms develop ad copy that could be placed in periodicals oriented towards Jews, as well as copy that could be used by firm's sales representatives to persuade supermarkets to carry its products. Honing marketing messages, foregrounding the OU symbol, and providing a conduit to observant consumers – all were ways that the UOJCA made its trademark serve a brand's communicative function. [22]

Standardization and consistent quality, an important characteristic of brands, had preoccupied rabbis long before the emergence of industrial food. Indeed, the classic Jewish texts addressing kosher law were all concerned with standardizing Jewish practices and requirements. Selling kosher as a brand for industrial food producers, however, added additional imperatives for consistency, as large firms wanted just one set of kosher requirements, not several, if they were to make their factories and manufacturing methods compliant with Jewish religious requirements. Its methods of rabbinic supervision ensured, Kashrus Commission Chairman Nathan Gross told the UOJCA 1966 convention, "that there cannot be any question of varying standards" in the plants it supervised. Its rabbis were positioned to offer constructive advice to food manufacturers seeking kosher certification by "following new advances" in the food industry, such as the "development of dependably kosher basic ingredients for lack of which many familiar foods could not previously meet OU requirements." [23]

The UOJCA spoke in the language of brands to persuade companies it was worth obtaining the right to display the OU mark. This was an argument that firms selling their own branded goods could easily grasp. It persuasively contended that the OU logo had brand value– it reduced "consumer search costs" by communicating effectively the range of products that met Jewish religious requirements, and thus had value to food producers seeking sales to that market. The UOJCA equally argued for its commitment to helping firms maintain the needed quality to make products kosher through its ability to operate as their production consultants – as well as their influence over supply chains.

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[21] Report of the UOJCA Joint Kashruth Commission, 1960, box 6, folder 7, UOJCA records.
[22] UOJCA, *The Key to the Kosher Market* (1967), 28, box 15, folder 3, UOJCA records.
[23] Report of the Joint Kashruth Commission, 1966 UOJCA convention, box 8, folder 9, UOJCA records.

Brand Development Part II- Controlling supply chains

The UOJCA's attention to manufacturing allowed it to satisfy a second critical element of brand creation – controlling supply chains. Kosher certification was naturally preoccupied with supply chains from its inception, commencing with the dramatic endorsement of Coca Cola as kosher in 1935 by Rabbi Tobias Geffen. Geffen's ruling pivoted on supply chain issues: did the glycerin used by Coke originate from animal or vegetable sources? Since Coca Cola had in the past relied on glycerin derived from animal fats drawn from non-kosher beef and pigs, Geffen required Coke to shift to kosher vegetable sources. His determination that all ingredients in products needed to be kosher for the final product to be kosher, without room for relying on *bitul* (nullification) to permit trace amounts of necessary chemicals, mandated a stringent requirement for kosher suppliers once his standard became widely accepted in the 1950s. With this approach, supply chain management was an essential component of the UOJCA's program. [24]

As the UOJCA ramped up its certification program, it had to devote considerable attention to supply chain management. It was harder to sell its program to anonymous producers than consumer brands, such as the manufacturers of flavorings, food colors, and preservatives, since consumers did not purchase those ingredients directly. Motivation instead originated from manufacturers of final products who needed kosher inputs to satisfy kosher requirements. In the case of Coca Cola, Proctor & Gamble devised a way to provide glycerin derived from cottonseed oil at the request of Coke, as the latter sought to meet Rabbi Geffen's requirements. But what at one moment might have been an annoyance soon became an opportunity as the number of kosher certified consumer products expanded. As one article planted in *Chemical Week* by the UOJCA's marketing operation explained, kosher certification "could open up markets now closed to specialty makers." [25]

