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Federal Trade Commission
Office of the Secretary Room H-113 (Annex W)
600 Pennsylvania Avenue,
NW Washington, DC 20580

Re: Interagency Working Group on Food Marketed to Children: FTC Project No. P094513

To Whom It May Concern:

Tate & Lyle welcomes the opportunity to comment on the proposed voluntary principles for use by industry to improve the nutritional profile of foods marketed to children. We appreciate the intention of the working group to improve the nutritional profile of foods specifically geared towards children and adolescents. We all should be encouraging the increased consumption of whole grains, fiber, fruits and vegetables. Tate & Lyle has a wellness platform which includes novel fibers, digestive resistant starches, zero-calorie sweeteners, and other specialty food ingredients which can be used in the creation of a healthy diet.

We agree that steps need to be considered to address the public health concern of childhood obesity. However, we note with disappointment that the preliminary proposed nutrition principles seem inconsistent and not placed on a solid scientific foundation. We are concerned that the focus of these efforts does not address the problems of sedentary behaviors, increased screen time, and lack of overall good nutritional habits. There is no evidence that if these voluntary principles are followed that there will be any impact on childhood obesity or dietary improvements. Further, these principles are exactly the kind that will limit innovation and restrictively freeze the efforts of the food industry to provide more nutritious and healthy options.

The most obvious discrepancy in these nutrition principles is around the allowance of fruit juice in Principle A, and the lack of clear definition of added sugars in Principle B. Why should a product containing added fruit juice (which is composed of sugars and adds calories), be allowed when it is compositionally similar to other sugar sources? Also, there does not seem to be a clear indication of what ingredients are considered as added sugars and no reference is made to any authoritative source providing such guidance. Currently there are no analytical methods which can distinguish between an added and an endogenous sugar. Furthermore, would "added sugar" only be considered the mono and disaccharides that can be analytically determined and placed on the nutrition facts panel as "sugar", such that the 13 g limit can be easily observed? Alternatively, would this be based on formulation information and the amount of added carbohydrate-containing ingredients (as listed

under USDA's MyPlate ingredients which are considered sources of added sugars http://www.choosemyplate.gov/foodgroups/emptycalories_sugars.html)?

There are redeeming qualities in specific carbohydrate-containing food ingredients which are severely glossed over by these proposed guidelines, while others (like fruit juices) which carry a healthy halo, but also provide added carbohydrate calories, are allowable. Fruit juices compositionally can bring as much sugar and caloric burden with few nutritional gains. If the intention of Principle B is to reduce added calories, then all carbohydrate-containing ingredients should be equally considered for limitation in foods intended for children and families with children. And if caloric burden is a concern, why not specifically target total calories in foods?

Another problematic example is that novel fiber ingredients, such as soluble corn fiber, which has physiological benefits, is lower in caloric content and does not contain large amounts of free sugars, but can carry an ingredient declaration of either "corn syrup" or "corn syrup solids" (both ingredients labels are in the USDA list of empty calories/ added sugars). Will this ingredient be considered as a problematic added sugar and limitations imposed? Or since this ingredient does not analyze for appreciable free "sugar" will it be allowed? Additionally there are many variations in corn syrups that have been created to provide different functional attributes. These syrups have a wide range of mono and disaccharide content which is balanced against larger polysaccharides, and are added to foods as functional binders, holding together clusters of whole grains and nuts in cereals and healthy bars. Would it be the intention of the proposal to limit the opportunity of such whole grain, fiber containing foods to be advertised to children and families simply because a form of binding used came from a forbidden ingredient? These food systems can increase dietary fiber intake and whole grain consumption, yet would not meet the requirements put forth in the proposed nutrition principles.

In addition to the foods mentioned above, the proposal would forbid advertising of many foods that these same federal agencies otherwise encourage for consumption. For instance, many foods that currently meet FDA's definition of "healthy" – as well as some foods that bear FDA-authorized health claims, foods that USDA includes as appropriate for young children under its Women, Infants, Children (WIC) program, and foods whose consumption is promoted under the 2010 U.S. Dietary Guidelines – will not meet these proposed nutrition principles. This seems to be very counterproductive to improving the health of children.

