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July 6, 2011

The Interagency Working Group on Food Marketed to Children
U.S. Federal Trade Commission
Office of the Secretary
Room H-113 (Annex Q)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts; Project No. P094513

To Whom It May Concern:

On behalf of the New Jersey Food Council (NJFC) and as Chairwoman of the Food Industry Association Executives (FIAE), I am expressing concerns with the Interagency Working Group on Food Marketed to Children guidance entitled, "Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts."

NJFC represents 300 retail and associate members with over 1300 locations in New Jersey. The food retail and distribution sector makes up nine (9) percent of New Jersey Gross State Product and seventeen (17) percent of all New Jersey jobs are tied to our industry. Further, FIAE is a network of local, state, regional and national food associations throughout the United States and Canada. This organization represents over ninety-five (95) percent of the national grocery and food industry.

We whole heartedly support ideas to improve the health and well-being our nation's citizens. NJFC is active in the programs such as Shaping NJ to improve our resident's health, as well as the Food Marketing Task Force to bring supermarkets into our State's food deserts. However, we do not believe these voluntary guidelines will have any meaningful impact on the health of the public.

First, the link between advertising and childhood obesity is unfounded. The FTC's Bureau of Economics has confirmed that food advertising directed at children has been declining while obesity rates are on the rise. In another report commissioned by the federal government through the Institute of Medicine, it found there is not enough evidence to establish this assumed casual relationship.

Even if such a link did exist, which the evidence does not support, the proposed guidelines are extremely broad and hurtful to both businesses and consumers. If adopted and followed, marketing activities would be banned for many products that fit the FDA's definition of healthy and that qualify for the Women, Infants and Children (WIC) food

assistance program. Many of the foods most affected by these stringent guidelines are lower-calorie, nutrient-dense foods that the government has encouraged people to eat.

Further, an advertising ban would affect the marketing of retailer brands and lead to consumer confusion. Under the rules, retailers would be prohibited from featuring any type of characters (including their own) on product packages regardless of whether the product is designed for kids or adults. Sponsorship of charities or organizations, like the Special Olympics or US Ski Team, would be prohibited if the product does not meet the nutrition standards. Even the use of seasonal characters like the Easter Bunny or Santa Claus could not be used in the promotion of products.

All of this will lead to consumer uncertainty about the products they are buying. This proposal sets a dangerous precedent by allowing the government to establish an arbitrary line between “good” and “bad” foods without the use of science. While this ban has been positioned as voluntary, government agencies have commented that the rules may need to become mandatory if the covered industries do not comply. This puts the food retail and distribution industry in a difficult position of either complying with poorly conceived voluntary rules or else face the wrath of a government mandate.

On behalf of not only the State of New Jersey’s food industry, but also the national association of food association executives, I strongly urge you not to implement the voluntary rules contained in “Proposed Nutrition Principles to Guide Industry Self-Regulatory Effort.” These rules set a troublesome precedent that impede on a retailer’s ability to conduct business while having little to no impact on our national obesity rates. While the guidelines may act as a “feel good” measure, they do not get at the true causes of childhood obesity including decreases in exercise, inadequate access to supermarkets and wholesome foods, and reductions in WIC/SNAP programming.

Sincerely,

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Linda Doherty
President, New Jersey Food Council
Chair, Food Industry Association Executives