The market pressures that drew ICI America into kosher production illustrate the power of food chain dynamics. ICI manufactured polyvols and surfactants that kept food fresh (especially baked goods), prevented "off-coloring and off-taste," and promoted cohesion; since it only sold to food manufacturers, kosher certification initially was not on its radar. However, it had customers such as General Foods and Proctor & Gamble who sought kosher certification for, as ICI adeptly summarized, "they do not want to take the chance of losing sales to other companies by not providing kosher foods." Once these companies did so, they would only buy kosher ingredients, as "it simplifies the manufacturing process to make all of a single product kosher instead of only a small portion kosher and the rest non-kosher." Hence ICI had an incentive to adopt kosher manufacturing methods for as many of its food ingredients as possible if it wanted to maintain its current clients. [26]

Kosher certifiers couldn't stop there. Under standards again confirmed with Coca Cola's certification, kosher ingredients needed to be isolated from contact with non-kosher materials to ensure their kosher status. Hence, controlling supply chains extended to regulation of the transfers between production facilities to ensure, for example, that animal-based (and hence non-kosher oils) were not conveyed in the same tanker facilities (either on trains or trucks) as kosher oils without an intervening cleaning process. Drawing on kosher law, in the 1970s the UOJCA

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[24] Adam Mintz, "Is Coca-Cola Kosher? Rabbi Tobias Geffen And The History Of American Orthodoxy," *Rav Chesed: Essays in Honor of Rabbi Dr. Haskel Lookstein* (New York: Ktav Publishers, 2009), 75-90.
[25] *The Key to the Kosher Market* (1967), 32, box 15, folder 3, UOJCA records.
[26] Press Release, n.d., box 11, folder 4, Benjamin and Pearl Koenigsberg papers.

and other certification agencies implemented protocols for transportation of kosher-certified liquids that specified wash temperatures and procedures for tankers, a system of seals and bills of lading permitting rabbinic inspection of trucks and trains, and in time certain technologies of truck washes that were acceptable for kosher certification. [27]

Controlling trucking and rail transportation of goods to protect their kosher status (no small feat itself) did not address importation of ingredients made outside the United States. Rabbis grew especially worried about bulk freighter shipments of oils from the south Pacific with expanding use of palm, palm seed, and other tropical oils as alternatives to non-kosher animal-based oils. Similar to conveyance of domestic liquids, these tankers often carried non-kosher products prior to storage of kosher oils, requiring implementation of a similar set of controls and protocols for international travel to ensure the kosher materials were not contaminated. A particularly complex set of protocols was necessary for the principal tanker transshipment facility in Rotterdam, as tankers often pumped out their cargo into holding tanks to await shipment to American ports. [28] In all likelihood, some of the oils used by ICI for its kosher products were isolated under these transnational rabbinic controls to protect their kosher provenance before refining into chemicals that ended up in kosher certified Cool Whip toppings and Pillsbury Cake mixes.

Extension of supply chains over national borders, and indeed much of the globe, forced the kosher agencies to cooperate out of mutual self-interest. While they competed for clients, it proved impossible for even the largest agencies to require producers of consumer goods to only use those inputs it had certified. For example, securing kosher ingredients for a UOJCA company likely meant using tropical oils certified by the Circle K agency and flavoring chemicals endorsed by the Kof-K, a certification agency with particularly facility in complicated chemical products. By 1990, when Dannon yogurt elected to adopt the OU symbol on its products, the major certification agencies had created a trade association, the Association of Kashrus Organizations, to work out common standards, so that their trademarks could function for consumers as interchangeable symbols of the kosher brand. [29]

Integrated controls over the food chain placed the UOJCA and other agencies in a powerful position to monitor – and approve or reject -- the substitution of ingredients in branded food products. In doing so they constrained the preference of food producers to change ingredients whenever they could find a price advantage. Michael Pollan has effectively traced the most celebrated instance of this process, the substitution of high fructose corn syrup for sugar once firms discovered the cost savings so entailed. [30] But this was just the most visible manifestation of ongoing churn in supply chains as firms competed to lower costs – and altered their product's formula accordingly.

To put this differently: a stable final brand often concealed the ongoing and incremental changes in products that seemed the same to consumers. Especially for food manufacturers, brands were valuable as much as for their power to obfuscate as to communicate, to conceal

[27] "Tanks for the Memories: OU and Transport Companies Work Together," https://oukosher.org/blog/industrial-kosher/tanks-for-the-memories-ou-and-transport-companies-work-together-to-make-sure-that-kosher-products/.

