



July 14, 2011

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

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

The Food Marketing Workgroup strongly supports the Interagency Working Group's (IWG) proposed nutrition principles for foods marketed to children.

The Food Marketing Workgroup (FMW) includes more than 95 organizations and experts from diverse fields, including child health and development, nutrition, medicine, public policy, media, and marketing. The FMW is dedicated to eliminating harmful food marketing to children by actively identifying, investigating, and advocating changes to marketing practices that undermine children's health.

The IWG's proposed principles are grounded in science, drawing from credible expert sources, including the Food and Drug Administration (FDA), the United States Department of Agriculture (USDA), Centers for Disease Control and Prevention (CDC), and the National Academies' Institute of Medicine (IOM). The IWG's proposed principles are solidly based on the *Dietary Guidelines for Americans* (DGA), the Institute of Medicine's (IOM) Dietary Reference Intakes (DRIs), USDA's MyPyramid, and FDA food-labeling rules (which have been in effect since 1994). Although the *Dietary Guidelines* are recommendations for whole diets, the IWG has done an excellent job translating them to apply to individual foods and meals.

The IWG nutrition principles for marketing to children are much needed. While numerous factors contribute to obesity and children's poor diets, food marketing plays a key role. Based on an exhaustive review of the literature, the IOM concluded that food and beverage advertising affects children's food preferences and choices, diets, and overall health.¹

By developing a pattern of eating low-nutrition foods and consuming too many calories, children increase their risk of developing diet-related diseases, such as heart disease, cancer, and diabetes. A recent study estimated that removing

the advertising and marketing of unhealthy foods and beverages to children on television could reduce childhood obesity rates by 18 percent,² which translates to about 2.8 million fewer obese children.

Each year, food and beverage companies spend approximately \$2 billion marketing their products to children and adolescents (including expenditures for toy premiums with fast-food meals).³ Children ages 2 to 5 years see an average of 10.9 food-related ads per day (an average of 4,000/year), while children ages 6 to 11 years see an average of 12.7 food-related ads per day (an average of 4,700 ads/year).⁴ In addition to television, companies market to children using a wide array of techniques, including through 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, schools, fundraisers, toys, premiums, sponsorship, and more.

Thus far, seventeen companies have agreed to voluntarily participate in self-regulation through the Council of Better Business Bureaus' Children's Food and Beverage Advertising Initiative (CFBAI). The current self-regulatory approach has led to some reductions in unhealthy food marketing to children and product reformulation. However, several studies show that even after the CFBAI was in full effect the vast majority of marketed products were still high in calories, saturated fat, sodium, and/or added sugars and/or low in fruits, vegetables, whole grains, or key nutrients.^{5,6} In 2009, 86 percent of food and beverage ads seen by children were high in saturated fat, sugar, or sodium.⁷

There is a clear need for significant changes in the types of foods that are marketed to children and adolescents if we want our children to be healthy. We applaud the IWG for making children's health a priority and recommending needed changes to food marketing to children. The proposed guidelines would support parents' efforts to feed their children healthfully and would spur many companies to strengthen their policies for food marketing to children and continue to reformulate their products.

The Food Marketing Workgroup respectfully offers some general recommendations concerning the proposed nutrition principles, as well as comments and recommendations to specific IWG provisions.

General Recommendations

Timeline for Implementation

The FMW disagrees with the suggested timeframe for implementation of the proposed nutrition principles. There has been a great deal of attention to the issue of childhood obesity over the last decade and to food marketing to children over the last five years or so. Given that attention, many food companies have been reformulating their products and have adopted policies

for food marketing to children. Individual companies and the CFBAI have been strengthening their policies over time. Companies that have chosen not to take meaningful steps should not be rewarded with an overly generous timeframe for implementation.

The problem of childhood obesity is dire. The effect of childhood obesity on the nation's health and health care costs calls for immediate action. Giving companies ten years to fully comply with the nutrition principles would mean that a whole generation of children would miss out on the positive benefits offered by the IWG recommendations. In addition, nutrition standards for foods marketed to children should be held to as tight a timeline as standards for school meals, menu labeling, and other nutrition and obesity prevention policies. Childhood is too short for the nation to wait so long for companies to make meaningful and achievable changes to their food marketing practices.

The FMW urges the IWG to use a two-year timeframe for implementation of the nutrition principles, with an exception for the sodium standard. We recommend a five-year timeframe for the final sodium standards, with a two-year benchmark for phasing-in the sodium standards.

Food Categories Most Heavily Marketed to Children

The IWG should make it clearer that the proposed nutrition principles apply to *all* foods marketed to children, not just to those foods that fall into the ten categories most heavily marketed to kids. However, we agree that companies should especially focus on and start with the ten categories of foods most heavily marketed to kids in their marketing and reformulation efforts.

While companies are currently marketing certain products more frequently than others that mix of products might change if the IWG principles applied only to specified foods. It is essential that all foods and beverages marketed to children meet nutrition standards. Also, it would be unfair if some companies were urged to apply the nutrition standards to their products and others were not.

Recommendations on Specific IWG Nutrition Principles

Nutrition Principle A: Meaningful Contribution to a Healthful Diet

The FMW supports the IWG's proposal to use a food-based approach to ensure that the foods marketed to children help them to achieve a healthful diet. By emphasizing foods that make a meaningful contribution to a healthful diet, the proposed principles stay true to the basic premise of the *Dietary Guidelines for Americans*: that nutrient needs should be met primarily by consuming nutrient-dense foods. In addition, this proposal is consistent with other evidence-based recommendations, including the IOM's *Nutrition Standards for Foods in Schools: Leading the Way toward Healthier Youth* report.⁸

Individual Foods, Main Dishes, and Meals. The FMW agrees with the IWG's proportionate increase in, and recommended amounts of, food group contributions for main dishes and meals. Those recommendations should help to ensure that meals and entrée-type products contribute to healthy eating patterns and include more of the foods children typically under-consume, such as fruits, vegetables, and whole grains. *[Answers questions #6 and #8 in Questions for Comment]*

Food Categories

Protein Group: The FMW disagrees with the food groups identified by the IWG. The proposed food groups are inconsistent with MyPlate and the *Dietary Guidelines for Americans*. By creating separate categories for 1) fish, extra lean meat, and poultry, 2) eggs, 3) nuts and seeds, and 4) beans, the IWG overemphasizes protein, which is not a nutrient of public health concern for today's children. **The FMW recommends that the IWG combine fish, extra lean meat, poultry, eggs, nuts, and beans into one category, just as in MyPlate and the DGA.**

Furthermore, the proposed approach dilutes the importance and likely contribution of the other key food groups -- fruits, vegetables, whole grains, and low fat dairy -- that are under-consumed by children. For example, if a children's meal met the food group principle by providing an egg, a lean meat, and nuts, it would not need to provide any food from a food group that the *Dietary Guidelines* encourages more consumption of by children. *[Answers question #9]*

Fruit Juice: Although it is not nutritionally ideal, the FMW agrees that fruit or vegetable juice should count toward the fruit or vegetable food group in Principle A. **However, we recommend that the IWG make it clearer that only real juice counts. IWG should specify that companies can market products that are 100 percent juice or 100 percent juice diluted with water or carbonated water, but not juice drinks with added caloric or non-caloric sweeteners.**

Children do not consume the recommended amounts or variety of fruits and vegetables. They consume more fruit juice and less whole fruit and more starchy vegetables and less dark green and orange vegetables and legumes than recommended.⁹ Fruits and vegetables are nutrient-dense foods and are often excellent and/or good sources of dietary fiber, potassium, and vitamins A and C.

