

Comment of Campbell Soup Company

on

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

I. Introduction

We appreciate this opportunity to comment on the principles proposed by the Interagency Working Group (“Working Group”) on Food Marketed to Children (“IWG Proposal”).

Campbell Soup Company¹ (“Campbell”) strongly agrees with the Working Group, the Institutes of Medicine, the Dietary Guidelines Committee, and Congress that the diet of American children must be improved to address the prevalence of obesity. Addressing childhood obesity should be a national priority. As the only corporation in America having an executive devoted to childhood obesity and hunger, we are fully committed to that priority.

Indeed, obesity is a significant contributing factor for a number of health conditions associated with the diet. If obesity can be controlled, the incidence of high blood pressure and diabetes, for example, will necessarily be reduced.² That is why a reduction in caloric intake, combined with increased physical activity, is the most important thing that can be done to improve the nation’s health.

We must, however, act on this concern while remembering that if people don’t enjoy what they eat, they will reject it and eat something they like better. This is why pushing healthy foods to the point where they don’t taste good or have an objectionable texture (or price) won’t help anyone eat better. Food makers can only market and sell what regular people can afford and would like to eat. And, we food makers do not want to make it more difficult for parents when they try to get their children to eat their vegetables and whole grains. Insisting on marketing standards that would force food

¹ Campbell Soup Company is a global manufacturer and marketer of high-quality foods and simple meals, including soups and sauces, baked snacks, and healthy beverages. Our products are sold in more than 120 countries. In total in the U.S., Campbell sells almost 2 billion cans of soup every year, accounting for more than 60 percent of the U.S. wet soup market. Each year, nearly 100 million U.S. households, or more than 80 percent of all U.S. households, purchase our soups. Campbell offers more than 90 soups at sodium levels consistent with regulatory standards for representations that the soups are “healthy,” including our iconic *Campbell’s* condensed Tomato soup, our line of *Campbell’s* Healthy Kids soups, our *Campbell’s* V8 soups, and our *Campbell’s* Healthy Request soups. Our Pepperidge Farm subsidiary is a leading provider of premium quality fresh bakery products, cookies, crackers, and frozen foods, ranked by consumers as one of the most well-loved and respected brands. Among our most popular products are *Goldfish* snack crackers, which have grown to be the number three selling cracker in the United States.

² Faulkner B. Journal of the American Society of Hypertension 2008 2(4); 267-274. Reilly JJ, Kelly J. Long-term impact of overweight and obesity in childhood and adolescence on morbidity and premature mortality in adulthood. Systematic review. 2010 Int J Obes doi:10.1038/ijo.2010.222.

markers to reformulate to recipes that people tell them don't taste good is not a constructive approach to reversing obesity trends.

Campbell currently advertises three kinds of food with messages primarily directed to children 6 through 11 years old.³ Those foods are (1) healthy soups,⁴ (2) healthy main dishes,⁵ and (3) wholesome baked snacks made with either whole grains or enriched flour that are a popular alternative to snacks with higher sugar or fat.⁶ The crux of our concern is that, under the IWG Proposal, we could not market any of these foods that parents feel good about feeding their children (as well as most of the products we make) in media enjoyed disproportionately by children or adolescents. We are also concerned that the IWG Proposal would prevent us from offering our products to shoppers in packaging with attractive graphics suggesting that children (or anyone else) might enjoy eating them. For these and other reasons, stated below, we respectfully request that the Working Group withdraw the IWG Proposal.

Specifically, in our opinion:

- (i) the nutritional criteria in the IWG Proposal (“Nutrition Criteria”) are unrealistic, counterproductive, contrary to established nutrition policy as set forth in the Dietary Guidelines for Americans 2010 (“Dietary Guidelines”), and entirely fail to address obesity;
- (ii) the definition of “marketing to children and adolescents” (“Marketing Definition”) is inappropriately broad; and
- (iii) dictating “voluntary” standards to industry will be less effective than genuine self-regulation, which is the only practicable way to achieve meaningful changes in foods marketed to children.

Campbell is proud of the role it plays in encouraging healthy lifestyle choices through its communications to children. We encourage physical activity by marketing exercise to kids and their families through such features as Team Xtreme at goldfishfun.com and support of initiatives such as Together Counts.⁷ Although we direct no advertising or marketing to children under 6, we do market healthy foods to children ages 6 through 11. Such advertising is consistent with our pledge as a member of the Children's Food and Beverage Advertising Initiative (“CFBAI”). Indeed, the recently announced CFBAI uniform nutrition criteria, which we helped develop, far better address the public interest than the Nutrition Criteria.

³ We do not direct advertising messages for any of our products primarily to adolescents.

⁴ These include Tomato soup and soups sold under our “*Healthy Kids*” banner.

⁵ Namely, products sold under the *SpaghettiOs* brand.

