



**NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE**

Thomas Farley, MD MPH

Commissioner

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July 13, 2011

Re: Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts – Marketing Definitions and General Comments; Project No. P094513

To Whom It May Concern:

The New York City Department of Health and Mental Hygiene (DOHMH) is pleased to have the opportunity to comment on the Interagency Working Group's proposal on Food Marketed to Children (FTC Project No. P094513).

We strongly support the Working Group's efforts to reduce marketing of less healthy foods to children and to provide a framework that emphasizes children's health. While we applaud initiatives to reduce the incidence of childhood obesity, we do not believe that marketing food products to children is an effective way to promote healthy eating habits.

The main goal of advertising is to create brand recognition, not necessarily to sell a particular product. Thus, allowing companies to market "healthy" products to children provides an opportunity for companies to reach their target audience and create brand recognition even though the product line may include unhealthy options.

Additionally, there is no standard definition for a "healthy" product. While the Working Group has attempted to set parameters to define healthfulness, this issue is complex. Standards that attempt to capture all food categories inevitably lead to exclusion of some nutritious foods and inclusion of some foods that provide minimal nutritional benefit.

Therefore, DOHMH advocates for no food marketing to children through any venue identified in the proposal including media advertisements, company websites, social marketing and product placement. This restriction would allow product selection to be based solely on information about healthfulness without being swayed by a child's focus on brands and characters. This approach also eliminates the need to define healthfulness (as the proposed voluntary guidelines have attempted to do), which can be problematic and does not always accomplish the stated goal.

While DOHMH advocates first and foremost for no food marketing to children, we recognize the legal challenges inherent to implementing more stringent

July 13, 2011

restrictions under US law. We encourage the federal government to seek opportunities to implement the strongest restrictions that are legally feasible for marketing food to children.

Response to Questions

22 – DOHMH advocates for full implementation by the end of 2012.

In the midst of a severe obesity epidemic, to suggest that a voluntary compliance framework should become effective five years hence is of deep concern. The issue of food marketing to children is not new and industry has had self-regulatory standards since 2006. Many healthier products already exist, and most companies have healthier items in their product portfolios. Industry should start focusing advertising on such products immediately, and compliance should be expected by 2012, including for sodium targets. DOHMH recommends that the final sodium targets be implemented in the same timeframe as other nutrients, by the end of 2012 (see comments on 17A for further information). As industry reformulates products, they will have a wider range of items they would be allowed to advertise under the guidelines.

23 - DOHMH supports the Working Group's comprehensive definition of advertising and marketing activities for both children and adolescents.

DOHMH strongly supports the Working Group's proposed definition for advertising, marketing and promotional activities, which includes: television, radio and print advertising; company-sponsored web sites, ads on third-party Internet sites, and other digital advertising, such as email and text messaging; packaging and point-of-purchase displays and other in-store marketing tools; advertising and product placement in movies, videos, and video games; premium distribution, contests, and sweepstakes; cross promotions, including character licensing and toy co-branding; sponsorship of events, sports teams, and individual athletes; word-of-mouth and viral marketing; celebrity endorsements; in-school marketing; philanthropic activity tied to branding opportunities; and a catch-all other category.

Sincerely,

Thomas Farley, MD MPH
Commissioner

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