Children who consume more sugar-sweetened beverages, including sugary fruit drinks, consume more calories (about 55 to 190 per day) than kids who drink fewer soft drinks^{10,11} and are more likely to become overweight.¹² Sugar-sweetened beverages (sodas and fruit drinks combined) are the biggest single source of calories and added sugars in children's diets.¹³ Increases in children's

calorie intake during the 1990's were driven by increased intakes of foods and beverages high in added sugars.¹⁴

A study conducted by the Harvard School of Public Health found that for each additional serving of soda or juice drink a child consumes per day, the child's chance of becoming overweight increases by 60 percent.¹⁵ Numerous other studies have associated increased consumption of sugary drinks with overweight/obesity or weight gain. Consumption of soft drinks can displace healthier foods from children's diets, like low-fat milk, which can help prevent osteoporosis.^{16,17,18,19}

Fried Foods: The FMW recommends that the IWG explicitly exclude deep-fat fried foods from contributing to the positive nutritional value standard. The proposed principles specify that the meat that provides the positive nutritional value be extra lean and the dairy be low in fat. Similarly, the principles also should ensure that the poultry, fish, vegetables, or other foods not be deep-fat fried. Fried foods, such as chicken, chips, and French fries²⁰, are major sources of calories in children and adolescent's diets.²¹ Fried foods are often calorically dense and high in total calories and saturated fat.

Water: The FMW urges the IWG to indicate that water is exempt from Principle A. Water does not contribute to any of the MyPlate food groups, but it contributes to health. The IWG should specify that qualifying water beverages can be naturally flavored or carbonated, as long as they contain no added natural or artificial sweeteners. Given concerns about obesity and the public health necessity for Americans to switch from high- to low-calorie beverages, the IWG might consider allowing low-calorie beverages (beverages with less than 20 calories per package²²) to be marketed to adolescents.

Options for Quantifying a Meaningful Contribution to a Healthful Diet

The FMW strongly recommends Option 2 over Option 1, except in the case of whole grains. Option 2 bases minimum contributions to food groups on serving sizes. This approach is consistent with food group recommendations in the *Dietary Guidelines for Americans* and MyPlate. Both make food group recommendations based on household measurements, such as cups and ounces. It is difficult to translate those serving size recommendations into meaningful percentages.

In addition, it can be hard to determine a product's ingredients by percentages, as is proposed under Option 1. Even if one can, it is difficult to understand how those percentages relate to the food group serving size recommendations used in the DGA and MyPlate. For example, under Option 1, a tablespoon of ketchup that is made up of 50 percent tomatoes would qualify as a vegetable. Despite its classification as such according to the Regan-era USDA, the FMW does not

think ketchup should qualify as a vegetable as it does not make a meaningful contribution to a child's vegetable intake. Likewise, a few tablespoons of yogurt dip with fruit in a restaurant children's meal would not do much to help a child meet the recommended servings of dairy.

Use RACCs. We support the IWG's proposal to use the Reference Amount Customarily Consumed (RACC) to determine the minimum contribution that a food group would need to make in order to satisfy Principle A for an individual food. We also support the use of RACCs as proposed for Principle B. Basing the nutrition principles on RACCs helps to standardize the nutrition recommendations between products and between companies, adjusting them to standard serving sizes. Although the concept of RACCs may be unfamiliar and confusing to the general public, the target audience for the IWG recommendations is the food industry. RACCs are a consistent standard with which food manufacturers are familiar and with which the country has over fifteen years of experience through food labeling. We do, however, urge the FDA to update the RACCs to make them more consistent with the portion sizes that Americans typically consume (we understand that the FDA is doing that).

Whole grain recommendation should be as a percentage. The FMW urges the IWG to base its whole grain recommendation on a percentage of total grain in a food, as per Option 1. As recommended, at least 50 percent of the grain in a product should be whole grain to satisfy Principle A.

The *Dietary Guidelines for Americans* recommends that people limit refined grains and consume at least half of their total grains as whole grains. To address both of the components of this recommendation, grain recommendations need to be made as a percentage. Encouraging half of grains to be whole, can help people not only increase whole grain intake, but also encourage them to replace some of the refined grains they are eating with whole grains. It would be inaccurate to translate the grains recommendation into ounces of whole grain. For example, if a person is already eating 6 ounces of grain a day, they would not meet the DGA recommendation by eating an additional 3 ounces of whole grains.

In addition, a recommendation based on ounces (or grams), rather than on a percentage, of whole grains could lead to less desirable product reformulations. For instance, under Option 2, a company might add more total grains to a product or meal in order to meet the whole grain minimum, resulting in the product containing more refined grains (and calories). For example, in the case of a typical (43 gram) hamburger roll, a company could meet the whole grain principle (0.75 ounces/21 grams) by making half the grains in the roll whole grains. Alternatively, the company could choose to replace the original roll with a larger roll containing a lower percentage of whole grains (thus, a higher percentage of refined grains) instead. A larger, 65-gram roll could provide the minimum 21 grams of whole grains, while also providing more refined grains and calories.

Wheat bran and germ are what are removed when whole grain is refined and are rich sources of beneficial fiber and nutrients. The FMW urges the IWG to allow companies to count bran as a whole grain, allowing products such as bran cereals (which contain an appropriate amount of bran or bran plus whole grain) to fulfill the Principle A whole grain requirement.

The FMW also urges the IWG to allow products listing a whole grain as the first ingredient to fulfill the IWG's whole grain recommendation. As you know, food manufacturers are required to list ingredients on food labels in descending order of predominance by weight. Thus, the first ingredient in a product is the one that is present in the highest quantity.

Nutrition Principle B: Nutrients with Negative Impact on Health or Weight

The FMW strongly supports the IWG's assertion that, in addition to making a meaningful contribution to the diet, foods that are marketed to children also should contain limited quantities of nutrients that could negatively impact children's health and weight. We also agree with the IWG that the four most important nutrients to limit are sodium, saturated fat, trans fat, and added sugars.

Naturally Occurring Negative Nutrients

The FMW agrees with the IWG's proposal to provide a general exclusion for nutrients naturally occurring in foods that count toward Principle A from the proposed limitations in Principle B. Thus, for instance, the natural trans fat in extra-lean animal foods would not be counted against the trans-fat limit.

Calorie Principles

The FMW strongly urges the IWG to include calorie limits for individual food items, main dishes, and meals for children and adolescents as part of the final nutrition principles. *[Answers questions #4 and #12]*

The IWG makes clear that obesity is one of the key issues that the marketing principles are meant to address. Calories are the key dietary contributor to obesity. The DGA stresses the importance of energy balance for weight maintenance and underscores the fact that obesity results from caloric imbalance, not nutrient imbalance. Furthermore, the charge of the IWG in the 2009 Omnibus Appropriations Act requires the IWG to consider calories, among other factors.

Given the wide range of calorie needs for children and teens, we urge the IWG to set calorie standards for both children and adolescents. We recommend the following:

Recommended calorie limits for children (ages 2-11 years):

- No more than 150 calories per serving as packaged or offered for sale for individual food and beverage items,
- No more than 350 calories per serving as packaged or offered for sale for main dishes (meal calories minus one side), and
- No more than 500 calories per meal.

Recommended calorie limits for adolescents (ages 12-17 years):

- No more than 200 calories per serving as packaged or offered for sale for individual items,
- No more than 450 calories per serving as packaged or offered for sale for main dishes (meal calories minus one side, and rounded), and
- No more than 670 calories per meal.

Our recommended calorie limits for children were determined by dividing the mean average total calorie needs per day for sedentary children ages 4-8 years old (1,500 calories, as recommended by MyPlate, the DGA, and in the Dietary Reference Intakes), by three meals per day. Our rationale for choosing 4- to 8-year-olds is based on findings from the Rudd Center's Fast Food F.A.C.T.S. report showing that children's meals are most often purchased for children under the age 6.²³

Our recommended calorie limit for individual items for adolescents is based on recommendations made by the Alliance for a Healthier Generation²⁴ and the Institute of Medicine.²⁵ Our recommended calorie limit for meals for adolescents was determined by calculating one-third of a 2,000 calorie diet.

Furthermore, the IWG should clearly state that the calorie standards apply not only to the products being marketed, but also to depictions of those products in advertising and marketing, such as the serving sizes shown in television and print advertisements. Industry should ensure that portion sizes of foods and beverages depicted in advertisements and other marketing meet the calorie standards.

