

July 14, 2011

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

RE: Interagency Working Group on Food Marketed to Children: Proposed Nutrition Principles: FTC Project No. P094513

Dear Sir or Madam:

The American Dietetic Association (ADA) appreciates the opportunity to submit comments to the Interagency Working Group on Food Marketed to Children (“IWG”) on the Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts (“Principles”). With over 71,000 members, ADA is the largest association of food and nutrition professionals in the United States and is committed to improving the nation’s health through food and nutrition. ADA has long been at the forefront of improving children’s health by educating the public about child nutrition. Our *Kids Eat Right* initiative (www.eatright.org/kids) is a valuable resource of scientifically-based health and nutrition information and turnkey nutrition messaging that parents and caretakers use and trust to raise healthy children. ADA strongly supports the substance of the Principles and respectfully offers the below comments and answers to questions in the IWG report in the hope they help strengthen the Principles.

Underlying Objectives of the Principles

It is absolutely critical for all stakeholders to continuously and integratedly work together to fight the epidemic of child obesity. We are an increasingly overweight and undernourished nation. Over the past thirty years, the percentage of overweight children and adolescents in the United States has more than doubled, at an astronomical cost to our nation and families.¹ Americans’ diets simply do not meet nutritional goals. Children and adolescents consume too many calories, too much saturated fat, trans fat, sodium, and added sugars, and too few nutrient dense foods, fresh fruits, and vegetables. Although many factors have led to the obesity epidemic, food marketing plays a substantial role by driving children’s food choices and overall diet and influencing purchasing decisions of parents and caregivers.² A recent study indicated that the elimination of advertising of unhealthy foods and beverages to children on television alone could reduce childhood obesity by 18 percent, or approximately 2.8 million children.³ It is highly likely that the result would be even more successful with a coordinated effort to eliminate the marketing

of food across the full spectrum of media: radio, magazines, Internet, cell phones, iPods, and other mobile devices, product placement, licensed and equity characters, celebrity endorsements, video and other games, packaging, in-store displays, restaurant menus, schools, fundraisers, toys, premiums, sponsorship, and more.

Food and beverage companies spend about \$2 billion annually marketing their products to children and adolescents.⁴ This marketing occurs in a virtual absence of comparable nutrition education messages that could help children learn about healthy eating and exercise. Messages are not filtered through parents, and they largely market unhealthy foods: 58 percent of new food products introduced and marketed to children between 1994 and 2004 were either candies, snacks, cookies, or ice cream; 40 percent of new beverage products were either fruit or fruit flavored drinks.⁵ Given that many children make food-buying purchases for themselves, and evidence shows parents do not know what foods their children are buying, strategies to improve the nutritional quality of marketed foods are essential.

ADA believes the IWG has properly fulfilled Congress' charge in the 2009 Omnibus Appropriations Bill (HR 1105) to recommend standards for marketing food to children under age 17 that simultaneously encourage greater consumption of healthful food groups and discourage undesirable nutrients. The Principles are evidence-based, scientifically sound, and—if-adopted by industry—will make a substantial contribution to the obesity epidemic by helping children make more healthful food choices. ADA strongly supports this effort by the IWG to encourage the necessary dietary changes for children and adolescents.

Proposed Nutrition Principles: General Questions

Question 1: Variable Approaches for Two Age Groups?

The prevalence of obesity among children aged 6 to 11 years increased from 6.5 percent in 1980 to 19.6 percent in 2008.⁶ The prevalence of obesity among adolescents aged 12 to 19 years increased somewhat less, from 5.0% to 18.1%. Although obesity prevalence is higher among adolescents than younger children and the age groups' caloric needs and dietary guidelines differ, ADA does not support two different approaches to limits on food marketing. The Principles are fundamentally sound for all age groups; young children, adolescents, and adults should all eat more nutrient dense foods in IWG's proposed food categories and consume less saturated fat, trans fat, added sugars, and sodium consistent with the 2010 Dietary Guidelines for Americans (DGA). The use of two different approaches would be confusing to the public and potentially creates an unnecessarily added burden to industry. Consistent messaging of nutrition principles will help establish healthy eating habits early in life that can successfully track through childhood, adolescence, and beyond.