⁶ Namely, certain of the products sold under the *Goldfish* brand. The *Goldfish* brand products to be advertised to children under the recently announced CFBAI uniform nutrition criteria will be limited to 1.5 grams of saturated fat, 290 mg of sodium and 10 grams of total sugar in a portion not to exceed 150 calories, as well as providing ½ serving of whole grains and/or 10% of the DV of certain nutrients due to baking the products with enriched flour.

⁷ A social media campaign supported by the Healthy Weight Commitment Foundation.

We recommend that the Working Group withdraw the IWG Proposal and encourage support for the work of CFBAI. Indeed, the IWG Proposal explicitly acknowledges that the CFBAI has “already begun to have a positive impact on the nutritional quality of foods marketed to children.”⁸

II. The Nutrition Criteria are Unrealistic, Counterproductive, Contrary to Established Nutrition Policy, and Fail to Address Obesity

A. A single set of nutritional criteria does not reflect the critical differences among types of foods and can result in unattainable nutrient levels for specific foods, especially for sodium.

Different types of foods require different ingredients to make them “work” and to make them safe. Baked products require ingredients, including salt and shortening (fat), to provide the expected texture and to prevent spoilage. Canned or jarred tomato-based products need just a bit of sugar to balance a sour taste that results from season-to-season variations in the natural acidity of tomatoes. Prepared soups require ingredients like salt to deliver an expected flavor profile. Moreover, because soup must necessarily contain a significant amount of water, it is challenging for soups to satisfy the “positive” nutritional requirements set forth in Principle A. All of these foods have unique characteristics that require varying levels of specific ingredients, including ingredients contributing amounts of so-called “negative” nutrients such as saturated fat and sodium. Food scientists leverage the interaction of ingredients to create good tasting foods in a form people enjoy. Adding whole grains to a food, for example, makes it difficult to reduce sugars or sodium at the same time because they help the dough to be worked, the product to bake up with a good texture, and the whole grain taste to appeal to most children (and many adults). Consequently, applying the same nutritional criteria to all food types makes those criteria inappropriate for all foods.

The sodium limits in the Nutrition Criteria are particularly unrealistic. In fact, none of the products we currently market to children and few of the products we make anywhere in the world satisfy the sodium levels mandated by the Nutrition Criteria. The ingredient sources of sodium in food, the most important of which is ordinary salt, have important functions that cannot be performed satisfactorily by ingredients that are not sources of sodium. Reducing sodium in foods is extraordinarily difficult because of the many roles that sodium plays. Among the functional roles played by sodium are: (1) providing texture, including as part of leavening and the conditioning of dough, (2) controlling water activity as a form of preservation, (3) acting as an anti-microbial agent, (4) making foods taste good by imparting the cleanest salty taste compared with other salts and bringing out other desirable flavors in a food, (5) blocking the bitterness of other ingredients and modulating our perception of sour and sweet flavors, and (6) supporting an umami taste. As a consequence, there are many foods for which low sodium

⁸ IWG Proposal, p. 4.

alternatives are either impossible (due to concerns about safety) or which would not be commercially viable (because most consumers would reject their taste).

To be clear, food makers cannot commercialize foods that don't meet the taste expectations of consumers. If we were, for example, to radically reduce the sodium in our Healthy Kids line of soups from 480 mg to 210 mg or 140 mg, they would not be enjoyed by either the children or the adults in the household who are also eating them.⁹ Soups at such a low sodium level – even with the benefit of the most current technology – are, unfortunately, unpalatable for most consumers. They would, consequently, not be repurchased and consumers would turn to higher sodium soups instead (or add their own salt at the table, if other soups were not available). This would be a self-defeating exercise. Similarly, should crackers intended for children have to be baked with so little salt that they have only 85 mg per serving, rather than having sodium levels of less than 300 mg, they would no longer be palatable for children and other salty snacks would be chosen for them, again making the Nutrition Criteria counterproductive.

FDA recognized the limitations of radical sodium reduction when it decided to not lower a “healthy” level for sodium in individual foods to 360 mg per serving from 480 mg per serving. FDA’s rationale was that manufacturers would not provide the public with products having significantly reduced sodium levels because those products could not meet a theoretically superior, but unattainable target:

Comments from both industry and consumer advocates support the conclusion that implementing the second-tier sodium requirements would risk substantially eliminating existing “healthy” products from the marketplace because of unattainable nutrient requirements or undesirable and, thus, unmarketable flavor profiles. As a result of these comments, FDA has concluded that it can best serve the public health by continuing to permit products that meet the first-tier sodium level [*i.e.*, 480 mg for individual foods and 600 mg for main dishes] to be labeled as “healthy,” and thereby ensure the continued availability of foods that consumers can rely on to help them follow dietary guidelines not only for controlling sodium but also for limiting total fat, saturated fat, and cholesterol and consuming adequate amounts of important nutrients such as fiber, protein, and key vitamins and minerals.¹⁰

Prescribing unattainable nutrition standards will discourage food makers from making improvements that are, in fact, achievable, and may drive existing “healthy” products from the marketplace.