Saturated and Trans Fats

The FMW supports the IWG's proposed principles for trans and saturated fats. Saturated and trans fats are key dietary contributors to heart disease and should be limited in children's diets, as recommended by the *Dietary Guidelines*.

Added Sugars

The FMW supports the IWG's proposal to include added sugars among the specified nutrients to limit and agrees that the proposed nutrition principles should establish parameters for added sugars rather than for total sugars.

The DGA recommends that children reduce their intake of added sugars. Whereas naturally occurring sugars in fruit and dairy foods are accompanied by nutrients, added sugars provide additional calories without nutrients, or dilute the overall nutritional quality of diets, and contribute to overweight and obesity. Yet, many products marketed to children contain excess amounts of added sugars.

We support the IWG's reasonable proposal of no more than 13 grams of added sugars per RACC, including an adjustment for small RACCs. Seventy-five percent of the products that companies have listed as approved for marketing to children through their Children's Food and Beverage Advertising Initiative pledges meets that standard. Also, the standard is considerably more generous than the sugars criteria for the WIC food packages (which is 6 grams of *total* sugars per ounce of dry cereal).

Further, the cereal industry already has demonstrated progress in lowering the amounts of added sugars in products marketed to children. General Mills, for example, has significantly reduced the sugars in the cereals it markets to children - down from 12 to 15 grams per serving to 10 or 11 grams per serving and has publicly committed to reducing the sugar content down to no more than 9 grams per serving. Reaching 8 grams per ounce of dry cereal (as proposed by IWG) should be achievable.

The FMW recognizes that most of the CFBAI pledge-approved cereals would not meet the IWG's proposed sugars standard without reformulation. However, CFBAI companies also make cereals that do meet the IWG standards, including Frosted Mini-Wheats, Life, Honey Bunches of Oats, Gluten Free Rice Krispies, Kashi Honey Puffs, Honey Sunshine, and Oatmeal Squares (though those cereals currently are not being marketed to children).

Given the fact that added sugars are not listed separately from total sugars on food labels, the FMW recognizes the potential difficulty in assessing compliance with proposed quantitative limits on added sugars. **We recommend that the FDA work to require that added sugars be listed on Nutrition Facts labels.**²⁶ In the meantime, companies will be able to assess the amount of added sugars in their own products. Others can roughly estimate added sugars based on total sugars and ingredients lists or ask the manufacturer for added sugars information.

Sodium

The FMW applauds the IWG for recognizing the importance of reducing sodium intake by children and adolescents and strongly supports the IWG's assertion that the food industry should work to significantly reduce the amount of sodium in food products marketed to children over time. We support the IWG's long-term goal of achieving a sodium limit for individual foods marketed to children that parallels federal labeling rules for low sodium (140 milligrams per

RACC). We also support the interim benchmark of 210 milligrams (mg) of sodium per serving for individual foods. *[Answers question #17]*

We make the following recommendations for the sodium principles for main dishes and meals:

Main dishes:

- We support the longer-term standard of 300 mg of sodium for main dishes marketed to children.
- **We urge the IWG to adjust the interim target for main dishes to 480 mg, rather than 450 mg as proposed.** Since 480 milligrams is the standard for healthy claims, many companies have already undergone significant product reformulation to meet that criterion. The difference between 450 and 480 mg of sodium is minor nutritionally, and the costs associated with reformulation would not be worth the effort.

Meals:

- Meals contain more food items than main dishes and therefore should be afforded a higher sodium limit than main dishes. We suggest an interim target of 600 mg, and a final target of 480 mg. A number of children's meals already meet the 600 mg benchmark, including some of the meals marketed by Burger King, McDonald's, Kraft (Lunchables), and ConAgra (Kid Cuisine frozen dinners).

Timeframe: We support a phase-in for sodium limits, which would allow time for consumers to adjust their taste preferences and companies to reformulate their products. As discussed above, we oppose the IWG's proposed timeframe for achieving both interim and final sodium levels. **Given the high levels of sodium consumption and the public health impact of high sodium intake, the FMW strongly urges the IWG to modify the proposed implementation timeframe.** We suggest a five-year timeframe for full implementation of the final sodium principles, with a two-year timeframe for the proposed interim levels.

Rationale: Analysis of the products that CFBAI-participating companies list as approved to market to children revealed that two-thirds meet the IWG's proposed interim sodium standards. What's more, if the IWG accepts the FMW recommendations to change the sodium standard for main dishes to 480 mg and adds a standard for meals, 80 percent of CFBAI-approved products would meet the interim sodium standards.

In January 2011, Walmart (joined by First Lady Michelle Obama) unveiled a new initiative to provide its customers with healthy, affordable food choices, including reformulating thousands of products to reduce sodium content 25 percent by 2015. Walmart announced that it will work with suppliers to reduce sodium levels in both national brands, as well as in its private Great Value

brand. Several other major food manufacturers and chain restaurants also have announced plans to, or already have, cut sodium in their products, including Burger King, Campbell Soup Company, ConAgra, General Mills, Nestle, PepsiCo/Frito-Lay, and Unilever. For example, General Mills has reduced the sodium content of Cheerios breakfast cereal. According to the company, it reduced the sodium content in Cheerios by more than half - from 330 mg per ounce in 1983 to 160 mg in 2007.

We recognize that many child-marketed products will need to be reformulated to meet recommended sodium goals. However, those goals are achievable and - considering the great harm caused by diets high in sodium - are crucial to safeguarding children's health. The DGA and the Dietary Guidelines Advisory Committee report lay out the evidence demonstrating that increased sodium intake raises blood pressure and that elevated blood pressure causes cardiovascular disease. Currently, one in three (approximately 74.5 million) Americans suffers from high blood pressure.²⁷ A national public health strategy to reduce daily sodium intake by 1,200 milligrams could reduce the annual number of deaths from heart disease, stroke, and heart attack by 150,000 and reduce health care costs by \$1.5 trillion over 20 years.^{28,29} Importantly, higher sodium intake boosts blood pressure even in young children and adolescents. It is never too early to begin decreasing dietary sodium.

As the DGA points out, only a modest amount of the total sodium Americans consume comes from salt added at the table or in cooking; “the vast majority of sodium comes from salt added during food processing” (page 21). In fact, salt added by food manufacturers during food processing accounts for more than three-quarters of total sodium intake among Americans ages 2 and older.³⁰

Sodium content in different brands of the same processed and restaurant foods varies widely, even among similar products. Those variations indicate that it is often possible to reduce substantially the sodium content in many foods and still have the food be palatable and the company or restaurant be profitable. The chart below gives several examples.

Salt Content of Foods

Item	Serving Size	Sodium (mg)	Sodium mg/100g of product	Increase in sodium over first listed item
Crackers, Cheez-It type				
Sunshine Cheez-Its Baked Snack	27 crackers (30g)	230	767	N/A
Late July Cheddar Cheese Bite-Size	13 crackers (28g)	310	1,107	44%
Barbara's Cheese Bites	22 crackers (28g)	380	1,357	77%
Pizzas, Pepperoni, Hand-Tossed				
Little Caesar's	120g	520	433	N/A
Pizza Hut	134g	960	716	65%
Breakfast Cereals				
Barbara's Honey Nut O's	30g	75	250	N/A
General Mills Frosted Cheerios	28g	190	607	128%
Potatoes, Fried (French Fries, Medium)				
McDonald's	117g	270	231	N/A
Burger King	116g	670	577	250%
Arby's Curly	170g	1,550	911	395%

Source: Adapted from *Salt Assault: Brand Name Comparisons of Processed Foods*, Center for Science in the Public Interest³¹

Average sodium intake for all Americans ages 2 years and older is 3,400 milligrams -- nearly 1,000 milligrams more than the Tolerable Upper Limit Level (UL) for Americans ages 14 years and older³² (and 3,400 mg is an underestimate of true sodium intake, because people underestimate food intake³³). According to the DGA, fewer than 15 percent of all Americans currently consume less than the 2,300 milligrams UL for sodium.