Question 2: Brand Advertising

Brand advertising and marketing without referencing a specific food product in the brand line is common, but the Principles must prevent this type of marketing from being strategically used to indirectly market unhealthy food to children that would not meet the IWG voluntary standards. ADA suggests that the Principles could be revised to accommodate certain brand advertising by creating a brand average nutrition quality ("BANQ") standard analogous to the Corporate Average Fuel Economy (CAFE) standards

historically used to regulate fuel economy in the automobile industry.⁷ Recognizing that certain individual foods within a brand may never be successfully reformulated to meet the Principles, it would be reasonable to accommodate brand advertising if a substantial majority of the individual food or menu items sold under the brand name otherwise comply. ADA believes that any interpretation permitting unhealthy brands to advertise would seriously undermine the intent of the Principles and provide a wide loophole for corporations to continue to market food products in a manner inconsistent with the IWG guidelines.

Question 3: Targets for Encouraging Nutrients of Concern

ADA recognizes the importance of educating children and their parents about nutrients of concern, such as the importance of calcium and Vitamin A for adolescents, and believes there is value in setting targets for nutrients to encourage. Notwithstanding, ADA believes the Principles are rightly focused on limiting the marketing to children of energy-dense foods with poor nutrient density. If the IWG were to set targets for specific nutrients, industry may begin to reformulate highly processed foods through fortification and replacement of fats and sweeteners with artificially developed components.

It is the position of the American Dietetic Association that the best nutrition-based strategy for promoting optimal health and reducing the risk of obesity is moderate consumption of a wide variety of nutrient-rich foods. Additional nutrients from supplements can help some people meet their nutrition needs as specified by science-based nutrition standards such as the Dietary Reference Intakes. Functional foods (including whole foods and fortified, enriched, or enhanced foods) have a potentially beneficial effect on health when consumed as part of a varied diet on a regular basis, at effective levels. However, ADA supports research to further define the health benefits and risks of individual functional foods and their physiologically active components. Notwithstanding this potential benefit, ADA's primary goal is to encourage youth to consume nutrient dense foods in a relatively unprocessed, or whole, natural state, and believes the Principles as written addresses the issues it was charged with addressing.

Question 4: Limits on Portion Sizes or Calories for Foods Marketed to Children

Consumption of excess calories, whether through snacking or oversized meals, is a primary cause of obesity. Studies have shown that "marketplace portions of foods that are major contributors of energy to US diets have increased significantly since the 1970s and exceed federal standards for dietary guidance and food labels."⁸ In addition, a general lack of knowledge about portion sizes hinders efforts in making healthful eating choices and limiting caloric intake. Americans generally do not correctly assess the amount they are eating, nor are they able to assess the differences in portion size when offered different sizes on different days.⁹ As portion sizes grow, industry should be careful to provide clear, easily understandable information for consumers.

Congress charged the IWG to consider portion size in developing the Principles, which should encourage the development of a consistent and easily recognizable strategy to help Americans conceptualize serving sizes and appropriate portions. Although encouraging selection of nutrient dense foods is paramount, one can consume excess calories by eating too much of a "healthy" food. Adding portion size recommendations would be helpful for consumers and would synthesize the Principles with other federal child nutrition programs, helping in their interpretation and implementation. Depictions of products

marketed under the Principles should also meet the calorie limitation standards, ensuring that consumers have an honest conception of portion and serving size of marketed food. ADA believes it is appropriate to include specified calorie limits for the two age groups. For children 2-11 years, 150 calories is reasonable for individual foods, 350 calories for main dishes, and 500 calories for meals. For 12-17 year old adolescents, reasonable limits for individual foods, main dishes, and meals would be 200, 450, and 670 calories, respectively.

Food Categories

Question 5: Composition of Food Categories Marketed to Children

ADA believes that the food categories detailed in the Principles include the vast majority of food products directly marketed to children and are thus sufficiently comprehensive to be effective. However, ADA believes the Principles should apply to all foods, and could be improved either by adding an additional category (*e.g.*, condiments) that encompasses the uncategorized food, or more creatively including some of the uncategorized foods into one of the ten existing categories. To use a provided outlier example, hot dogs could sensibly fit within the prepared foods and meals category as non-frozen packaged entrees.

Main Dishes/Meals

Question 6: Meaningful Contribution to Multiple Food Categories

ADA believes that the nutrient contributions set forth in the proposal for main dish and meal products seem appropriate and are in line with other national nutritional guidance.