[28] Rabbi Don Yoel Levy, "Kosher Transport-I," *Kosher Spirit* Fall 2007, http://www.ok.org/article/kosher-transport-part-i/.

[29] Timothy D. Lytton, *Kosher: Private Regulation in the Age of Industrial Food* (Cambridge: Harvard University Press, 2013), 92-95.

[30] Michael Pollan, *The Omnivore's Dilemma: A Natural History of Four Meals* (New York: Penguin, 2006), especially chapters six and seven.

shifts in ingredients as well as to claim, though labeling and advertising, that the product was constant and unchanging. Kosher, looked at in this way, was forced to evolve into brand precisely so it could assert influence over supply chains and push back against the power of major food brands that wished to have untrammeled control of their products' ingredients. While it might not matter to the taste of a product whether it used vegetable or animal fats, it mattered enormously to whether the food was kosher. A food producer might want to be able to shift to oils and other ingredients originating in animal fats when there was a price advantage for doing so, but kosher certifiers asserted – and obtained – the leverage to say no. Placing the OU or OK symbol on a package – or refusing to do so – gave the kosher brand a way to compete with the noise from the main brand, to argue with it as it were, saying this was kosher or it was not kosher, thereby providing information to consumers and influencing the composition of the product.

Kosher brand = kosher certification revenues

The value built in the kosher trademarks generated substantial revenue for the organizations behind them – as brand theory would predict. While indirect measures can be used to detect revenue growth for kosher trademark holders – increasing numbers of employees and products, for example – only the UOJCA financial records are available to provide a close quantitative assessment of certification income. These materials can be analyzed to determine if the UOJCA was able to build the OU symbol into a widely-accepted surrogate for kosher certification that generated not only the revenue needed to maintain the program, but also "profits" that made the effort worthwhile for the organization.

Financial information from the UOJCA records (available between 1945 and 1982) definitively shows that the UOJCA's campaign transformed the revenues available for the organization, and in so doing profoundly expanded its capacity to promote Orthodox Judaism. Adjusting for inflation, gross revenue from the kosher division increased five-fold between 1954 (before the branding initiatives commenced) and 1971 to slightly over $1,000,000 in 1971 dollars, comprising three-quarters of the UOJCA's revenue that year. The surplus available to the organization after supervision expenses increased even more dramatically, climbing eleven-fold to $262,045 in 1971. The revenues resulting from kosher certification's emergence as a brand were substantial, and consistent with the literature's expectations for brand development.

Despite the similarities, there was a key difference in the nature of the UOJCA's efforts and those of private firms. As a not-for-profit religious organization, revenues above expenses had to be reinvested in organizational activities that were in accordance with its mission (promotion of Orthodox Judaism), rather than distributed to shareholders or, in excessive amounts, to its staff. "The net income from our Kashruth program is used to finance those activities of the organization which are necessarily of a deficit character," explained an unsigned internal report that year, especially "our youth work, our publications, our regional activities." Using certification revenues to subsidize the organization's National Conference of Synagogue Youth, to strengthen its congregations, and to generally promote its interpretation of the Jewish religion were all objectives consistent with its not-for profit tax status. Fragmentary information on staff salaries also indicates revenues did not result in excessive compensation for UOJCA administrators.[31]

As the financial benefits from its branding campaign became apparent, the OU's public description of its kosher certification program began to diverge from its internal emphasis on revenue enhancement. Its 1948 report to the UOJCA convention stressed that the kosher certification program was a principally a religious act, "performed as a public service" to the Jewish community, implying that generating a surplus was not an objective. Almost 20 years later, even with the sharp growth in revenue and surplus from kosher supervision, the report to the 1966 convention again stressed that it was a "non-profit program" operated as a service "for all Jews" – not only the Orthodox – "who want kosher products." [32]