⁹ It is, in fact, difficult to produce an affordable store-bought soup at a sodium level as low as 480 mg of sodium per serving unless it is marketed as a “healthy” product, which appears to help consumers accept a different flavor profile.

¹⁰ Food Labeling; Nutrient Content Claims, Definition of Sodium Levels for the Term “Healthy,” 70 F.R. 56828 (Sept. 29, 2005) (to be codified at 21 C.F.R. pt. 101).

B. The IWG Proposal would preclude advertising healthy foods to children or adolescents or suggesting that they are fun to eat.

Under the Nutrition Criteria, *Campbell's* Healthy Kids soups could not be advertised to children or adolescents because they meet neither the sodium standard nor the positive food group standard, even though they are considered "healthy" under current regulations. In fact, even *Campbell's* Low Sodium soups could not be advertised to children or adolescents. *Campbell's* Low Sodium Chicken with Egg Noodles soup, for example, exceeds the saturated fat limit by 0.5 grams because a bit more fat is needed to provide flavor to low sodium soups and, as a soup, it lacks a positive food group at the levels demanded by the Nutrition Criteria. *SpaghettiOs* canned pastas are "healthy" main dishes under current regulations, but do not meet the sodium limit under the Nutrition Criteria. While our new *Pepperidge Farm Goldfish* sandwich breads do meet the 2016 sodium standard, they do not meet the 2021 sodium requirement and, being made with enriched flour rather than whole wheat flour, one of the breads would not meet the positive nutrition standard, even though it contains fewer calories than many sandwich breads and provides a good source of Vitamin D, Calcium, Thiamin, Niacin, and Folic Acid, as well as 8% of the DV for both Iron and Riboflavin. Even our 50% juice *V8 V-Fusion* Light vegetable and fruit juice drinks, which provide a combined serving of fruit and vegetables, with no added sugar and 50 calories, could not be advertised to children or adolescents¹¹ because they do not comply with Option 1 of Principle A, and under Option 2 would be penalized because their juice content is half vegetable juice. Of considerable concern to us is the fact that *V8 V-Fusion* juices, including *V8 V-Fusion* Light juice drinks, are packaged in containers with bright, bold, and colorful graphics that, under Marketing Definition, could be construed as "marketing to children" (even though the products are not actually marketed to children).

V8 V-Fusion juice is a good example of a product that has been packaged to encourage vegetable consumption by making it a fun and enjoyable product to consume. It's an attractive package that is attention getting and encourages shoppers to try the product. Depriving food makers of the ability to use colorful and attractive packaging is unwarranted and unnecessary. Making our food supply dress more demurely will not improve the public health.

Industry should not be condemned for having responded to the public interest by marketing its healthier food choices to children. Indeed, by proposing unattainable Nutrition Criteria, the Working Group undermines the recommendation of the Institute of Medicine that "Food and beverage companies should use their creativity, resources, and full range of marketing practices to promote and support more healthful diets for children and youth."¹² ***Industry is not able to shift its resources to promote healthier eating among the nation's children if the Working Group adopts standards for marketing***

¹¹ *V8 V-Fusion* juices are not currently advertised to either children or adolescents.

¹² Institute of Medicine of National Academies, *Food Marketing to Children and Youth: Threat or Opportunity?* Committee on Food Marketing and the Diets of Children and Youth, Food and Nutrition Board, Board on Children, Youth, and Families (2006), p. 7-9.

foods to children and adolescents that are so stringent that they effectively ban advertising those foods that are more healthful.

C. The Nutrition Criteria would discourage the promotion of foods that may provide helpful strategies for children in losing or maintaining weight.

Any food can be part of a healthy diet, if it is eaten in moderation. However, there are some foods and some eating habits that may help us to eat more moderately. Given the critical importance of seriously addressing obesity, we must not discourage people from adopting eating strategies that may be helpful to them.

1. *Soup may be a useful tool to help children manage their weight.*

The Nutrition Criteria would discourage children from eating soup – a popular form of food associated with weight loss and weight maintenance, as well as a food containing a substantial amount of water and, consequently, a food that is very low in calorie density. The Dietary Guidelines advises: “Strong evidence shows that eating patterns that are low in calorie density improve weight loss and weight maintenance... ”¹³

An analysis of NHANES data (2003 – 2008) shows that the diets of children and adolescents whose eating patterns are lower in calorie density contain soup much more often than those of children and adolescents with eating patterns that are higher in calorie density.¹⁴ Among children ages 2–17 in the quartile having the least calorie dense total diet (including both foods and beverages) 17.1% (+/- 1.2) had soup during the day, while 12.4% (+/- 1.0) had soup in the second quartile, 9.0% (+/-1.0) in the third quartile, and only 6.3% (+/- 0.8) of those children in the quartile having the most calorie dense diet had eaten soup. Indeed, the calorie density of diets (total calorie intake/total gram weight of foods and beverages consumed) varied significantly, with the mean calorie density of the least calorie dense quartile of diets among 6–11 year olds being 0.711 (median 0.741) and the highest being 1.533 (median 1.459). Thus, from evaluating the calorie density of children’s eating patterns, it is clear that soup plays more of a role in eating patterns that are lower in calorie density than in those that are higher in calorie density.

