

July 13, 2011



Federal Trade Commission
Office of the secretary
Room H-113 (Annex W)
600 Pennsylvania Avenue, N.W.,
Washington, D.C. 20580

Re: Interagency Working Group on Food Marketed to Children: General Comments and
Proposed Marketing Definitions: FTC Project No. P094513

To Whom It May Concern:

I. Introduction

Each and every day, Sara Lee (NYSE: SLE) delights millions of consumers and customers around the world. The company has one of the world's best-loved and leading portfolios with its innovative and trusted food and beverage brands, including *Ball Park*, *Douwe Egberts*, *Hillshire Farm*, *Jimmy Dean*, *Sara Lee* and *Senseo*. Collectively, our brands generate nearly \$9 billion in annual net sales from continuing operations. Sara Lee has approximately 20,000 employees in its continuing operations worldwide.

While we applaud the efforts by the Administration to address childhood obesity, Sara Lee has serious concerns with the impact and unintended consequences that could result from the Interagency Working Group on Food Marketed to Children Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts. As a whole, the proposed guidelines are overreaching, and offer no evidence that they will help achieve the goal of reducing childhood obesity. We do not feel as though simply altering a few components of the guidelines would alleviate the problems caused by the proposed guidelines. Consequently, we are unable to comment directly to the questions posed by the IWG in the Preliminary Proposed Nutrition Principles, and will instead highlight our efforts in combating childhood obesity and voice our concerns with the proposed guidelines. Our principal concerns with the guidelines are:

- The lack of the Congressionally-ordered study on food marketing to children and the failure of the IWG to take into account recent efforts by industry to address childhood obesity, including a reduction in advertising to children;
- The unrealistic nutritional criteria that would result in the elimination of marketing of many nutritious food items, such as lean meats, to kids; the proposal of a "one-size fits all" approach which is impractical and ignores unique qualities of various food categories; and
- The detrimental impact on innovation of healthful products due to the prohibition on company communication to consumers regarding newly developed, healthier food choices.

Sara Lee supports the use of sound science as the foundation for nutritional public policy. The IWG Proposal is unachievable for many food categories due to food safety and product/process technology limitations. Setting criteria that are unachievable could hamper future business activity and threatens to stifle sales and innovation, all in the absence of a proven correlation between a reduction in advertising and a reduction in childhood obesity. The objective of the food industry, which employs millions of Americans, is to provide consumers with food choices and transparent nutritional information to help educate them about appropriate dietary needs based on a consumer's individual health profile. It is our goal to have healthy, happy customers who will continue to purchase our products throughout their lives and balance their diets and lifestyles. Creating and marketing products that contribute to a healthy lifestyle benefits both industry and consumers.

As Sara Lee continues to reformulate products in an effort to provide consumers with healthier food options, the success of these products and consumer acceptance relies heavily upon communicating to our consumers. At Sara Lee, the majority of our marketing is focused on moms. The criteria outlined in the IWG proposed guidelines would prohibit this communication on multiple fronts. In our evaluation of the IWG's proposed solution, the severity of the nutrition standards coupled with the broad scope of what the IWG considers marketing forces us to respectfully request that the IWG withdraw the rule, conduct the study provided for in the Congressional language that established the IWG, and begin the guideline-drafting process from the beginning with a joint effort with industry to ensure the nutrition experts who understand the critical intricacies of nutrition and obesity will be part of the development.

II. Industry Efforts

Sara Lee and the four agencies share a common goal of providing and encouraging healthy choices in an effort to reduce childhood obesity, and we urge the IWG to recognize the efforts undertaken by industry in recent years. We also encourage the IWG to consider the many factors that contribute to the problem, including a lack of physical activity, dietary education and access to healthy foods. Sara Lee, along with industry, has worked through Congressional initiatives, community projects, and industry-initiated education campaigns.

In addition to our efforts to support education, physical activity and improved access to nutritious foods, Sara Lee has made great strides in the reformulation of our products and in our commitment to adhere to self-imposed strict guidelines on marketing to children.