Doubtless these statements were made in all sincerity, and the use of surpluses to support the UOJCA activities was consistent with its not-for-profit mission; however, the surplus accrued though kosher certification revenues mattered greatly to UOJCA leaders. Absent that income, its programs would have been limited to those supported through dues and fund-raising among the Orthodox. Instead, it could bank on a steady stream of revenue from non-Jewish food businesses who sought the benefits of the sales and reputation garnered through use of the OU symbol. Proctor & Gamble paid the UOJCA $100,922 in 1971 for its kosher certification services, by far its largest client. Ten other firms paid between $14,700 and $25,600; the total of $264,072 from these eleven companies was fully one-quarter of kosher certification revenues that year. Anticipating steady and increasing revenues from these sources, the OU spoke in entirely business terms to support a loan application. The "soundest guarantee" for payments, it promised an unnamed bank, was the "constant, reliable, and safe" income from the Kashrus Division. [33]

These amounts were a relative pittance for the large firms involved. Proctor & Gamble, for example, achieved net earnings of $237 million for the fiscal year ending June 30, 1971, based on net sales of over $3 billion. Its OU payments, by far the largest among all certified firms, still amounted to just .04% of earnings and .003% of gross sales. [34] To the companies involved, certification required relatively small payments that constituted, in effect, marketing expenditures judged worthwhile due to the enhanced value of its products imparted by including the OU trademark on its packaging.

The financial reports suggest, however, that revenue growth largely stagnated between 1971 and 1981 (adjusted for inflation), even as the number of certified products continued to rise. The result was a financial and organizational crisis inside the UOJCA only resolved through a fundamental reorganization of its kosher certification division.

For decades the organization had operated through a regional structure, elaborated more deeply in the 1960s and 1970s with divisions that managed its wide-ranging activities. This structure flowed naturally from the organization's origins as a collection of Orthodox congregations banding together to promote its Jewish denomination, where regional clusters facilitated cooperation and pooling of resources among synagogues near each other. Such an approach became increasingly dysfunctional for the purposes of kosher certification as the

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[31] Annual Report, 1954, 16,4; Annual Report, 1971, box 47; untitled draft, 1971, box 47; all UOJCA records. Inflation calculated from the American Institute for Economic Research calculator, www.aier.org.
[32] UOJCA, "Achievements and Activities," January 1948, box 16; folder 1; Report of the Joint Kashruth Commission," 1966, box 8, file 9, UOJCA records.
[33] untitled draft, 1971, box 47, UOJCA records.
[34] Proctor & Gamble, *Annual Report for the Year ended June 30, 1981*, n.p.

UOJCA's product lines expanded at the same time as food manufacturing decentralized. The regional structure was not suited to concentrating the necessary expertise to understand and certify particular lines of manufacturing. Nor for that matter was its traditional supervisory workforce composed of congregational rabbis equipped to monitor the decentralized supply chains increasingly common to food production.

After several years of growing worries about this situation, the UOJCA restructured the Kashrus Division in the early 1980s along classic functional corporate lines. Top-level administrators were appointed to oversee the principal categories of supervised products – eg oils, baked goods -- so as to concentrate expertise, and to provide supervision for the field supervisors that visited particular manufacturing operations.

The UOJCA gradually reorganized its supervision workforce as well. While its congregation-based rabbis were superb allies for disseminating information on its endorsed products and assisting supervision in their areas, extended travel schedules were difficult for them to sustain. Increasingly the UOJCA turned to full-time staff, generally rabbis without congregational responsibilities, to operate as its *mashgihim* (kosher supervisors). These field supervisors travelled on relatively regular circuits to monitor UOJCA-supervised plants, reporting on their findings to superiors who were charged with understanding the kosher issues pertaining to their expertise. These *mashgihim* were largely ordained rabbis; the UOJCA's shift, funded by increasing kosher certification revenues, resulted in a new employment opportunity for Orthodox men.