Moreover, the Dietary Guidelines, in advising on additional principles or behaviors that might be helpful in promoting calorie balance and weight management, indicate that there is evidence that “soup, particularly broth or water-based soups, may lead to decreased calorie intake and body weight over time.”¹⁵ Nonetheless, the Nutrition Criteria discourage people from including soup in the family diet.

¹³ U.S. Depts. Of Health and Human Services and Agriculture, Dietary Guidelines for Americans (2010), p. 16.

¹⁴ D. Keast, Food & Nutrition Database Research, Inc. analysis of NHANES data 2003-2004, 2005-2006, 2007-2008, calculating dietary calorie density and soup intake using SUDAAN 10.0.1 statistical package, 2011.

¹⁵ Dietary Guidelines for Americans (2010), p. 19.

Soup can be time consuming and inconvenient to make at home from scratch. That is why the overwhelming behavior of families that include soup in their diet is to purchase and eat store-bought soups.¹⁶ Discouraging the purchase and use of store-bought soups while ostensibly helping children combat overweight and obesity may, in fact, accelerate the growth in the incidence of overweight and obesity among the American public by increasing the calorie density of the diets of families complying with the dietary guidance implicit in the Nutrition Criteria.

2. *Healthy snacking, especially for children, may help to control hunger and provides essential nutrients.*

Snacking is, of course, an almost universal behavior; and, people snack for different reasons, spreading out the consumption of food during the day.¹⁷

Researchers don't understand very well how snacking relates to weight. Looking at "snacking" as different from simply having a beverage, an analysis of snacking and the weight and abdominal obesity status of adolescents in NHANES data found that snackers were less likely to be overweight or obese. The report of this research points out that "Research has shown that a higher eating frequency can assist with weight management... ."¹⁸

One strategy to prevent overeating is to control hunger. Although there is not enough data for a public health recommendation in the Dietary Guidelines, a healthier snack may take the edge off hunger, helping to moderate the amount of food eaten at the next meal. Indeed, standard pediatric advice is that children should have two healthy snacks per day, given that their smaller stomachs make it more difficult to obtain proper nutrition and sufficient calories with just three meals per day. Control over one's appetite is essential to success in limiting food intake, so cautious use of a range of healthier snacks, such as the *Goldfish* crackers we currently advertise to children, may help limit caloric intake.¹⁹

But, all snacks are not created equal. A recent study showed that a simple dietary strategy of decreasing food item size without altering the portion size offered reduced

¹⁶ The NPD Group/National Eating Trends – U.S., Years ending February 2001-2011.

¹⁷ According to an analysis of NHANES 2005-2006 data on food intakes of people 12-19 years old, snacks provide 23% of total daily caloric intake. U.S. Dept. of Agriculture, Agricultural Research Service, Food Surveys Research Group, Dietary Data Brief No. 2, "Snacking Patterns of U.S. Adolescents, What We Eat in America, NHANES 2005-2006" (2010), p. 2.

¹⁸ D.R. Keast et al., *Snacking is associated with reduced risk of overweight and reduced abdominal obesity in adolescents: National Health and Nutrition Examination Survey (NHANES) 1999-2004*, Am J Clin Nutr 2010; 92:428-35, p. 433.

¹⁹ Even though more frequent snacking among adolescents was associated with greater caloric intake, it was not associated with a higher BMI. U.S. Dept. of Agriculture, Agricultural Research Service, Food Surveys Research Group, Dietary Data Brief No. 2, "Snacking Patterns of U.S. Adolescents, What We Eat in America, NHANES 2005-2006" (2010) p. 3.

energy intake.²⁰ *Goldfish* crackers and grahams, for example, are therefore ideal offerings for children. Given the significant percentage of caloric intake attributable to snacking, it is important to encourage consumption of healthier snacks that are relatively nutrient dense for the calories consumed, as an alternative to sugary sweets.

3. *The enjoyment of food is very important to dietary compliance.*

Long-term compliance with a weight loss or weight maintenance diet is very difficult. Two commonly cited obstacles are feeling hungry and not enjoying the food. Familiar, convenient, and good tasting foods are important to ensuring compliance with any change in eating patterns. Forcing radical reductions in salt to the point of making healthy foods unpalatable will make it more difficult for people to comply with needed changes in their diets.