Efforts to Promote Physical Activity, Dietary Education and Access to Nutritious Foods

While Sara Lee supports the goal of reducing childhood obesity, we believe the IWG standards take our eye off the ball and do not directly address the root of the problem. Promoting consumer behavior changes that include increasing physical activity, particularly within the school environment, and making small steps to improve their diets are key factors that help promote a realistic approach to a balanced lifestyle. In addition, efforts to eliminate food deserts also play a key role, as a lack of access to nutritious foods make it difficult for many children to consume a nutritious, balanced diet. Solving the problem of rising childhood obesity requires attention in all of these areas – not just food marketing. Through community initiatives seeking to provide children with nutritious foods and opportunities for physical activity, Sara Lee continues to play a role in educating kids about food choices and exercise, and in ensuring that children are provided with the most nutrient rich foods within each food group to contribute to a healthy diet.

In addition to traditional advertising, the guidelines will prevent industry from presenting children with opportunities that help them learn to balance food intake with exercise. Many companies sponsor sports camps and after school activities. For instance, more than half of the dollars given by the Sara Lee Foundation go to kids-related programs. This includes programs that provide children with a solid breakfast before school, after-school nutrition education, and an opportunity for physical activity, as well as with product donations. The IWG proposal will end our involvement in any such programs, which not only provide kids with an opportunity for physical activity, but also give them a safe place to spend after school and over the summer. It is unreasonable to assume that ending such food company sponsorships will truly benefit children and reduce childhood obesity.

It has become increasingly clear that the combination of physical activity, education, and access to nutritious foods are important components to addressing childhood obesity, and we believe that these efforts are a winning solution in particularly due to the all-encompassing nature of the approach.

Reformulation

Sara Lee has taken the approach of reducing fat, sugar and sodium over time in order to ensure consumer acceptance. For instance, in 2009 Sara Lee announced a reformulation initiative to reduce sodium in key categories across our portfolio. Making progress over time allows the consumers' palate to adjust, but also ensures sodium's essential food safety role is not compromised. In addition, Sara Lee has made progress to develop innovative new products with lower fat to help provide consumers choices. This slow reduction allows us to safely address people's taste expectations and actually impact their diet.

By slowly reducing key nutrients we can also develop practical solutions to food technology and safety hurdles. Sodium acts as a preservative in many foods as well as a binder in foods such as lunchmeat. Finding alternative ingredients is a slow process, as many result in significant off-flavors and they must be safe and approved for use by government. In addition, balancing the nutritional profile of the product with ingredients that consumers recognize and accept helps Sara Lee to drive product innovation and to ensure repeat purchase of products that will improve the diets of Americans. If adopted, the nutrition criteria proposed by the IWG will disrupt our initiatives, forcing drastic and unpalatable changes to products that will most likely remain on the grocery shelves rather than making it to the dinner tables. Not only would this result frustrate the objective of improving consumer health, but could have dramatic economic consequences on the impacted industries.

Self-Imposed Marketing Initiatives

In lieu of Government-imposed "guidelines" as to how and when industry can speak, we feel the Children's Food and Beverage Advertising Initiative (CFBAI) model addresses obesity concerns in a manner that is responsible and effective. Rather than devising a "one size fits all" approach that does not seem to be based on science, CFBAI has developed unified category-specific criteria for food marketing to kids that take into consideration the differences in various food types and government-endorsed dietary recommendations. This reality-based approach presents attainable goals and aligns with existing government programs like Dietary Guidelines for Americans and the National Nutrition Standards for school meals. The IWG proposal fails in this regard because it is a "one size fits all" approach that does not take into account the unique nutritional profiles, food safety risks, and product technology and processing limitations for different food categories.

III. The IWG Failed to Conduct a Study as Directed by Congress

The explanatory statement accompanying the Omnibus Appropriations Act of 2009 directed the IWG to conduct a study and develop recommendations for standards for the marketing of food to children. This study was not done. While the IWG claims it reviewed other studies in the course of developing the guidelines, the four agencies did not perform their own study, as specifically charged by Congress. Further, the information contained in the studies reviewed largely omits the recent efforts by industry to address food marketing to children and the resulting decrease in advertising that has occurred over the last five years. An evidence-based approach of the current status of how food is marketed to children would reveal a dramatic decline in food advertisements seen by children as a result of industry's self-imposed initiatives, such as the CFBAI criteria discussed above.