For international supervision the UOJCA drew heavily (though not exclusively) on the *shluchim* (missionaries) of Chabad Lubavitch, whose travels gave them the capacity to supervise far-flung plants producing oils and other food ingredients. Reliance on the *shluchim* originated with the OK Kosher supervision agency, as after 1969 it was owned and controlled by Rabbi Berel Levy, a close associate of Lubavitcher Rebbe Menachem Mendel Schneerson. As the payments for kosher supervision helped finance their travels, the *shluchim* also began to work for the UOJCA and other agencies, serving in effect, as a global kosher supervision workforce enforcing control over international supply chains. This development served simultaneously to facilitate Chabad's missionary activities, augment its finances, and generate a source of cohesion among the major certification agencies that relied on its members. [35]

While financial reports were not archived after 1982, the resurgence of the UOJCA program is apparent through other measures. Its thick, 100+ page Kosher Directory for 1984-1985 offered products in over one hundred categories produced by 1,048 firms. In just the "C" listings kosher consumers had ample choices of cake mixes, cereals, cheese, Chinese food, chocolates, coffee, crackers, and croutons. Parents of young children doubtless were pleased to learn that Beech-Nut and Gerber now offered kosher baby food. As the guide combined the previously separate institutional kosher directory, it also served as a useful handbook for firms seeking to obtain ingredients to make OU-certified consumer products. The curious manufacturer

[35] David Zalikowski, *Kosher Investigator: How Rabbi Berel Levy Built the OK and Transformed the World of Kosher Supervision* (Hasidic Archives: 2017); Devorah Paltiel, "No Chabad Emissaries, No Kosher," *Kosher Today* Dec. 6, 2016, https://www.koshertoday.com/no-chabad-emissaries-no-kosher-says-ok-koshers-rabbi-chaim-fogelman/.

could choose among a number of kosher suppliers of acidulants, emulsifiers, flavorings, food colors, hexitals, oils, spices, and stabilizers with which to meet kosher standards. [36]

Independent consumer studies verified the UOJCA's success – and made a discovery that surprised and pleased kosher food's religious advocates. "Today's kosher market now serves a broader, far more diverse group of consumers," explained Packaged Facts, a Madison Avenue market research firm in its detailed 1988 report. "Jews of all ages and persuasions, health-conscious consumers from all ethnic groups, and the growing group of people interested in specialty and gourmet foods are among those who currently enjoy kosher food." To explain this unanticipated development, Packaged Facts stressed how kosher had come to signify attractive food qualities to non-Jewish consumers. As the visibility and availability of kosher products grew, marketers became aware of "those non-Jewish consumers who seek out kosher food because of the quality they convey." Internal company studies reviewed by Packaged Facts concluded that securing kosher certification could raise volume by several percentage points. "A kosher certification can mean millions of dollars in extra business for a product line," a manager for General Foods' Post cereal products told the report's investigators. Another source explained that sales of kosher frozen foods had reached $35 million in 1986, increasing at a phenomenal rate of 13% annually. Based on its research, Packaged Facts asserted that over 2,500 companies produced kosher certified consumer food items. [37]

Kosher, it turned out, benefitted from the late 20th century turn in the food industry to what *Business Week* termed "micro marketing." Aided by food scanners using UPC codes and other refined market research techniques, firms were able to chart the highly fragmented niche audiences that looked for particular attributes in their products. Of course, the magazine's declaration that "The wonderful post-World War II mass market has shattered into millions of pieces" was hardly news to kosher certification agencies, since they had been protecting, and indeed nurturing, just such a fragment for many decades. However, some of those non-Jewish fragments were looking to kosher foods – and looking for kosher trademarks – to an unprecedented degree. "No competitive edge is too small to overlook" *Adweek* told readers in 1991. "Marketers of products from beer to Dijon mustard are 'going kosher' as a cost-effective path to a position of purity." [38]

