



# Ed Miniat, Inc.

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7/11/2011

Dear Mr. Chairman and Members of the Commission,

Deeply concerned by recently proposed nutrition and marketing guidelines, I am writing this letter on behalf of Ed Miniat, Inc., a company that supplies the Campbell Soup Company, a leading U.S. manufacturer of healthful foods and beverages, and an industry pioneer in worthwhile, efficacious endeavors to combat childhood obesity. It is noteworthy that Campbell is the only corporation in America with an executive devoted full-time to efforts combating childhood obesity and hunger.

Specifically, I am writing to express my concerns regarding proposed guidelines for food marketing and advertising to children and teens published on April 29, 2011 by the Interagency Working Group ("IWG") comprised of your agency, the US Department of Agriculture, the Food and Drug Administration, and the Centers for Disease Control. Although these guidelines attempt to achieve an essential goal to which we are also wholeheartedly dedicated, they do so in a misguided manner. To illustrate:

- The proposed guidelines are based on unreasonable nutrition standards which are essentially unachievable. As a practical matter, implementation of these guidelines will in effect prohibit the marketing and advertising of foods and beverages to persons under age 18. These guidelines place undue restrictions on food manufacturers, threatening their viability by leaving them no choice but to stop marketing to children altogether. Simply put, children and adolescents will not eat products that fall under these extreme nutrition standards.
- Perhaps as an unintended consequence, the guidelines will also substantially limit marketing communications intended for educated adult consumers, who are fully capable of making their own food choices. In fact, if as little as 20% of the audience for a communication is composed of persons aged 12-17, the communication will be considered marketing to children and must therefore reach the guidelines' draconian standards. As a result, many communications intended for adults will no longer be permissible, raising questions about violations of commercial free speech protections.
- The guidelines paradoxically prohibit advertising of products that have met the regulatory definition of "healthy," established in the past, including foods promoted by the Department of Agriculture as part of the US Dietary Guidelines and the Women, Infant, Children (WIC) program. Barring a breakthrough in nutrition science which contradicts past health guidelines, it is manifestly illogical to submit new guidelines which prohibit the marketing to children and adolescents of foods that other agencies have previously, and indeed simultaneously, recognized as "healthy" for infants and children. Which guidelines shall food producers be required to follow?
- Because the proposed definition of advertising and marketing is exceedingly broad and the guidelines so restrictive, such guidelines will have the effect of terminating food industry sponsorships of many popular school and youth athletic and nutrition programs, thus undermining their vital purpose of combating childhood obesity.

Seventeen major food advertisers in the U.S. currently participate in the Children's Food and Beverage Advertising Initiative (CFBAI), a voluntary industry initiative launched five years ago. The advertising and marketing standards developed through this initiative have resulted in tangible, positive changes in foods marketed to children. Moreover, they have encouraged industry leaders to alter their advertising content and mix to promote healthier products, and to eliminate some advertising altogether. New research by Georgetown Economic Services indicates that food and beverage advertising on children's television programming decreased by 50 percent between 2004 and 2010. It is unfortunate that the IWG has chosen to flippantly disregard the success of the CFBAI program, which has achieved major inroads in the fight against childhood obesity.

I respectfully request that the FTC withdraw immediately these ill-conceived guidelines.

Thank you for your consideration.

David J. Miniat  
President