Taste preferences are developed at a young age. Children who become accustomed to high levels of sodium in processed and restaurant foods may experience a lifetime of difficulty adjusting to foods with healthier levels of sodium. However, the preference for salty taste can be changed. Evidence shows that a decrease in sodium can be accomplished successfully without affecting consumer satisfaction of food products, if it is done in a stepwise manner that systematically and gradually lowers sodium levels.³⁴

The FDA Definition of Healthy Is Out of Date

Some representatives of the food industry have suggested that the IWG use the FDA food labeling criteria for "healthy" in place of the IWG's proposed nutrition standards for food marketing to children. The FMW strongly disagrees.

The FDA definition of "healthy" for food labeling purposes requires a food to be low in fat and saturated fat and contain limited amounts of sodium and

cholesterol (as specified in 21 CFR 101.65 (d) of the Code of Federal Regulations). Additionally, with the exception of fruits, vegetables, and cereal grains, foods also must provide at least 10 percent of the Daily Value for one or more of the following nutrients: vitamins A or C, calcium, iron, protein, or dietary fiber.

The criteria for “healthy” were developed for the general adult population. The IWG has clear direction from Congress to develop nutrition criteria for children, addressing their unique nutritional needs. In addition, the criteria for “healthy” are out of date with current nutrition science and dietary recommendations. For example, the “healthy” claim includes limits on total fat, which the DGA no longer stresses, and it does not address trans fat. Further, the nutrients emphasized by the “healthy” definition are no longer the key nutrients of public health concern for children (or adults). The current *Dietary Guidelines* advise that children increase their intake of potassium, calcium, dietary fiber, and vitamin D. While the criteria for “healthy” require the presence of calcium or fiber, they also emphasize vitamins A or C, iron, and protein.

Conclusion

In closing, we commend the Interagency Working Group for developing strong, science-based recommendations to encourage meaningful advances in industry self-regulation of food marketing to children. We thank you for taking up this important charge and look forward to your response to our recommendations to clarify and strengthen the nutrition principles and to the release of the final recommendations by the end of 2011.

Respectfully,

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July 14, 2011

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

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

The Food Marketing Workgroup strongly supports the Interagency Working Group's (IWG) proposed marketing definitions for foods marketed to children.

The Food Marketing Workgroup (FMW) includes over 95 organizations and experts from diverse fields, including child health and development, nutrition, medicine, public policy, media, and marketing. The FMW works to eliminate harmful food marketing—particularly marketing aimed at those who are most vulnerable to obesity and other nutrition-related diseases—by actively identifying, investigating, and advocating changes to marketing practices that undermine health.

We applaud the Interagency Working Group for making children's health a priority and recommending strong definitions for advertising and marketing food to children. The IWG's proposed guidelines will help to support parents' efforts to feed their children healthfully and spur many companies to strengthen their marketing policies and continue to reformulate their products.

The FMW supports the IWG's comprehensive view of marketing to children

The proposed definitions will help to address one of the key shortcomings of current self-regulatory efforts; companies do not cover all types of media platforms in their marketing policies. The IWG proposal will provide a comprehensive set of marketing definitions to help guide companies as they develop or update their self-regulatory policies.

The IWG proposal also will help to provide consistent model definitions of which media should be considered as directed toward children. Although the Council of Better Business Bureaus' Children's Food and Beverage Advertising Initiative (CFBAI), has provided a framework and criteria for marketing definitions for

participating companies, the IWG proposed definitions provide companies with additional guidance and a stronger model.

Industry has shown an interest in and commitment to being a part of the solution to addressing child nutrition and obesity

While the IWG standards will be voluntary, the FMW is confident that industry has the knowledge, resources, and drive to make changes to their food marketing policies and products for the benefit of children. The 17 members of the CFBAI have already shown that adopting standards for advertising and marketing foods and beverages to children is not only the right thing to do for American families, but also is achievable from a business standpoint. The proposed standards only strengthen this intent and would improve outcomes for children because of they address key weaknesses in the current self-regulatory system and would apply the best science on nutrition and on marketing.

Not only does industry have the technical and financial wherewithal to make the adjustments necessary to adopt the IWG's standards, but, from the quotes below, it is clear that industry has the drive to do so as well. Indra Noovi, PepsiCo Chairman and Chief Executive Officer, indicated such commitment when she said, "We need a guiding coalition in which individuals, companies, health agencies, consumer groups and governments all take on their appropriate responsibilities. Major food companies such as PepsiCo are in a unique position to be leaders in health and wellness because of our resources, brands, research and development capabilities, consumer reach, and logistics expertise."¹ Similarly, when it made its pledge to participate in the CFBAI, Post Foods acknowledged "the importance of responsible marketing to children and has developed this Pledge to publicly demonstrate our continuing commitment to meet the high standards set forth herein"² Because the IWG standards address several problems that have emerged in the CFBAI, Post and other companies will be able to achieve their goals more effectively under the proposed standards. As the Kellogg Company noted, "The food industry continues to face ever-greater social challenges, such as feeding a growing population, battling world hunger, improving nutrition and addressing the obesity epidemic. These have been historically—and will continue to be—key concerns for Kellogg."³ The consistent nutrition standards and media definitions proposed by the IWG would help Kellogg in more successfully address the obesity epidemic.

We all have a special responsibility when it comes to children, especially those who are communicating with them directly. Industry leaders agree, otherwise they wouldn't have formed the CFBAI. As ConAgra put it, "As a leader in the food industry and commercial food service, ConAgra Foods has a special responsibility to schoolchildren to provide healthy options and accurate nutritional information...In addition, we take care in our promotions to children and their parents. We are committed to responsible and truthful advertising and hold

ourselves and our agencies to the highest standards. ConAgra Foods has a long-established commitment to marketing its products responsibly, including those marketed to families and children under 12 years of age.”⁴ Using the IWG voluntary standards, ConAgra will indeed be able to hold itself and its agencies to a higher standard. We expect nothing less when children’s health lies in the balance.

The IWG proposal is consistent with its congressional directive

Some members of the food and advertising industries have asserted that the proposed marketing standards do not meet the congressional directive in the 2009 Omnibus Appropriations Act (H.R. 1105). The FMW strongly disagrees. The legislation directed the IWG to conduct a study and develop recommendations for voluntary food marketing standards to guide industry in determining which foods are appropriate to market to children. The legislative report language clearly states that the objective of the law was the development of model marketing standards -- the law lays out a number of considerations for the IWG to address in developing the standards, including a detailed list of dietary factors and nutrients for the IWG to consider. The law requires the IWG to submit to Congress a report with recommendations for food marketing standards -- not a general study or literature review on food marketing, which the Institute of Medicine (IOM) has already done. Conducting a general study on food marketing -- as industry suggests -- would be redundant and would not fulfill the requirement from Congress.

The FTC has conducted two studies examining industry expenditures and self-regulation of food marketing (FTC, 2008⁵ and the soon-to-be-released report in 2011) and, in conjunction with the Department of Health and Human Services, in 2005, convened a 2-day workshop on Marketing, Self-Regulation, and Childhood Obesity⁶, which led, in 2006, to a jointly produced report⁷. In addition, several non-profit organizations, including the Kaiser Family Foundation⁸ and the Center for Science in the Public Interest⁹ have conducted careful reviews of the literature, as have academic institutions, such as the Rudd Center for Food Policy and Obesity at Yale University¹⁰ and the Center for Social Marketing at the University of Strathclyde in Glasgow, UK¹¹. Decades of research are summarized by these and other organizations and led to the development of several sets of recommendations for improving food marketing practices to children. Several reports recommend that industry should develop a consistent set of nutrition standards for food marketing to children and that companies should apply those standards to all forms of media used to market foods to children.

It is clear from the proposed recommendations that the IWG has conducted a careful study; the proposed standards are strongly based in science and consensus nutrition recommendations.

The IWG proposal does not require review by the Office of Management and Budget (OMB) or a cost-benefit analysis, as some industry representatives have claimed. OMB review and a cost benefit study would be needed for mandatory marketing standards. However, they are not required, necessary, or appropriate for voluntary standards, which companies can choose to follow or not.

The Food Marketing Workgroup respectfully offers some general recommendations concerning the proposed marketing definitions, as well as comments and recommendations to specific IWG provisions.

