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Dear Interagency Working Group,

Corporate Accountability International (formerly Infact) is a membership organization that protects people from irresponsible and dangerous corporate actions around the world. Our Value [the] Meal campaign is dedicated to reversing the global epidemic of diet-related disease by challenging the fast food industry to curb the range of its abusive practices. One of our primary demands calls on McDonald's to stop marketing unhealthy food to our kids. Corporate Accountability International's 30 years of experience offers lessons that can be applied to the development of the FTC's recommendations on the marketing of foods to children and we appreciate the opportunity to comment on the Interagency Working Group (IWG) voluntary standards for foods marketed to children.

We appreciate that the Interagency Working Group (IWG), by proposing these voluntary principles, recognizes that the current system of industry-defined guidelines on food marketing to children has been a dismal failure. Far from being science-based, industry's guidelines are self-serving and have succeeded in ensuring that almost all of their worst products continue to be marketed to children. We appreciate the effort of the IWG in replacing that failed approach with one that is science-based, uniform, and applied industry-wide.

Another failure of the industry self-regulatory system is that it only applies to children under the age of 12. Corporate Accountability International strongly agrees with the IWG that marketing standards must apply to teenagers up to age 17. Industry has not offered any good reason for why it only cares about the potential adverse impacts of its marketing on children under the age of 12. What is clear is that industry fears the loss of the crucial teen market.

Voluntary Standards Will Not Work

The federal government should not continue to support and promote the concept of voluntary guidelines (or principles). Even if the new standards are an improvement over those defined by industry, we cannot trust industry to follow them.

In our thirty-year history, we have found that voluntary agreements have inherent and serious limitations and are not effective in addressing public health concerns. Voluntary initiatives have a limited scope in terms of the rights they include and the sectors they cover and many "laggard" companies choose not to join any voluntary initiative. In the US, the Better Business Bureau's voluntary Children's Food and Beverage Advertising Initiative has been highly criticized by public health advocates for being both limited in scope and limited in terms of the number of food companies that have joined the initiative.

Furthermore, voluntary initiatives typically fail to ensure that the principles that they advocate are upheld in practice. This is an inherent flaw of voluntary initiatives and food companies have already demonstrated their ability to exploit loopholes of voluntary marketing initiatives. Examples include the continued marketing of unhealthy brands under the banner of promoting "healthy messages" as well as nutrient profiling that allows companies to bolster



claims of a product's healthy nature. Overall, we have found that principles under voluntary initiatives are often narrowly conceived, inconsistent across different initiatives, and applied unevenly.

We believe that government regulation is the only feasible approach to reversing the negative public health impact of irresponsible practice of food industry marketing of unhealthy food to children.

Food Should Not Be Marketed to Children

While the food and media industries use the argument that limiting a corporation's ability to market their products is a violation of the First Amendment, this argument conveniently ignores one simple fact: Deceptive advertising is not protected by the First Amendment. If a child cannot understand he or she is being marketed to, what else can this be called other than deceptive?

The scientific literature is clear that at younger ages, children do not have the cognitive capacity to understand that they are being marketed to. Therefore, it's inherently deceptive to market anything to children. Corporate Accountability International is concerned that by setting standards for what can and cannot be marketed to children, the federal government is putting its stamp of approval on the very concept of marketing to children, which is contrary to both science and policy.

While older children may understand they are being marketed to, they are still adversely impacted by such advertising and are also in need of protection. The IWG must also consider that marketing aimed at teenagers is viewed by younger children - appealing indirectly to the under 12 group as they want to emulate older age groups. For instance, tobacco industry marketing icons such as Joe Camel and the Marlboro Man were claimed to appeal to young adults, but in reality it was determined that these branded characters attracted much younger audiences.

Corporate Accountability International is also concerned that by offering up nutrition standards, the food industry will just cleverly figure out how to reformulate its products, thereby creating more processed (with approved nutrients) junk food for kids. This has certainly been the industry approach thus far: finding more clever ways to market to kids as workarounds, as opposed to cutting back on marketing altogether.

Brand Marketing is a Major Concern

Corporate Accountability International applauds the IWG for recognizing that corporations often engage in brand advertising and marketing, without reference to a specific food product. We are very concerned about brand marketing. By its very nature, setting nutrition standards presupposes that brand marketing is insignificant, which is far from true. There are many ways that food companies can and do market brands in the absence of specific food products.

One of the best examples of this is advergames: websites set up by food brands for the purpose of getting children to play games on their site. For example, the website Ronald.com is obviously targeting very young children. And of course, McDonald's aim is to inculcate young vulnerable children with the idea that Ronald is fun, building brand loyalty that lasts a lifetime.