The reality is that none of these types of foods or ingredients in themselves cause obesity. In fact, for cereal in particular, the exact opposite has been demonstrated in several studies. Research has shown that children who eat cereal frequently (including pre-sweetened cereal) are far less likely to be overweight than those who do not. Children who eat cereal also have better nutrient intakes than those who do not. And yet virtually all cereals on the market would be barred from advertising to kids under the proposed guidelines. This will be not helpful to the dietary health of families.

The approach provided by these guidelines is one that intends to stifle and blame specific foods and food ingredients yet does not encourage people to make healthy choices or help families to develop better lifestyles. The proposal's focus on advertising, which serves as a popular scapegoat for the



problem, will do nothing to address obesity, and may even make the problem worse – first, by a blanket restriction on the advertising of numerous foods that are important to good health and the fight against obesity; and second, by distracting attention away from the real causes of childhood obesity (general over-consumption and sedentary behaviors). Also, the given targets for food groups within Nutrition Principle A discount the potential positive contribution of smaller increases in those foods.

Moreover such a restriction on food marketing would only make any sense if all the restricted products themselves actually contributed to obesity and poor diets, which has not been shown. But here, the proposed advertising principles restrict the marketing of many foods that play no role whatsoever in fostering obesity.

While the intention may be to improve the foods available to children and families, these policies will not result in a healthier population and will limit choices among foods which are not causing obesity. More focus should be given to positive messaging and encouragement of foods which provide nutrients of concern which have been identified, such as fiber. Inclusion of ingredients which are known to be more needed across our population would be a great benefit, yet these nutrition principles do not help in that. Portion size and caloric content education would be worthy of more effort and have greater impact.

We ask that you reconsider this proposal, involve key stakeholders in continued dialogue, and overall give this deeper thought to the broader implications of such restrictions.

Sincerely,

Patricia S. Williamson-Hughes
Senior Nutrition Scientist
Tate & Lyle

PS.

Below are responses to selected questions put forth by the working group.

Proposed Nutrition Principles: General questions:

1. Having a one size fits all set of nutrition principles does not fit well with the different dietary and calorie requirements between children and adolescents. There should be two different sets developed, as mirrored by the nutrient content requirements set forth by the IOM or only target a younger, more well-defined age range where the caloric and nutrient requirements are similar.

2. It would be very difficult to establish restrictions on brand and company advertising which is not linked to a specific food or food component. Furthermore, such restriction on brand advertising would most likely not decrease the prevalence of obesity in children or adolescents.
3. The current proposal is greatly lacking in the ability to connect the needs for specific nutrients of concerned as outlined by the US Dietary Guidelines and how to allow marketing of foods containing those given the various restrictions. Fortification is a very good way of helping children and adolescents consume nutrients that may be inherent in foods that they either avoid or do not have available to them. The fortification of fiber for example, can improve the diet quality easily and be placed into foods children already consume.
4. If the true goal of the working group is to reduce the occurrence of obesity, then portion sizes and caloric content of foods does need to be addressed in a sensible manner. This would be more meaningful than the current proposed restrictions found in Nutrition Principle B which only target specific ingredients/ nutrients. Sodium for example, while of concern based upon a desire to reduce hypertension, is not causative of childhood obesity.

Food Categories:

5. The Working Group has developed targeted product categories to focus on foods most heavily marketed to children, yet one has to wonder if the goal is caloric reduction and improvement in the overall diet, why stop there? The requirements, if set up in a realistic way should be applied to all foods. However, the real issue of concern is the requirements themselves, more than these top ten categories of foods marketed to children.

Main Dishes / Meals:

7. In marketing approaches for children's meals at restaurants, the Working Group should involve more input from the most effected stakeholders before moving forward.