General recommendations

IWG should publish a set of marketing definitions

The FMW supports the IWG's proposal to define marketing to children according to the existing definitions developed by the FTC for the 2006 and 2009 expenditures studies (as laid out in *Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation*, Appendix B), with a few exceptions as noted below. **However, the FMW strongly recommends that the IWG adapt those to develop a set of model definitions that can be easily adopted by companies and incorporated, as is, into company self-regulatory policies.**

The definitions in the expenditure report were developed and written for a different purpose than the model IWG marketing definitions. The expenditure report definitions aim to capture the funds already spent by the food industry on marketing to kids. The goal of the IWG recommendations is to provide clear definitions of child-directed marketing to help companies decide where they should advertise and market in the future. For example, the language in the FTC subpoenas directs companies to "report television advertising expenditures if any of the following apply." In a company marketing policy that might read, "Television advertising is considered to be directed at children if any of the following apply." In addition, the language used in the FTC subpoenas is in past tense, whereas language used in a marketing policy would be oriented toward the future.

Another example is that the IWG should remove statements about what to include in expenditure calculations, and instead focus on what should be considered food marketing. Statements such as the following could be removed: "For purposes of reporting expenditures in this category, include all costs of developing and producing the product packaging and labeling (excluding any costs of fulfilling labeling requirements of the Food and Drug Administration)".

Some types of marketing are not well captured in the existing FTC marketing definitions, because they are not marketing expenditures. For example, children's meals at restaurants are a method of marketing to children, which are

not included in the FTC expenditure report, but should be included in the IWG definitions. Kids' meals are a type of marketing, but are not a marketing expenditure. The definitions also should clearly include toys and other premiums used to promote children's restaurant meals.

If the FTC's current definitions were in the final recommendations without adaptation, a company seeking to adopt the standards would have to substantially edit them to make them suitable to incorporate into its marketing policy. This would create a barrier to industry adoption of the standards, add to the work of drafting a policy based on the IWG model definitions, and could lead to different interpretations of the definitions, which would reduce the ability of the IWG model definitions to increase uniformity between company policies.

The IWG should consolidate the marketing definitions, to the extent possible, by merging similar marketing categories. For example, other Internet advertising (INTERNET AD) could be combined with company-sponsored Internet sites (WEBSITE AD); sponsorship of sports teams or individual athletes (ATHL SPON) could be merged with promotion or sponsorship of public entertainment events (EVENTS); and viral marketing (VIRAL) could be added to other digital advertising (DIGITAL AD). It is useful to have marketing expenditures broken out into many categories for reporting purposes to allow an analysis of spending on each. However, for marketing definitions in a model or actual food marketing pledge, such distinctions are not necessary. By combining similar categories, the definitions would be more succinct and easier to read and use.

Integrated marketing

Contemporary marketing campaigns employ an integrated marketing communications strategy. Campaigns encompass “every form of communication to customers,” coordinating messages across platforms, such as television, the Internet, mobile phones, etc.¹² Integrated marketing communications strategies include creating special products⁶ and packaging⁷ for children; adjusting price points so products are affordable to children and youth with limited budgets; making products available in the places frequented by children and youth; and conducting promotions so that young people will remember, prefer, and select company brands.

This marketing strategy is particularly well suited to exploit the media habits of today's young people, who often “multi-task,” and consuming multiple media at once. The total media exposure, including simultaneous use across media, for youth ages 8 to 18 increased from eight hours and 33 minutes per day in 2004 to ten hours and 45 minutes a day in 2009.¹³ Children and adolescents watch TV for four hours and 29 minutes per day, and spend an average of one hour and 29 minutes daily on computers outside of schoolwork, a three-fold increase since 1999.¹⁴

New techniques of digital marketing have enhanced the reach and engagement of integrated marketing communications. A current campaign advertising Kraft Foods' sugar-sweetened beverage Capri Sun illustrates the concept.

The Capri Sun campaign began with a series of traditional 30-second television commercials featuring "11 naughty kids who disrespected the pouch"¹⁵ by hitting the Capri Sun pouch with a Wiffle ball bat, using it to play fetch with the dog, burying it in the sand, and other such indignities. In the ad, each child is "punished" according to the act of disrespect, e.g. by being turned into a bobblehead, a dog's toy, or a sandcastle. The ads end by featuring a URL to the company branded website, Respectthepouch.com.

Once on the visually rich and interactive website, children can follow the 11 youngsters who were turned into a "disrespectoid" character in the TV commercial. The Capri Sun branded site hosts:

- avatars of the 11 Disrespectoids;
- advergames based on the TV commercials;
- a series of 10 cartoon "webisodes" which extend the Disrespectoids' stories;
- cartoons children can watch and rate;
- a choose-your-own-ending contest, where players can win \$2,000 sports tickets; and
- a viral "warn a friend" feature that children can use to send links to the site through their personal social network with new games, cartoons, and characters to entice children to return to the site.

The Disrespectoids advergame was specifically designed to "appeal to 8 to 10 year olds while remaining accessible to children as young as six."¹⁶ For example, the advergames are distributed on third-party websites, such as Nick.com and CartoonNetwork.com.

Integrated communications marketing works. Children have viewed 2.4 million cartoon episodes and played 8 million Disrespectoid advergames. New visitors to Respectthepouch.com have averaged 16 minutes per visit, while return visitors spent 49 minutes on average.¹⁷ While the campaign has not released sales data, the marketers claim that the Capri Sun's "equity index" increased against its competitors.¹⁸ On Youtube, children have sent in more than 400 user-generated videos in which kids mimicked the disrespectoid process.¹⁹ Each of the digital techniques offers Kraft the opportunity to track the online behavior of visitors to the site; such data can be used for further highly targeted marketing.

Moreover, research conducted across a variety of media (i.e., TV, websites, digital advergames and product packaging) demonstrates that such marketing affects children and adolescents. Young people's exposure to food and beverage

marketing affects their preferences for the branded products. Research on TV advertising alone shows that exposure affects young people's consumption of the marketed products,^{20,21,22} and influences their food and beverage purchasing patterns even five years after the initial exposure.¹⁶

Marketing food and beverage products on television is part of an integrated marketing mix that increasingly includes "cross-platform" ad buys and campaigns, combining mobile, Internet, and other digital venues.²³ "Advertisers are adamant that kids' networks employ multiplatform strategies that include TV, online, smartphones, and tablets," explained *Ad Age* recently. "Sponsors want to reach children and tweens wherever they access content.... In today's digital age children view content on multiple screens, and advertisers want networks to be on all those platforms with their content, engaging youngsters with apps that can be ad-supported."²⁴ Networks such as the Cartoon Network are gaining new ad revenues by offering advertisers the opportunity to market simultaneously on both TV and [online] "digital platforms."²⁵

In the multi-platform environment that is emerging, video is increasingly viewed online, via the Internet and on mobile devices. As Nielsen noted, for youth growing up in the digital era, "there has always been an Internet" -- with the majority of U.S. homes having Internet access. "Three-screen lifestyles (TV, Internet, mobile) predominate," with so-called "time-shifting" a norm (made possible by the growth of digital video recorders and similar services).²⁶ Adolescents 12-17 have been the leading group watching videos on their mobile phones, averaging some 19 minutes per week in the third quarter of 2010.²⁷ The TV industry is currently working with advertisers and others, via the Coalition for Innovative Media Measurement, to refine how it measures the impact of multi-screen viewing for both content and ads.²⁸ The ability to deliver highly targeted and localized digital video advertising online is increasing the number of ads for food and beverage products and services.