The entire approach by the IWG of setting nutrition standards on what sorts of foods "may" be marketed to children misses this bigger picture: Large food corporations like McDonald's and Pepsi target children with big ad budgets and powerful emotional messages about how to eat, not with grams of fat and milligrams of salt. We recommend eliminating brand marketing targeted to children for those transnational corporations (i.e. McDonald's, Coca Cola and Pepsi) whose portfolio contains a high percentage of junk foods.

Implementation Period is Too Long



Why are companies being given until 2016 (and 2021 for sodium) to comply with voluntary standards? Especially given there are no consequences for non-compliance, any timeline longer than one or two years is too generous. The food industry has had years to get its act together, it's not like this issue is brand new. In fact, in its 2006 report, the Institute of Medicine recommended that Congress step in if industry didn't improve things on their own in two years. Here we are five years later and now the IWG wants to give industry five more years?

Industry Lobbying is a Serious Sign of Bad Faith

For years, both the food and media industries have engaged in a concerted campaign to undermine public policy efforts related to food marketing to children. At the same time, industry has attempted to distract policymakers and the general public with schemes of industry self-regulation. In the meantime, marketing to children has gone along unabated, with the childhood obesity epidemic and other chronic health problems only getting worse.

In recent weeks, the pushback from industry regarding the IWG principles has heated up considerably, with all sorts of misleading claims being made. While talking points like “these are backdoor regulations” makes for a great media sound bite, the industry clearly needs a reality check. As David Vladeck made painfully clear in his public counter to arguments against the IWG standards¹, it has no intension intention to regulate industry, so what exactly is all the complaining about?

This concerted PR and lobbying effort shows us that the food and media industries are not operating in good faith. To the contrary, their aim is to thumb their noses at government and advocates alike, acting like marketing to children is an inalienable right. Food companies and media conglomerates have now banded together to form the “Sensible Food Policy Coalition” for the sole purpose of derailing the IWG effort. Apparently, even the heavy-hitting U.S. Chamber of Commerce has gotten in on the act. According to one account:

Core members of the coalition — including General Mills, Kellogg, PepsiCo and Time Warner — spent \$6.6 million on lobbying in the first quarter of this year, disclosure records show. Overall, records show, the coalition's main members have spent nearly \$60 million on lobbying since the start of the Obama administration².

How are children's advocacy groups supposed to compete with that sort of lobbying muscle? In another 11th hour move, industry released an unpublished, non-peer-reviewed estimate on the IWG's proposed voluntary principles alleged economic impact. How the industry's bought and paid for two-page “report” concluded that 74,000 jobs would be “lost” defies both economics and common sense. Even if industry were to follow the voluntary principles, they can still find ways to spend their marketing dollars; they are very clever that way. History has shown industry just shifts marketing to other forms or media or other targets, they rarely if ever cut their marketing budgets.

But never mind the facts. These are tactics taken right out of Big tobacco's playbook: Mount a massive public relations campaign, buy some science to confuse the issues, and when all else fails, call your friends in Congress.

Children Need Government Protection Right Now

It's troubling that the IWG is considering weakening the standards. If the government is proposing voluntary principles that industry can choose to adopt or not, then why not set a good example and base them on the best public health policy available? Industry already provides us with watered down standards. It undermines the very purpose of having science-based standards if IWG weakens its final recommendations.

¹ David Vladeck, comment on “What's on the table,” Business Center Blog, comment posted July 1, 2011, <http://business.ftc.gov/blog/2011/07/whats-table> (accessed July 14, 2011).

² Senate Office of Public Records Lobbying Disclosure Act Database (Washington, D.C.), <http://soprweb.senate.gov/index.cfm?event=selectfields> (accessed July 14, 2011)



The food industry has demonstrated time and time again that it cannot be trusted. Left to their own devices, the food and media industries will just keep on doing what they do best: targeting children with the most highly processed and nutrient-deficient food products. We have already seen the adverse consequences of an unchecked system: a public health crisis of diet-related diseases among adults as well as disturbing health problems among children.

Make no mistake: inaction now means sentencing yet another generation of children to a lifetime of higher risks for life-threatening illnesses such as heart disease, diabetes, hypertension, just to name a few. Now is not the time to argue over salt and sugar grams. Now is the time for serious action to stop the predatory targeting of children by the food industry, before millions more children become chronically ill from the food they eat.

To the extent that the Federal Trade Commission does not have current authority to regulate food marketing to children, it should ask Congress to take action. To the extent the agency believes there may be First Amendment barriers to such regulation, let's determine which of the most egregious forms of marketing do not deserve free speech protection, even under the current Supreme Court make-up, and start making some sound legal and policy arguments that just might convince the Court that children's health should trump the economic interests of PepsiCo and McDonalds.

It's time for the federal government to take leadership in protecting America's kids and stop protecting an industry that is driving an epidemic of diet-related disease. Because if it doesn't, who will?

