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**Public Health**   
Seattle & King County

July 14, 2011

By ELECTRONIC FILING

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

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

To Whom It May Concern,

Public Health – Seattle & King County (PHSKC) thanks the Federal Trade Commission for its leadership in the development of the Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts and for the opportunity to provide public comment on those principles. We strongly support the Interagency Working Group's (IWG) objective of promoting children's health through better diet as well as its emphasis on reducing the incidence of childhood obesity.

PHSKC is a member of the Food Marketing Workgroup, a coalition of more than 95 organizations and experts from diverse fields, including child health and development, nutrition, medicine, public policy, media, and marketing. We strongly support the comments submitted by the Food Marketing Group on our behalf, and write separately only to highlight some of the most salient points.

- We support the IWG's proposal to use a food-based approach to ensure that the foods marketed to children make a meaningful contribution to a healthful diet. That approach is essential given the basic premise of the *Dietary Guidelines for Americans (DGA)*: that nutrient needs be met primarily by consuming nutrient-dense foods. A foods-based approach was recently promoted by the King County Board of Health in its adoption of proposed nutritional guidelines for the sale of food and beverages in vending machines.

- We urge that the suggested timeframe for implementation of the proposed nutrition principles should be revised to two-years, with a five-year timeframe only for implementation of the final sodium standards.
- We recommend that the principles be broadened to include *all* foods marketed to children, not just those *most heavily* marketed to them. It does not make sense for a company to apply nutrition standards to some foods and not to others.
- We recommend including calorie limits. The *DGA* stresses that obesity results from a caloric imbalance, not a nutrient imbalance. We also recommend that separate calorie limits be set for children and adolescents since the range is so wide for these age groups.
- We support the IWG's interim and long-term sodium targets for individual foods and suggest that the IWG adjust the standard for main dishes and add a separate standard for meals.
- We recommend combining extra lean meat, fish, poultry, eggs, nuts and beans into one category to be consistent with the *DGA* and *MyPlate*.
- We support the IWG's proposal to define child-directed marketing according to the existing definitions developed by the FTC for its expenditures studies and agree with the Food Marketing Workgroup's suggestion that the IWG revise those definitions in such a way as to facilitate their integration into company food marketing policies.
- Although we understand and support the IWG's decision to apply the nutrition principles to food marketing aimed at children ages 2-11, research shows that teens are also vulnerable to food marketing and are the objects of aggressive targeting, particularly through digital media. We urge the IWG include a section in the self-regulatory marketing principles on marketing to teenagers and to provide the food industry with some general guidelines about appropriate marketing to older youth.
- The IWG's decision to limit the applicability of the nutrition principles to marketing aimed at children ages 2-11 was motivated, in part, on the notion that restrictions on marketing targeted to adolescents are more likely to result in limits on food marketing in media that also reach a substantial adult audience. This concern is inapposite, however, with respect to in-school marketing. Given that in-school marketing is clearly aimed at children, and its restriction would not unduly limit media intended for adults, we encourage the IWG to apply the restrictions on in-school advertising to *all* schools, including middle and high schools. Such a policy is absolutely workable, as evidenced by the fact that Seattle Public Schools, the largest school district in Washington State, has had a policy prohibiting all advertising to students since 2001.

- Lastly, we wish to address the IWG's question with respect to the commercial speech implications of the proposed voluntary principles. Because the principles, as proposed, are voluntary guidelines for conduct, they raise no First Amendment concerns whatsoever. The First Amendment is implicated only when government compels or restricts speech as a matter of law. There is no First Amendment violation when a private entity chooses to conform its speech to a set of voluntarily adopted guidelines.

PHSKC has been committed to, and engaged in, childhood obesity prevention for more than ten years. Our agency efforts have included increasing knowledge and skills about healthy eating through organizational policy changes, breastfeeding support and health education; providing screening and referrals for children identified as overweight or obese and social support for families affected by obesity; providing access to nutritious foods by enrolling families in WIC, Food Stamps and Summer Meal programs; and providing consultation to child care programs on healthy eating and physical activity.

Most recently, with funding through the Centers for Disease Control's Communities Putting Prevention to Work Program, the Robert Wood Johnson Foundation, and the Kellogg Foundation, we have expanded our childhood obesity prevention work to include projects designed to reduce consumption of sugary drinks; increase healthy eating and physical activity and decrease screen time in child care settings; increase access to healthy foods through food retail businesses; expand Safe Routes to Schools; increase physical education and physical activity in schools; enhance school meal and snack nutrition standards; support Farm-to-School/Child Care programs, and train and certify school food service staff in preparing healthy meals.

Notwithstanding PHSKC's concerted work in this area, childhood obesity remains a serious problem in King County. In King County, about 10-15 percent of low income 2-4 year olds are obese. In addition, one in five children in middle and high school are overweight or obese. These rates are even higher in low income communities and communities of color.

Although the causes of childhood obesity are complex, research has shown that food and beverage advertising on television is associated with the adiposity of children and youth. In light of this finding, it is of enormous concern that 44 percent of 1-5 year olds in Washington State watch between 1 and 4 hours of television per day, and 8 percent watch *more than 4 hours* of television daily. Rates of television watching are similarly high among older children, with 31 percent of 6-17 year olds watching between 1 and 4 hours of television daily, and 8 percent watching more than 4 hours each day.

Although PHSKC, like many other state and local health departments, has devoted significant resources and efforts to reducing childhood obesity, we do not have the ability to influence the content or quantity of food marketing to which our children are exposed. For this reason, we strongly support the fact that the IWG has called upon the food industry to become a partner in the public health community's efforts to promote children's health through better diet.

Federal Trade Commission  
Office of the Secretary  
July 14, 2011  
Page 4

Public Health – Seattle & King County looks forwards to continuing its work to prevent childhood obesity, in collaboration with both public and private partners, and appreciates the opportunity to comment on the Proposed Nutritional Principles to Guide Industry Self-Regulatory Efforts.

Sincerely,

David Fleming, MD  
Director and Health Officer