Increasingly, ads for video are delivered seamlessly across many platforms. Online video advertising is now bought and sold through "self-service" platforms operated by Google and others.²⁹ Research done by Google on the "Impact of YouTube Homepages on Brand Engagement," for example, reported a "significant increase in engagement" for ad brands, with "exposed consumers 4 times more likely to visit the advertisers site, search for the brand" or engage in other favorable to the brand behavior.³⁰ Research done for a Coca-Cola campaign also conducted by Google, for example, found "that cross-media campaigns have a greater effect than single-media campaigns, and Internet use has a direct impact on purchasing decisions.... [T]he interplay of TV advertising and the YouTube video ads proved to be the most effective on sales, with consumers who saw the advert on TV and on YouTube within a week, demonstrating a 97 percent higher purchase rate."³¹

Social media in cross-platform marketing is playing an important role to promote programs for television and help determine the costs of commercial time paid by

advertisers, or to evaluate how much a program really delivers for advertisers across the video viewing landscape.³² The ability to establish “social media buzz” and other favorable viewer reactions is helping add “billions” of dollars to the TV ad business, the *Wall Street Journal* recently explained. Advertisers have adopted “[e]laborate models that monitor conversations across online social networks and video sites” to evaluate, for example, how an ad on a TV program may favorably influence its audience online.³³

According to a 2010 presentation made to the Advertising Research Foundation’s Youth Council, “kids’ purchasing influence is expanding: \$700 billion (2009) in comparison to \$50 billion (2000).”³⁴ The children’s TV market for ad sales in 2011-2012 was recently described as “hectic,” with spending predicted to be “beyond the \$1 billion mark.”³⁵ *Adweek* described Nickelodeon as “flush with toy, studio and food dollars.”³⁶ Increased consumer spending for toys is also generating additional revenues for youth-oriented programming.

In its final recommendations, **the IWG should recognize and clearly address the overlapping and interconnected nature of contemporary media and marketing. The IWG should:**

- Direct companies to use the most protective definition among the different media types used in cases of cross-platform marketing campaigns.
- Incorporate in its recommendations the condition included by the Federal Communications Commission (FCC) “Opinion and Order” in its approval of the Comcast acquisition of NBC/Universal properties that required the new entity to “not air interactive advertising during programs originally produced and transmitted primarily for an audience of children 12 years old and younger.... Such interactive advertising will be prohibited on any channels affiliated with the joint venture at all times during such programs, including all programming, interstitials, commercial breaks, and promotions.”³⁷ Similarly, the IWG guidelines should state that interactive TV advertisements for food and beverage products should not be targeted at children unless such food and beverages meet the nutrition guidelines.
- Specify in the model guidance that digital TV technologies and other marketing approaches should not unfairly target multicultural youth, including via Spanish-language programming, with marketing for food and beverage products that do not meet the nutrition principles.

Objective v. subjective criteria (Questions 24, 26 & 27)

The FMW supports the use of objective criteria as applied in the FTC marketing definitions. In addition, we recommend that the IWG supplement the objective criteria with subjective criteria for all media approaches. The

subjective criteria applied to Internet, on-package, premiums, events, celebrities, and mobile devices also should be used to supplement the definitions for television, radio, and print advertisements, as well as to movies, toys/premiums, and the use of licensed characters.

Any marketing should be considered as directed to children if a company identifies it as such in its marketing plan or if it has prominently featured child-oriented characters, celebrities or athletes popular with children, or promotes child-oriented themes, activities, products, or media. We recognize the difficulty for outside groups to monitor compliance with criteria that use internal company plans and intent, as those data are not available to the public. Though, even criteria such as audience measures are difficult given that they are available only at a substantial cost.

We encourage the IWG to stipulate that percent audience share does not apply when marketing is personalized and individually targeted. If the individually targeted person is a child or teen, the IWG nutrition principles would apply to advertised product(s) regardless of audience share. Pandora Internet radio, for example, collects registration data, including age-related information. Ads airing on Pandora stations registered to children and/or teens should meet the nutrition principles.

Brand advertising (Question 2)

Brands affect children's food preferences and choices. Children are brand-sensitive and show preferences for brands as early as three years old.³⁸ Many marketing efforts aimed at children do not primarily promote individual products, but instead promote a line of products, one brand within a company, or a whole company.³⁹ For example, a company logo or spokes-character featured on a hat or website might promote a whole line of products. A marketing campaign might encourage children to go to a particular restaurant without focusing on a specific menu item.

Although a few chain restaurants have agreed to show only healthier children's meals in their advertising, the restaurants usually show those foods only briefly in their ads if they show them at all. Even if an ad shows a brief image on its website for a meal that meets the nutrition principles, once a child goes to the restaurant, the majority of choices there are often foods that do not meet the nutrition principles and meals that do not meet the nutrition principles often are given by default. The overwhelming majority (93%) of children's meals at the nation's largest chain restaurants is high in calories; many also are high in sodium (86%) and saturated fat (45%).⁴⁰ In addition, in a national study on default options offered with McDonald's Happy Meals, cashiers gave customers French fries 93% of the time, without even asking which side dish the customer wanted. Choices were usually offered for beverages, but soda was the first

option offered 78% of the time.⁴¹ Studies of Burger King, Wendy's, and Taco Bell show similar results.⁴²

Thus, it is important that the IWG's recommendations include clear parameters for brand advertising to children *[answers Question #2 in Questions for Comment]*. **The FMW recommends that the IWG adopt the following in its definition and recommendations for brand advertising and marketing:**

- Products should be shown prominently and be a key focus of the marketing/advertising in order for the marketing to be considered as promoting a specific product, as opposed to being brand marketing.
 - In a television ad, the product should be easily recognizable and appear prominently for at least 5 consecutive seconds in a 15- or 30-second ad.
 - For sponsorships, scholarships, in-store displays, posters, curricula, t-shirts or other merchandise, tie-ins, and cause marketing, depictions should be for a product or products that meet the nutrition principles. If depictions feature multiple products, all products should meet the nutrition principles. Generic brand depictions, such as logos or spokescharacters, should be considered brand marketing.
 - For websites, depictions of spokescharacters or brand logos in the absence of prominent depiction of a specific product would be considered brand marketing.
- If a brand is marketed to children, ideally 100% of products within the marketed brand should meet the nutrition principles in order for brand to be advertised/marketed. However, we recognize that, if that criterion was used in the current marketplace, virtually no brands could be marketed to kids. Therefore, the FMW suggests that the IWG propose a timeline for phase-in of brand advertising standards. The IWG also should consider that the CFBAI started by covering 50% of ads in company pledges, and increased coverage to 100% over time. Thus, the FMW proposes the following timeline for phase-in of brand advertising standards:
 - In 2 years, at least 50% of products within the marketed brand should meet the IWG nutrition principles.
 - In 5 years, at least 75% of products within the brand should meet the nutrition principles.

Marketing to adolescents (Question 23)

We are pleased that Congress and the IWG have acknowledged the need to address adolescents, who have their own unique vulnerabilities to food

marketing. Over the past 30 years, the prevalence of obesity among adolescents increased from 5.0% to 18.1%.⁴³ Today, one out of three teens is either overweight or obese. Obesity rates are higher for African-American and Hispanic adolescents than for whites. Teens typically have more money and greater opportunity to purchase food without parents present to guide their food choices. The teen years are a critical developmental period, during which consumer and eating behaviors are established that may well last throughout an individual's life.⁴⁴

Food marketers target adolescents not only on television, but also on a growing array of digital media platforms, from social networks to gaming to mobile phones.⁴⁵ Digital media resonate strongly with many of the fundamental developmental tasks of adolescence, such as identity exploration, social interaction, and autonomy.⁴⁶ Marketers have developed strategies to take advantage of this special connection between young people and the new media environment. For example, social media platforms provide marketers with a palette of new interactive techniques that were not possible in the past. An entire infrastructure has emerged—from specialty ad agencies to tracking and measurement services to “third-party developers”—to facilitate what is now called “social media marketing,” with food and beverage companies, such as Coca-Cola, Pepsi, Burger King, and McDonalds at the forefront.⁴⁷

Using a host of new techniques and measurement tools, social media marketers can monitor the breadth and depth of teen online social relationships, as well as how they function, understanding who influences whom, and how the process of influence works. Food company websites, such as Denny's, Chuck E Cheese, Dominos, and Jack in the Box, as well as gaming sites that display fast-food ads, routinely use data collection and behavioral targeting.⁴⁸ Youth are lured to sites for ad targeting using video, music, advergames, and the construction of entire virtual worlds.⁴⁹ These interactive techniques are extremely effective when compared to the 30-second exposure that a television ad provides. In 2009 Millsberry.com, the virtual world that General Mills constructed for children, reached an average of 767,000 young people per month, who spent over an hour, on average, on the website every month.⁵⁰