Children should be encouraged to eat foods that may help them to achieve or maintain a healthy weight. Consequently, nutrition criteria for children should encourage, and certainly not ban, soups and healthier snacks.

D. The Nutrition Criteria contradict established nutrition policy in the Dietary Guidelines.

The Dietary Guidelines are intended to “establish the scientific and policy basis for all federal nutrition programs, including research, education, nutrition assistance, labeling, and nutrition promotion.”²¹ Furthermore, it is a statutory requirement that all federally-issued dietary guidance be consistent with the Dietary Guidelines.²² Consequently, the Nutrition Criteria must align with the Dietary Guidelines as a matter of national policy.

The Dietary Guidelines were

released at a time of rising concern about the health of the American population. Its recommendations accommodate the reality that a large percentage of Americans are overweight or obese and/or at risk of various chronic diseases. Therefore, the Dietary Guidelines for Americans, 2010 is intended for Americans ages 2 years and older, including those who are at increased risk of chronic disease.²³

²⁰ Marchiori D, Warquirer L, Klein O. 2011 Smaller food item size of snack foods influenced reduced portions and calorie intake in young adults. *J Am Diet Assoc.* 111:727-731.

²¹ Dietary Guidelines Backgrounder. 2010, available at <http://www.cnpp.usda.gov/Publications/DietaryGuidelines/2010/PolicyDoc/Backgrounder.pdf> .

²² Or, that it “is based on medical or new scientific knowledge which is determined to be valid by the Secretaries.” National Nutrition Monitoring and Related Research Act of 1990, Pub. L. No. 101-445, §301, 104 Stat. 1034 (1990).

²³ Dietary Guidelines for Americans, 2010, p. 1.

The Dietary Guidelines are recommendations for everyone, including children and those at increased risk for diet-related disease. Given that the “nutrition principles are designed for the specific purpose of guiding the industry in determining which foods are appropriate to market to children,”²⁴ there is no reason why the Nutrition Criteria should be inconsistent with the Dietary Guidelines.

It is clear, however, that there are at least three important inconsistencies between the Nutrition Criteria and the Dietary Guidelines, namely (1) an absence of caloric targets in the Nutrition Criteria, (2) the criteria make it difficult to deliver the taste appeal helpful to increasing consumption of whole grains and vegetables, and (3) a focus in the Nutrition Criteria on nutrients related to cardiovascular disease (rather than obesity), including a medical-intervention-level sodium restriction that is at odds with the Dietary Guidelines.

1. *The Nutrition Criteria ignore the importance of calorie control for achieving healthy weight.*

The Working Group fails to provide guidance on calories in its recommendations to industry and the American public. In this respect, the Nutrition Criteria are not aligned with the Dietary Guidelines. “The prevalence of overweight and obesity in the United States is dramatically higher now than it was a few decades ago. This is true for all age groups, including children, adolescents, and adults.”²⁵ Among the consequences of obesity are that “cardiovascular risk factors, such as high blood cholesterol and hypertension, and type 2 diabetes are now increasing in children and adolescents.”²⁶ Thus achieving healthy weight through balancing caloric intake and physical activity should be the priority of the Nutrition Criteria. As stated in the Dietary Guidelines:

The adverse effects [of overweight and obesity] also tend to persist through the lifespan, as children and adolescents who are overweight and obese are at substantially increased risk of being overweight and obese as adults and developing weight-related chronic diseases later in life. Primary prevention of obesity, especially in childhood, is an important strategy for combating and reversing the obesity epidemic.²⁷

Any proposal that fails to take into account the role of calories is clearly flawed.

2. *The Nutrition Criteria undermine efforts to increase consumption of whole grains and vegetables.*

The Dietary Guidelines recommend an increased consumption of whole grains. Among the foods recognized by the Dietary Guidelines as those that can help people meet the whole grain recommendation are those “with at least 8 grams of whole grains per ounce-

²⁴ IWG Proposal, p. 5.

²⁵ Dietary Guidelines for Americans, 2010, p. 9.

²⁶ Ibid., p. 9.

²⁷ Ibid., p. 10.

equivalent.”²⁸ The Nutrition Criteria, however, demand at least 12 grams (0.75 oz equivalent) of whole grain, creating a conflict of authority as to how much whole grain is enough to make a difference. The 12-gram standard also makes it much more difficult for food makers to make whole grain products palatable for children, who perceive whole grain products to be bitter, because sugar and sodium are severely restricted.

The Dietary Guidelines also recommend an increased consumption of vegetables. As parents know, children often do not choose to eat their vegetables. Efforts to make them taste good to children can require a bit of seasoning. One popular form of vegetables for children is, for example, *Campbell's* Tomato soup, providing over 10 million servings of vegetables every year to children and teens between the ages of 2 and 17. In fact, we advertise Tomato soup to children and it is a “healthy” food according to the relevant federal regulations, but we could not encourage them to eat it under the Nutrition Criteria.