Nutrition Principle A:

8. Aggregate contributions should be considered toward meeting the desired targets for healthier alternatives. These should be based on percentage basis only and could be very confusing with absolute amounts and having the two options.
9. Food categories to be added should include fortified fiber sources, vitamins and minerals. The amounts in the food groups should be made to mirror the amounts recommended in the current US Dietary Guidelines. For example, the requirement of 0.3 cups of cooked dry beans for Option 2 under Nutrition Principle A is in excess of the current recommendations. Why set the standard for inclusion higher than the current daily dietary recommendation (1.5 cups/ week = .2 cups/ d)?
11. Food formulations would be simpler if the requirements were by % of inclusion and also easier to assess if using multiple food groups to achieve a healthier inclusion target of 50%.
12. Yes this calculation amount in option 2 need to be adjusted to reflect age appropriate caloric needs and eating patterns.

Nutrition Principle B:

13. The discrepancies created between Principle A and Principle B could be best avoided by dropping the requirements of Principle B completely as it would be nearly impossible to distinguish the components which are inherent to the food items from those that are added.
 - a. Saturated fats and naturally occurring trans fats will be found in lean meats and dairy products, which are encouraged under Principle A.
 - b. Added sugars could not be analytically distinguished from sugars naturally contained in foods.
 - c. The sodium requirements are also going to be very challenging as some sodium is needed for proper preservation of foods and is also indistinguishable from endogenous sources.
15. Perhaps the focus here on limiting nutrients should be looked at from a completely different approach. Look at the items children are lacking in the diet and encourage them more rather than restrict others. And the level of inclusion/ restriction should be based off sound science starting from the US Dietary Guidelines. Are there foods that may contain a small amount of Trans Fat, for example, that might be healthier on the whole? Maybe an overall scoring pattern could be developed that would not eliminate a food because of one restrictive element?
16. Once again, the target for added sugars is very unclear by what constitutes an added sugar? Is that the ingredient or is it the addition of simple sugar? What difference does it make if the sugar and calories come from naturally occurring vs. added towards the goal of reducing obesity? This area of the proposal needs more consideration and appropriate measurements for determining the added sugars. If the concern is caloric exposure and nutrient density dilution, then total carbohydrate or total sugars content should be considered and fruit juices used as sweeteners should not be passed over. In reality, not all carbohydrates are harmful. We do have a need for energy intake, particularly for active individuals and on-the-go playful children. Any changes need to be carefully considered and more developed than they currently appear.

General Feasibility / Marketplace Impact of Proposed Nutrition Principles:

18. The voluntary principles, will potentially limit the foods made available that are made to fit children's taste preferences and dietary needs. Why would the food industry innovate for this demographic specifically if the voluntary restrictions around marketing are such that nearly no foods are longer going to meet these requirements?
19. The proposed principles need more development and exceptions to Principle B should be set in place to eliminate discrepancies where healthful ingredients and food items from Principle A can become restricted. Also consideration needs to be provided for items that are fortified and also ingredients that can add nutritional value (such as soluble corn fiber).
20. The proposed principles are restrictive in nature and within the current frame work are such to stifle innovation and creativity. Revisions to provide clarity on added sugars would be helpful. Revisions to provide flexibility for items which provide meaningful contribution of a healthful

diet while allowing more realistic targets within Principle B could improve the ability for food manufactures to innovate.

21. Market place drives food innovation. Increase the education and demand from consumers and the food industry will follow without these restrictions. Hard-lined, limiting requirements on foods and ingredients are not incentives to the industry to make products that do not have consumer demand. If a product which meets these requirements is made and marketed, there is not a guarantee of success for purchase; there is substantial risk for the food industry in making such products. If there is no consumer demand, and consumers do not buy these products, it doesn't matter if the foods are the healthiest on the market. Thus, what will result is that unless there is consumer demand/need for foods that meet these requirements, no industry will be incentivized to produce vastly reformulated products. Do consumers currently desire their children's foods be *trans fat* free or very low in sodium? Are they willing to pay a price increase that is associated with the reformulated products? If the answer to these questions is no, then there will be no success in this aim.
22. The proposed target dates are very aggressive for an industry which will need to increase formulation changes across many product lines and also measure consumer acceptance. In some cases new ingredient technologies will have to be developed and brought to production in advance of any final food product formulation. This process could easily take 5 to 7 years from conception to reality.