We are particularly concerned about the rapid growth of sophisticated techniques that food marketers are using to target adolescents on mobile platforms. Teens are quintessential early adopters of mobile phones, avidly embracing a variety of Internet applications and communication tools. Nielsen reports that teens 13-17 watch more video via their phones than any other group (some 7 hours, 13 minutes per month, compared to the next highest group—18-24 year olds—who watched 4 hours, 20 minutes per month during the second quarter of 2010).⁵¹ Teens from low-income households, particularly African Americans, are much more likely than other teens to access the Internet with a cell phone.⁵²

Food and beverage companies are playing a leading role in both the mobile and location marketing arenas. Coca-Cola, Pepsi, McDonald's, Kellogg's, Burger

King, and many others have been pioneers in this market.⁵³ The ubiquity of mobile phones gives marketers unprecedented ability to follow young people throughout their daily lives, delivering highly enticing marketing offers that are designed to trigger impulsive behaviors, and linking point-of-influence techniques to point-of-purchase opportunities, thus short-circuiting the possibility of reflection or deliberation about wise-eating decisions. Cravings can be triggered at the exact point when a teen is near a fast-food restaurant, made even more irresistible through a variety of incentives, such as coupons, discounts, and free offers. These food promotions also are integrated into teen social relationships and daily communications.

Based on industry reports, many digital campaigns targeting teenagers have been highly successful.⁵⁴ For example, the location-based game MyTown, which gives points for checking in at stores, reported that that quick-service restaurant chains (including Subway, McDonald's, Burger King, Taco Bell, Pizza Hut, Domino's, and Wendy's) made up eight of the top ten places favored by its users.⁵⁵ With a budget of less than \$1 million, Frito-Lay's 2008 "Hotel 626" campaign—which combined a variety of social media, mobile, and online immersive techniques to promote two new Doritos' flavors to teens—attracted more than 4 million young people in 136 countries and increased Doritos sales by 4 percent compared to the previous year.⁵⁶ McDonald's also reported a 33 percent jump in traffic last spring and generated additional press when it piloted an event using the social networking check-in system, Foursquare.⁵⁷

A growing body of research suggests that biological and psychosocial attributes of the adolescent experience may play an important role in how teens respond to marketing, making them more vulnerable than they have been thought to be in the past.⁵⁸ Research on brain development, for example, has found that the prefrontal cortex, which controls inhibitions, does not fully mature until late adolescence or early adulthood.⁵⁹ Additionally, children entering puberty experience hormonal changes that make them more receptive to stressful environmental stimuli. As a consequence, at the same point in their lives when their biological urges are particularly intense, adolescents have not yet acquired the ability to control those urges.⁶⁰ They also experience greater emotional volatility than either younger children or adults, including frequent and intense negative emotions and fewer positive emotions.⁶¹

Those factors may make teens more susceptible to advertising and marketing, especially when they are distracted, are in a state of high arousal, or are subjected to peer pressure.⁶² According to Frances Leslie *et al.*, "Since digital marketing purposefully evokes high emotional arousal and urges adolescents to make consumption decisions under high arousal," it can exacerbate existing tendencies among young people who often make poor decisions when they are emotionally aroused. Teens are particularly likely to make unwise choices about such "risky products" as "junk food, tobacco, and alcohol." Adolescents with low levels of self-esteem are more inclined to rely on advertising to bolster their self-

images. Moreover, “when they feel badly about themselves, they may impulsively consume junk food for mood repair.”⁶³

Currently, there are no regulatory or self-regulatory safeguards in place for addressing the role of food marketing on the health of adolescents. The framework for U.S. children’s advertising regulation applies only to children who are under the age of 12 or 13 (depending upon the particular regulation).⁶⁴ This tradition has continued in the present policy debate over food marketing and childhood obesity. The recent marketing guidelines developed by food and beverage companies remain focused on younger children, as are the advertising industry’s self-regulatory guidelines.⁶⁵

The next few years likely will witness an explosion in digital marketing for fast foods, snacks, and soft drinks that may eclipse even the most powerful interactive techniques in use today. These rapid developments call for a comprehensive review by both regulators and industry to ensure that adequate safeguards are put in place to constrain the potentially harmful contribution of new forms of aggressive and intrusive marketing to the youth obesity epidemic.

Given these trends – the rise in obesity, the proliferation of new digital marketing techniques, and the recent research on adolescent vulnerabilities -- the FMW understands that food marketing to adolescents (12-17 years) needs to be addressed. We urge companies to be responsible in how they market to teens. The IWG should include a section in the self-regulatory marketing principles on the unique vulnerabilities of adolescents to marketing, especially digital marketing. We support the FTC’s recognition of adolescents as “sensitive users” in its 2010 staff report on online privacy, as well as recommendations for safeguards that address digital marketing to teens, such as requirements to minimize data collection and behavioral targeting. In addition, we urge the Department of Health and Human Services and other appropriate federal agencies to invest in research on digital food marketing and its effects on adolescents’ diets and health.

Other recommendations

Given that both nutrition science and the media landscape are constantly evolving, the **FMW recommends that the FTC review and update the nutrition principles and marketing definitions every five years.**

We also recommend that the IWG clarify that the nutrition principles and marketing definitions apply to marketing in media in the English language and in languages other than English as well – applying the standards to marketing in whatever language the marketing uses.

Recommendations for specific marketing definitions

After careful review of the marketing definitions detailed in *Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation: A Federal Trade Commission Report to Congress* (July 2008), the FMW urges the IWG to make the following modifications to the marketing definitions.

Television advertising [TV AD in Attachment B, pg. B-2]

It is more important than ever that foods advertised through television meet the IWG nutrition guidelines. Television is undergoing a dramatic transformation, becoming increasingly interactive and incorporating a wide range of data for personalized programming and ad targeting. More than 100 million U.S. households subscribe to cable-, satellite-, or telephone-delivered TV services. The vast majority of those viewers rely on some form of subscription TV service with digital capabilities.⁶⁶ “Advanced advertising” for television, led by Comcast, Time Warner, and other leading cable, satellite, and telephone providers of TV, is capable of delivering more precisely targeted commercials than TV ad formats in the past.

Canoe Ventures, for example, the cable industry’s ITV (interactive television) consortium, already provides forms of advanced advertising in 7 of the top 10 (and 18 of the top 25) DMA’s.⁶⁷ Operated by the leading cable companies, including Comcast, Time Warner, Cox, and Cablevision, Canoe also partners with the now-Comcast-owned NBC.⁶⁸ Canoe’s advanced ads (along with other forms of ITV ads) incorporate the use of third-party data firms (e.g., Acxiom and Experian), as well as set-top box information, to help determine which ad to serve.⁶⁹ This ability to meld subscriber information and outside databases for delivering more precisely honed commercials allows programmers to identify children and adolescents in the television household along with other household data—such as shopping behaviors, ethnicity, and income.⁷⁰

Using data and technologies that “efficiently and automatically customize video in real or near real-time,” ads are becoming “more relevant to each of the targeted segments of viewers.”⁷¹ Research conducted to evaluate the impact of ITV advertising has demonstrated that it delivers “improved brand recall” and other positive “engagement” metrics.⁷² New research for ITV by the leading cable companies, the Association of National Advertisers, and others is designed to “capture the connection, emotion, and experience of ITV viewers and correlate this information” with metrics used by advertisers.⁷³

Beyond the ability to generate better-targeted commercials, ITV also offers new forms of advertising, including the ability to use a remote control to “request” more information on a product—called RFI. RFI enables viewers to use their remote to “make an instant purchase,” as well as to request a free sample, a discount coupon, or more information.⁷⁴

Another emerging ad form is the “hotspot,” an “area of an ad [on the screen] that is clickable or is able to be interacted with.”⁷⁵ TV “Ad Widgets” can generate different ad formats and information for individual households, as well as provide access to more details about a product.⁷⁶ Longer-form commercials, even program-length, known as “telescoping” ads, represent another new ITV ad format.⁷⁷ Food and beverage companies are helping pioneer the use of ITV advertising, working with Visible World, Verizon FIOS, and others.⁷⁸ TV commercial sales increasingly incorporate sophisticated technologies, such as Acxiom’s “Audience Management System,” which are able to use consumer data to make nearly real-time decisions about whom to target and with what specific creative ad format.⁷⁹

Company-sponsored Internet sites [WEBSITE AD, Attachment B, pg. B-3]

Advergames are interactive, online games accessible through company-sponsored websites that promote one or more of a company’s specific brands and/or products by integrating them into games. Advergames, by nature, disproportionately appeal to children and adolescents and, therefore, are rightly included as a form of child-directed marketing.