Question 7: Marketing of Meals by Restaurants

Restaurants should not be exempt from meeting the same standards as other companies that market food to children. Restaurants market to younger children in multiple ways, including by spending hundreds of millions of dollars on toys and other promotional items for children's meals. Adolescents often purchase meals at fast-food restaurants with a far higher frequency than their parents believe. Marketing by fast-food restaurants have been shown to have a statistically significant causal relationship to children being overweight, with one study indicating that a ban on television fast-food advertising alone "would reduce the number of overweight children ages 3-11 in a fixed population by 18 percent and would reduce the number of overweight adolescents ages 12-18 by 14 percent."¹⁰

ADA believes that restaurant meals marketed to children should be required to meet similar standards as other industry participants in meeting multiple food categories and reducing levels of saturated fat, trans fat, sodium, and added sugar. A key consideration is to look at the children's meal as a whole, as is proposed. Perhaps similar to the way in which ADA recommends brand advertising be treated (*see*, Question 2 above), restaurants should be required to have some significant percentage (*e.g.*, between 50 and 75 percent) to market their brand to children.

As part of its proposed rule requiring nutrition labeling in restaurants, the FDA indicated it intended to "conduct consumer research to evaluate how well consumers understand the caloric information presented in each of the formats and whether mixed formats on a single menu or menu board might be confusing to consumers."¹¹ ADA recommends collaboration with the FDA on restaurant menu labeling regulations to ensure consistency with IWG's Principles

ADA's clarification on the evaluation of different trans fats (in our answer to Question 13 below) is relevant to restaurant marketing and is hereto incorporated.

Nutrition Principle A

Question 9: List of Food Groups that Make a Meaningful Contribution to a Healthy Diet

ADA believes the listed food groups (fruits, vegetables, whole-grains, fat-free and low-fat milk products, fish, lean meat and poultry, beans, nuts and seeds, and eggs) are components of a healthful diet. However, in apparent contradiction of the emphasis ChooseMyPlate.gov places on fruits and vegetables, the listed food groups appear heavily weighted toward proteins. This may be technically appropriate if industry were to balance out the *variety* of protein options with multiple vegetable and fruit choices in a meal or main dish, but may risk creating unbalanced meals that are too heavily reliant on some food groups and underrepresent elements of a plant-based diet. ADA encourages collaboration with USDA to address the discrepancy.

ADA believes fried foods, including vegetables (such as french fries or fried zucchini) and proteins (such as chicken fingers or fish sticks) should not be able to meet the meaningful contribution to a healthful diet standard at the same threshold as other foods, and would support language excluding fried foods from ever being able to meet Principle A. Fried foods are often calorically dense and high in total calories, and provide too many calories in children's and adolescents' diets.¹²

ADA agrees with the suggestion of the Food Marketing Workgroup (FMW) that the IWG base its whole grain recommendation on Option 1, notwithstanding whether Option 1 or Option 2 is selected for other food groups. As FMW notes, a percentage formula will encourage industry to use whole grains as replacements for refined grains, but a formula based on ounces could allow industry to perversely meet the standard simply by increasing portion size or overall weight to include sufficient whole grains in combination with refined grains.

Question 10: Subgroups of Vegetables

Children and adolescents do not consume recommended amounts of fresh fruits and vegetables; moreover, those vegetables they do consume are often high starch items.¹³ ADA believes the Principles should (1) encourage dark green, red, deep yellow, and orange fruits and vegetables consistent with the dietary guidance for federal child nutrition programs and the 2010 DGA, and (2) encourage limited or moderate consumption of high starch low nutrient vegetables, consistent with the DGA. ADA recommends an alternative that accounts for the varied healthfulness of these subgroups, perhaps either a point or weighted system by which the threshold percentage of dark green, red, deep yellow, and orange fruits and vegetables necessary to make a meaningful contribution to a healthful diet under Principle A remains 50 percent, whereas the threshold percentage for specified high starch vegetables would have to be somewhat higher.

Question 12: 2,000 Calorie/Day Assumption in Option 2

The 2,000 calorie daily diet is a reasonably acceptable standard, although it is high for young children. An alternative would be difficult to adjust for daily needs without knowing the age, gender, and activity level of the youth at issue. The simplified assumption may also

help facilitate industry adoption of the Principles.

Nutrition Principle B

Question 13: Nutrients Naturally Occurring as Contributions to Principle A

ADA supports the IWG's decision to generally exclude nutrients naturally occurring as contribution to Principle A from the proposed limitations in Principle B.