Nutrition Criteria that make healthy vegetables and whole grain foods less attractive to children undermine the Dietary Guidelines.

3. *The Nutrition Criteria do not focus on obesity, but cardiovascular disease, and prescribe nutrient levels inconsistent with the Dietary Guidelines.*

The Working Group has chosen to issue Nutrition Criteria directed primarily to cardiovascular risk factors, essentially ignoring the pressing issue of overweight and obesity. In this respect, the Nutrition Criteria are not based on the Dietary Guidelines and are inconsistent with other current guidelines for children’s feeding programs and food labeling. The values chosen by the Working Group are also inconsistent with both the Dietary Guidelines and current federal regulations allowing products to be characterized as “healthy.” Most notably, the Nutrition Criteria mandate a sodium level that is less than one-third²⁹ of the amount of sodium permitted in foods properly labeled as “healthy.”

Indeed, the issue of sodium is particularly important because it is one of the most important reasons why compliance with the Nutrition Criteria is beyond the capability of current food science technology to develop good tasting, safe, and affordable foods that children would be receptive to eating.

The sodium standard was not, however, derived from the Dietary Guidelines. While the Nutrition Criteria specify a single sodium intake recommendation to apply to children ages 2–17, the Dietary Guidelines set age-specific recommendations for this population (ages 1–3, 4–8, 9–13 and 14–18), recognizing that macro- and micronutrient needs differ for different age groups.

²⁸ Ibid., p. 37.

²⁹ In the case of small RACC individual foods, the IWG sodium standard is less than 20% of the sodium permitted to characterize the food as “healthy.”

The Working Group does not disclose how the Dietary Guidelines were used to determine the interim and final daily sodium targets for this mixed age group of children and adolescents. Whatever this derivation, the recommended sodium levels for individual foods, entrees, and meals do not appear to have a logical basis. Those levels are highly restrictive and they eliminate a majority of the foods currently consumed by children and teens from those they may be encouraged to eat.

The sodium levels in the Nutrition Criteria are not, on their face, grounded in the Dietary Guidelines where 2300 mg³⁰ per day is recommended for all Americans and the needs of adults and children at risk for chronic disease have already been taken into account by, among other things, establishing a recommendation for that subset of the population.³¹ Based on the restrictiveness of the recommendation for sodium in individual foods, entrees, and meals, it appears that the Working Group based its sodium recommendation on the idea that the entire American population of children and adolescents must be treated for high blood pressure by mandating a therapeutic level of sodium in the food supply. We are deeply concerned that this severe measure is not justified by an appropriately cautious view of the science behind it.

A drastic population-wide solution is not, in fact, warranted where the science on which it is based suggests that it will be both inadequate and directed to an objective that is short of the goal of saving lives. For four federal agencies to take the position that it is irresponsible to encourage anyone under 18 to eat a bowl of soup because of a sodium level complying with the government's "healthy" standards is a severe judgment. It is, in fact, good intentions run amok.

The Nutrition Criteria sodium requirement for 2021 puts foods at "low sodium" or "no salt added" levels (140 mg). For some foods with small RACC servings, the proposed sodium level is even lower than low sodium (at 85 mg).

Under the current recommendation, the overwhelming majority of healthful foods currently enjoyed by children will be eliminated from consideration due to the restricted sodium levels. Healthy soups, a well-loved and popular food with children, will be precluded from being marketed as an attractive food for children due to sodium levels, even though soups are known to be very low in calorie density and many contain multiple food components and are nutrient dense. And, nutritious snack crackers will be similarly precluded despite their role in many households as a kid-pleasing alternative to more sugary or fatty snacks.

4. *Research has not demonstrated a long-term benefit for sodium reduction among children, but the benefits of weight loss and other risk reduction tactics are well established.*

³⁰ For African American children and children at risk, the daily target is 1500 mg.

³¹ Dietary Guidelines for Americans, 2010, p. 1.

According to the Dietary Guidelines, there is a strong body of evidence in adults that salt (sodium chloride) reduction is associated with a decrease in blood pressure. For children, the evidence is just “moderate.”³² However, sodium intake is only one of the many lifestyle factors affecting blood pressure. Other variables, especially weight loss, may play a more effective role in the reduction of blood pressure than sodium intake reduction according to the National Heart Lung and Blood Institute.³³ Both DASH I and II (Dietary Approaches to Stop Hypertension) studies conducted among adults showed that the incorporation of more fruits, vegetables, lean meats, low fat dairy, and nuts were more effective in reducing blood pressure than sodium reduction. In DASH I, subjects significantly reduced their blood pressures even though the sodium was held at 3000 mg per day, but their fruits, vegetables, lean meats, low fat dairy, and nut intakes were increased. When sodium was restricted to the levels recommended by the Dietary Guidelines (2300 mg/day), their blood pressure went down a bit more. However, weight loss has been consistently demonstrated to reduce blood pressure, independent of sodium levels, and more significantly than sodium reduction. In children, the critical question is whether sodium reduction to the level proposed by the Working Group, from childhood, would make a real difference in morbidity and mortality. The effectiveness of dietary sodium restriction on systolic and diastolic blood pressure is modest, and sodium restriction may not, in fact, be sufficient to restore a diagnosed hypertensive to a normal blood pressure level without drug therapy.