A decade later another Packaged Facts study lent analytic rigor to the food industry's qualitative assessments. Less than a third of the "core kosher market" (those who sought out products bearing kosher certification marks) were Jews – and many of those Jews were just seasonally kosher, looking for kosher trademarks on food only around Passover and other major Jewish holidays. Non-Jews formed the largest segments of the kosher market, principally Muslims, Seventh Day Adventists, and health-conscious consumers. Jewish religious requirements were close enough to the practices of the two religious groups for their adherents to use kosher symbols as a surrogate guide to acceptable products. Among kosher consumers not motivated by religion, the vegetarians and lactose intolerant segments were particularly robust, as those consumers could rely on the kosher *parve* (neutral) designation to be confident products contained neither meat nor dairy – a benefit widely noted in advice columns directed to allergic

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[36] UOJCA, *The Kosher Directory, 1984-1985* box 15, folder 1, UOJCA records.
[37] Packaged Facts, *The Kosher Food Market* (New York: 1988), 7, 49, 50, 56-7, 60.
[38] *Business Week* Aug. 28, 1989, 55; Laura Bird, "Major Brands Look for the Kosher Label: Kosher Certifications Sell Purity to Health-Conscious Consumers," *Adweek* April 1, 1991, 18.

consumers. [39] Additionally, as Packaged Facts noted, many consumers believe that "kosher products benefit from better ingredients and fewer preservatives, implying that these products are generally healthier." While granting that such a belief might be misplaced, Packaged Facts assured its readers that "the perception and reality" of its healthy attributes will continued to "bolster sales of kosher-positioned products." [40]

With these niche markets moving towards kosher food, Packaged Facts documented significant increases in the number of certified products as well as aggregate sales revenue. With growth rates averaging 10 percent annually in the five years prior to the 1998 report, the number of kosher certified consumer products had reached 41,000. Sales showed even stronger growth, increasing 14 percent annually since 1993, an eye-popping contrast with industry-wide food sales that grew at a lethargic 1% annual pace. By 1996, sales in the "core kosher market" (that is, sales to consumers consciously looking for kosher symbols on their foods) amounted to $3.45 billion. With its projections of continued double-digit growth, the Packaged Facts report demonstrated not only how much kosher symbols had achieved in the consumer marketplace, but also how much food manufacturers stood to gain if they added kosher symbols to their products' labels. [41]

Conclusion

Certainly, by the late 20th century kosher had achieved the stature of a brand in the food marketplace. Thought of in classic brand terms, the U in a circle, K in a circle, K in a star, and other kosher trademarks successfully reduced consumers' search costs by communicating information important for their purchasing decisions –including for many non-Jews. The power granted by the trademark to control supply chains was a key element of kosher's success, as consumers developed sufficient confidence in the certification process to trust in the rabbi's power to regulate a product's composition. While some items famously capitalized on kosher's appeal – Hebrew National's "we answer to a higher authority" tag line, for example – more modest products such as Dannon Yogurt and Coors beer also benefitted by displaying trademarks associated with the kosher brand.

Brand theory, drawn from the business and economic history literature, offers a way to analyze the development of kosher as a brand and assess how this process compares to marketplaces practices that have no reference to Judaism. Approaching the expansion of kosher certified products as a species of brand development lessens the exceptionalism of interpreting this vector of modern Jewish history, locating it in commercial and legal practices akin to those of for-profit entities seeking resources, revenues, and customers in the marketplace. Greater analytic precision then is possible, as comparisons with equivalent phenomena provides clearer measures to assess standards for success – and reasons for failures. And approaching the UOJCA and other certification agencies as businesses connects, perhaps in a surprising context, with our understanding of the facility of Jews to navigate the commerce of modern capitalism.

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[39] A 1986 Personal Health column in the *New York Times* offered a range of advice to lactose-intolerant consumers, noting, "If you are trying to avoid lactose entirely, look for the word parve or pareve on food packages; this means the food is free of all dairy products. Other foods that would be dairy-free are meat or poultry products labeled kosher, K or U." *New York Times* July 9, 1986, Section C, p. 8.

[40] Packaged Facts, *The U.S. Market for Kosher Food* (New York: 1998), 47, quotes 55.

[41] *The U.S. Market for Kosher Food*, 60, 4.