In addition, ADA offers some clarification regarding trans fat: trans fat labeling of packaged foods was designed to draw attention to the trans fat in partially hydrogenated oils. This type of trans fat has been shown to be a health hazard, especially with regard to cardiovascular disease. The other type of trans fat, ruminant trans fat, is a natural constituent of the milk and meat of ruminant animals, such as cows, sheep and goats. Restaurant portions are usually larger than those of packaged foods, and restaurant meals commonly have beef and occasionally lamb (sheep). For these reasons much of the trans fat to be labeled in restaurant food is actually naturally occurring. This type of trans fat is not a similar health concern, and was not a consideration when trans fat labeling of packaged food was proposed. We suggest that 'industrial' trans fat be counted as trans fat for Principle B on restaurant food, but not 'ruminant' trans fat. If they were together, most consumers would think that their food contained appreciable partially hydrogenated oil, when in fact the trans fat is naturally present in cows and sheep.

Question 16: Comparative Advantages of Limiting Added Sugars and Total Sugars Content

ADA believes that it is appropriate to set a specific target, such as 13 grams of sugar, as a concrete guideline easy to identify and measure. The DGA recommends children reduce intake of added sugars, which add calories without beneficial nutrients.

Question 17: Limiting Sodium Content

ADA wholeheartedly supports recommendations that make progress in reducing the amount of salt Americans eat on a daily basis. High levels of salt in the diet are associated with high blood pressure, heart disease and stroke, particularly among certain vulnerable groups and individuals. It is necessary for the Principles to include limits on the amount of salt that food manufacturers, restaurants and foodservice providers can add to their products, since the vast majority of people's sodium intake comes from salt that companies put in prepared meals and processed foods. ADA supports the Principles' recommendation that children should consume no more than about 1,500 milligrams of sodium per day, which is consistent with the 2010 DGA recommendations.

General Feasibility/Marketplace Impact of Proposed Nutrition Principles

Question 18: Impact on Nutrition Quality of Foods; What % Will Not Meet Principles?

The Principles are likely to have a tremendous effect on the nutritional quality of foods marketed to children if fully adopted by industry. The Principles are fundamentally sound nutritional guidance for America's children and adults, and ADA urges industry to move quickly to meet them.

It is presently unclear how many existing products would no longer be eligible for marketing under the Principles, but it is likely that the percentage is significant. ADA is supportive of efforts by industry to reformulate meals, main dishes, and specific food items

to meet the Principles, and believes such reformulation would be enormously beneficial to children, adolescents, and society at large.

Question 19: Nutritional Outliers

ADA believes that foods that are naturally high in fat (such as avocados, nuts, and olives) or high in sugars (such as 100% fruit juice) can be healthy components of a total diet. So long as the Principles are clearly written to distinguish between healthy, naturally occurring fats and sugars and their less healthful nutrient cousins, this concern can be ameliorated.

Question 21: Impact of Reformulation Challenges on Industry Incentives to Improve Nutritional Quality of Foods Marketed to Children

ADA supports IOM's recommendations to the food, beverage, and restaurant industries "to promote and support more healthful diets for children and youth:

- Shift their product portfolios in a direction that promotes new and re-formulated child- and youth-oriented foods and beverages that are substantially lower in total calories, lower in fats, salt, and added sugars, and higher in nutrient content.
- Shift their advertising and marketing emphasis to child- and youth-oriented foods and beverages that are substantially lower in total calories, lower in fats, salt, and added sugars and higher in nutrient content.
- Restaurants should expand and actively promote healthier food, beverage, and meal options for children and youth and provide calorie content and key nutrition information on menus and packaging that is prominently visible at the point of choice and use.
- Engage the full range of their marketing vehicles and venues to develop and promote healthier, appealing, and affordable foods and beverages for children and youth."¹⁴

Question 22: Implementation Timeline

The proposed timeline is certainly sufficient for industry to meet the Principles. An abbreviated timeline, such as the two year timeline (with five years for the sodium standard) advocated by the Food Marketing Workgroup, is aggressive but not improbable and should be considered given the urgency of the obesity epidemic. ADA recommends Interim targets if the IWG's original five year implementation schedule is adopted.

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Sincerely,

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Endnotes

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- ¹² U.S. Department of Agriculture, U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2010. Washington, DC: Government Printing Office; 2011. Available from: <http://www.cnpp.usda.gov/DGAs2010-PolicyDocument.htm>. Accessed July 1, 2011
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