A formal study is also needed in order to responsibly identify evidence that guidelines on marketing food to children would be an effective means to reduce childhood obesity rates, as the IWG has not offered any evidence or rationale that the guidelines will reduce the prevalence of childhood obesity. The severe consequences of the proposed guidelines have not been justified by a demonstration that the restrictions proposed by the IWG would reduce childhood obesity to a material degree. Further, the economic impacts have not been considered, notwithstanding the potential for drastic economic harm and job loss across and beyond the food and advertising industries. The impact on consumers has yet to be evaluated as well. Preventing marketing of products will increase product cost to consumers.

IV. Guidelines Remove Incentives for Product Development

The IWG proposed guidelines take a "one-size fits all" approach and do not take into account the unique nutritional composition, food safety risks and current product and process technologies of different food categories. For example, meat products have different food safety risks, standards of identity, product and manufacturing process capabilities and nutritional composition than a grain or beverage product. Therefore, a category approach that takes these factors into account creates more realistic targets without compromising the food safety and acceptability of the products for children. The ultimate 140mg sodium per serving target proposed by the IWG does not take these factors into account and would ultimately eliminate marketing to children the benefits of lean/extra-lean meat products that are nutrient rich and important to their diets.

In addition, the IWG proposed guidelines are inconsistent with WIC program criteria. As it stands, many of the foods approved for the WIC program could not be marketed to children under the current IWG draft criteria. Also, the National Nutrition Standards for School Meals set targets between 430 to 740 mg sodium per meal serving, which in many cases is more than twice the 300 mg amount of sodium allowed for main dishes and meals under the current draft IWG proposal.

As mentioned above, Sara Lee and other companies have been taking steps to make significant progress to create healthier products. As we make progress it is imperative to be able to speak to our consumers about these changes. As we reduce fat, sodium or sugar we want to be fully transparent with our consumers and educate them on how to develop a balanced, healthier diet. Our consumers have a right to know about the changes in the products that they are consuming so they can choose the more nutritious food options. The IWG proposal will in effect silence our voice and limit the opportunity to educate consumers on how to make better food choices.

At Sara Lee we typically limit our advertising to media that reaches moms. However, the proposed guidelines impose so many restrictions that it will become nearly impossible to speak to that audience without being in violation in some way, shape or form. This could be due to the fact that the audience may surpass the limits imposed for teens or children, or because we may use a family that includes a child or teen model in the ad, or a fun character such as the Sara Lee "Sun," who has come to represent the Jimmy Dean brand and appears in many ads for that brand. All of these examples would violate the proposed guidelines. Consequently, we will not be able to effectively engage our consumers as we try to talk to them about any added benefits to our products, certainly a disincentive to positive change.

If industry chooses to reformulate despite the fact that they will not be able to effectively advertise their reformulated products, they will have to address the expense associated with the reformulation. Formulation changes are expensive. Advertising helps recoup formulation expenses by helping to increase sales. In the absence of advertising the only way to recoup the cost of reformulation is to increase the price charged to the consumer. Healthier products will carry a higher price tag - not a happy result.

V. Conclusion

In conclusion, while we believe the objective behind the IWG proposed guidelines is a laudable one, Sara Lee does not feel the approach taken by the IWG is an effective and practical course of action to address childhood obesity, but rather would limit communication, reduce innovation incentives and cost jobs. We support the efforts already undertaken by industry, and encourage the IWG to recognize the progress of our continued self-imposed regulation. The industry has made great strides in reducing the marketing seen by kids, notwithstanding an absence of evidence that food marketing causes childhood obesity. If radically unrealistic guidelines on marketing food to children are to be imposed on the industry, a causal link or some evidence that the drastic approach proposed by the IWG will have a positive impact on reducing childhood obesity must be presented. We, therefore, respectfully request that the proposed guidelines be withdrawn, and that the IWG conduct a proper study as charged by Congress that includes a comprehensive look at the progress of industry in recent years.

Sincerely,

CJ Fraleigh
CEO Sara Lee North America