There is simply no evidence suggesting that a drastic reduction in everyone’s sodium intake would decrease mortality from heart disease or that it would be as effective as other dietary or lifestyle changes. Indeed, a recent study published in the Journal of the American Medical Association concluded that lower sodium consumption is more associated with death from cardiovascular disease than is higher sodium consumption.³⁴

While we applaud the good intentions of using sodium reduction to improve the nation’s health, we strongly believe that (i) there is insufficient evidence that forcing population-wide sodium reduction by insisting that individual foods never exceed a “low” sodium level would be an effective tactic in combating hypertension and cardiovascular disease, and (ii) the unanticipated consequences of doing so would be to the detriment of public health because it would require industry to make many foods that are helpful in addressing obesity less attractive and affordable to the American public.

³² Ibid., p. 21.

³³ National Heart Lung and Blood Institute, *The 7 Report of the Joint National Committee on Prevention, Detection, Evaluation, and Treatment of High Blood Pressure*, NIH Publication number 04-5230, August 2004, 26.

³⁴ S.K. Stolarz, et al., *Fatal and nonfatal outcomes, incidence of hypertension, and blood pressure changes in relation to urinary sodium excretion*. JAMA, 2011 May 4; 305(17):1777-85.

III. The Marketing Definition is inappropriately broad.

Other commentators will certainly provide a more comprehensive critique of the proposed Marketing Definition, so we will confine our remarks to a few basic points.

A. There is no basis to justify restrictions on marketing to adolescents.

As the IWG Proposal itself acknowledges, the Institutes of Medicine concluded in 2006 that “the evidence was insufficient on whether television advertising influenced the diets of adolescents.”³⁵ Consequently, there is simply no basis to justify any restriction on food advertising to adolescents, let alone restrictions as draconian as those proposed by the Working Group. Adolescents have developed a sufficient level of skepticism and resistance to authority to enable them to evaluate messages directed towards them. It would also place unreasonable burdens on industry were it necessary to avoid, for example, label graphics that would appeal to adolescents, but not to twenty-somethings.

B. Defining “marketing to children” to include packaging and in-store communications is unreasonable.

CFBAI excludes packaging and in-store communications from its definition of advertising to children for good reason. Advertising or marketing to children means that the child is being addressed – as a child – with a message intended to encourage purchase of the product. Advertising or marketing to children does not include advertising or marketing to an adult when a child happens to be present. The product package and the store environment are extremely important marketing “media” because they communicate to prospective purchasers at the most important moment, *i.e.*, when the shopper is looking at the product and is considering buying it. Consequently, the package and in-store marketing material are very important adult media because it is the adult who is making the purchase decision. That images or graphics or language may signal to adults “your child will like this product” because they are “designed to appeal to children” does not transform these media into children’s advertising media. Mom or Dad will make the purchase and these media speak to them.

C. Children will be harmed if companies are discouraged from engaging in philanthropic activities in schools or label redemption programs providing equipment and materials to their schools.

The Marketing Definition casts a shadow across many activities of food makers that benefit children and their communities, such as programs addressing concerns of obesity or supporting local schools. Although some of these activities may not be “caught” in the definition’s net, the lack of clarity in the Marketing Definition encourages expectations about the conduct of companies that do not advance the public interest.

³⁵ IWG Proposal, p. 17.

Labels for Education (“LFE”) is, for example, a program under which equipment and materials supporting Art, Athletics, and Academics are provided to schools in exchange for proofs of purchase of consumer products. The proofs of purchase are from products purchased by families and community members that are brought into school by children in an effort coordinated by parents. In addition to proofs of purchase of Campbell products, proofs of purchase of other participating food and non-food manufacturers are accepted. Since its inception, the LFE program has contributed more than \$100,000,000.00 of equipment and materials to the nation’s schools, the majority of which has been for physical education equipment. This assistance can make a meaningful difference to children and their schools. For example, LFE has since 2000 provided seven minivans to Red Bird Mission schools (serving communities in the Appalachian Mountains) and materials and equipment are provided to 35,000 of 50,000 registered schools annually.

The benefits of programs such as LFE go beyond the material support they provide the nation’s schools. Such programs teach the value of working together and of enlisting the help of others towards a common goal of supporting a shared institution. With the support of parent volunteers and their teachers, children bring proofs of purchase to school from widely-purchased consumer goods to collectively amass sufficient proofs of purchase for the school to redeem for items not funded by the local school district. When the LFE proofs of purchase are brought to school, there are receptacles for the children to deposit them. As part of our commitment through CFBAI and to better assure that we are not marketing to children in elementary schools, Campbell rebranded its LFE program to simply *Labels for Education* and removed “*Campbell’s*” from those receptacles and any other student-directed material.

Consequently, the self-regulatory efforts of industry have helped Campbell maintain its support of schools while addressing the important issue of brand marketing to children in elementary schools. Nonetheless, the Marketing Definition as a governmental standard raises a question as to the propriety of even such a carefully designed and valuable program.

The Marketing Definition is overly broad in that it (a) includes adolescents, (b) includes media such as in-store and packaging that do not primarily address children under 12, and (c) does not unambiguously exclude activities that should, in fact, be encouraged.

IV. Dictating standards to industry is not self-regulation and will be less effective than genuine self-regulation.

Self-regulation is most appropriate and effective when there is a need to accommodate important public values in the conduct of a complex industry in which technologies and business practices can evolve rapidly. It is also useful when governmental regulation may pose legal or constitutional issues.

Self-regulation of advertising has been very successful. The National Advertising Division (NAD) of the Council of Better Business Bureaus (“BBB”) has been a valued partner of both industry and the FTC. Its extensive caseload has served to explore and resolve many difficult issues of advertising law to the satisfaction of both the industry and government. It has served industry very well by helping to maintain public trust in advertising, because advertising is worth little if people don’t believe it.

Industry’s interest in maintaining public trust has also been very well served by its support of the Children’s Advertising Review Unit (“CARU”) of the BBB. CARU has been effective in helping industry to create and enforce responsible standards for how it communicates with children under the age of twelve. Among the self-regulatory standards it has enforced for many years, for example, is a prohibition on encouraging the overconsumption of foods.

It was natural for the food industry to turn to the BBB to help it establish a voluntary self-regulatory program in responding to the call in the IOM Report “Food Marketing to Children and Youth: Threat or Opportunity?” to shift the mix of advertising to children to healthier foods. Heeding that call by, among other things, creating CFBAI launched an effective force for change in the industry and in society generally.

One of the most important reasons for the success of CFBAI has been that industry has been the driving force behind it and has been accountable for its success. Each company has challenged itself to address public expectations and stretch to achieve great-tasting products that are continuously improved in terms of their nutritional profiles. Industry taking responsibility for its own publicly-stated standards has put the accountability where it needs to be for success.

Overt direction from government would, of course, immediately take that accountability away from the people who need to achieve the changes demanded for success. Determination by government of both the standards to be met and the timing within which they must be met is an attempt to outsource regulation by delegating the enforcement of standards with which the regulated do not agree. It is not likely that such an arrangement would continue the success of the genuinely voluntary system of self-regulation that is currently in place.

As genuine self-regulation, industry efforts through CFBAI have resulted in significant change within five years. This is because the members of CFBAI were able to evaluate their products and practices and rapidly improve them with knowledge of what could and could not be done without either increasing costs beyond what parents could afford to pay or delivering products that no one would be willing to eat. In that five year period, products Campbell markets to children have been reduced significantly in both sodium and fat and more products have been introduced with whole grains. Campbell has also engaged children with activities to encourage them to get out and play.

The recently announced CFBAI common nutrition criteria, the result of collaboration among industry nutrition experts, are a significant advance in self-regulation and serve the public interest better than the IWG Proposal because they will be implemented more quickly, recognize the differences among types of foods, and directly address the nation's most important public health issue by placing constraints on calorie levels in foods marketed to children.

V. The Working Group should encourage support for the work of CFBAI and withdraw the IWG Proposal.

The new CFBAI uniform nutrition criteria are a better alternative to the Nutrition Criteria and deserve the support of the Working Group. They have been carefully designed to allow children to benefit from the nutritional merits of different kinds of foods while nutrients to limit are appropriately restricted with practicable standards. By focusing on types of foods instead of a one-size-fits-all approach, the CFBAI work has set goals for industry that are both nutritionally meaningful and realistic to achieve. And, by tying its requirements to what is disclosed on food labels and providing detailed explanations of the rationale behind each decision, CFBAI has also created a set of standards that are more consumer-friendly, understandable, and verifiable.

Consequently, the Working Group should withdraw the IWG Proposal and recommend support for the work of CFBAI as a practicable means to improve the nutrition of foods we encourage children to eat through marketing that is primarily directed to them. The Working Group should also recommend that no special program is needed to address marketing directed primarily to adolescents because their perceptual acuity and their interests, as well as their use of media, are often indistinguishable from those of adults.