The FMW urges the IWG to clearly state that the marketing definition applies to the content found on the advergame page itself, rather than to the whole website which hosts the game. Advergames and other child-directed webpages are often embedded in larger, adult-oriented websites. For example, Capri Sun Disrespectoids (discussed above) are embedded in the larger (adult-oriented) Kraft website (www.kraftbrands.com). Companies should apply the marketing definition objective and subjective criteria only to the page(s) on which the advergame(s) are found, rather than the overarching Kraft website. It is likely that the advergame site has a larger percentage of visitors who are under 12 years old than does the whole Kraft website.

User-generated content. The FMW suggests that the IWG clarify that user-generated content would be covered by the standards if it is sponsored or instigated by a company. Companies make great efforts to police and protect the integrity of their brands and should do so with digital marketing of those brands to the greatest extent possible. However, companies should not be held accountable for unsolicited user-generated content.

In-school marketing [IN-SCHOOL, Attachment B, pg. B-13]

Many foods and beverages of poor nutritional quality are marketed in schools.^{80,81} In fact, 67% of schools nationally have advertising for foods that are high in fat and/or sugar.⁸² This is particularly concerning given that studies have

shown that labeling and signage on school campuses affect students' food selections at school.⁸³

A Government Accountability Office study called marketing in schools a “growth industry.”⁸⁴ Candy and snack food manufacturers, soft drink bottlers, and fast-food restaurants are among the companies that market most heavily in schools, particularly at the middle- and high-school levels.

Marketing in schools promotes the purchase and consumption of low-nutrition foods while children are away from their parents, in a captive environment that is supposed to be dedicated to education. The marketing of low-nutrition foods in schools undermines in-school nutrition education and parents' efforts to feed children a healthy diet.

In addition, the CFBAI's elementary school advertising principles are weak. A major problem with the CFBAI's school advertising program is that it covers too small a proportion of food marketing in schools – only direct advertising – which the CFBAI describes as “commercial sales messages,” such as those on posters, signs (when not part of a display), coupons, and cafeteria tray liners (when not related to a specific product being sold or offered). Other types of marketing for low-nutrition foods are allowed, including food sales, display devices (e.g., racks, coolers, and vending machines), branded fundraisers, public service announcements including brands (if not central in a PSA), and other approaches.

Another key concern is that the CFBAI covers only elementary schools. While we understand that the CFBAI is limited to children under 12 years of age, the program should, at the very least, cover any school in which there are children under 12 years attending. That means the CFBAI should include most middle schools (the average 6th grader is 11 years-old).

The IWG also should include marketing in high schools in its in-school marketing definition. As many companies acknowledge in their pledges, schools are a unique environment. Just as children under 12 years are vulnerable to the persuasive intent of television and other commercial media messages, older students have unique vulnerabilities (as discussed above). Older children have more money and opportunities to make food purchases without their parents' guidance. Parents should be assured that all schools are healthy places that do not undermine efforts to feed their children (of all ages) healthfully.

The IWG should include preschool, elementary, middle, and high schools in its definition for marketing in schools. It also should provide a more detailed definition of in-school marketing and clearly outline the wide variety of marketing techniques that are covered on the whole school campus for the extended school day.

The in-school marketing definition should include:

- 1) Food and beverage sales to students through cafeterias, vending, school stores, snack bars, fundraisers, and other venues or mechanisms
- 2) The use of the name of a food manufacturer or restaurant, and the depiction of product, brand names, logos, trade marks, or use of spokespersons, live or animated, on or in conjunction with:
 - a. curricula, educational materials, textbook covers, books and notebooks, pencils, and computers;
 - b. school property, such as buildings, transportation vehicles such as school buses, vending machine exteriors, scoreboards, signs, or posters;
 - c. books, pencils, notebooks, sports equipment or uniforms, food or beverage cups or containers, food display racks or cases, and other school supplies or equipment;
 - d. branded materials for school staff that children are likely to see (e.g., caps, calendars, aprons, etc.)
- 3) Advertisements in school publications, such as school newspapers or yearbooks, and/or on school radio stations, in-school television, computer screen savers and/or school-sponsored sites, or announcements on the public announcement (PA) system;
- 4) Indirect promotions, public relations, and sponsorship activities, such as:
 - (i) educational incentive programs utilizing coupons, contests, and other means that provide food as a reward, and/or that provide schools with supplies and/or funds when families purchase specific food products;
 - (ii) scholarships and sports team sponsorships;
 - (iii) school fundraising nights at restaurants;
 - (iv) market research activities; and
 - (v) free samples, taste-tests, or coupons.

Movie theater/video/video game advertising [MOV/VID AD, Attachment B, pg. B-5]

Child-directed movies have undergone a noticeable “ratings creep” over the past several years⁸⁵. Movies that may have in the past been rated G are now often rated PG⁸⁶. Industry advertising dollars have followed suit, with more money being spent on promotions in and in conjunction with PG, rather than G-rated movies in recent years – despite a lack of change in the age-range of associated viewing audiences, both for the movies and advertisements.

The 2011 animated movie *Hop*, for example, about the Easter Bunny’s rebellious teenaged son, received a PG rating despite being produced to appeal to children ages 5 and up. Universal Pictures, the creators of *Hop*, recruited a total of 92

promotional partners and licensees worldwide, including Walmart, Burger King, Comcast, Hallmark, Hershey Company, and Kodak for a total value in global support from partners and licensees equal to more than \$75 million, including \$19 million in domestic television advertising.⁸⁷ Among the range of licensed merchandise released in connection with the film were various types of candy, cookie decorating kits, baked goods, and a number of products from Kraft Foods. In addition, Burger King launched a line of Hop-themed toys that were included in their children's meals throughout April 2011.

The FMW strongly recommends that the IWG expand the current definition of movie theater/video/video game advertising to include marketing that appears in, during, or contiguous not only to G-rated movies, but also to movies rated PG.

Product placements [PROD PLMT, Attachment B, pg. B-9]

Product placements on TV and in movies have been a well-known and successful strategy for reaching consumers since 1980, when Reese's Pieces appeared in the movie E.T., after which sales of the product increased 65%.⁸⁸ In a study of the top 200 revenue-grossing US movies released between 1996 and 2005, 69% contained at least one food, beverage, or food retail establishment placement, including one-third of G-rated movies, more than half of PG-rated movies (58.5%), and almost three quarters (72.3%) of PG-13-rated movies.⁸⁹ Similar to TV advertisements, the vast majority of product placements feature calorically-dense, nutrient-poor products and brands, with soft drinks, chips, and fast-food brands most frequently featured in PG- and PG-13-rated movies.

A substantial scientific literature has established a causal relationship between tobacco product placement in movies and young people's initiation of smoking. Initially, a number of short-term cohort studies found that viewing smoking in movies increased the likelihood that young people would try smoking.^{90,91} A longitudinal study provided evidence confirming the role that smoking in movies plays in youth smoking initiation. After following more than 2,600 non-smoking New England adolescents aged 10-14 for 13-26 months, researchers found that children who saw the most incidents of smoking in movies were almost three-times as likely to begin smoking as those who saw the fewest. Overall, smoking in movies explained 52% of the instances of smoking initiation.⁹² This study was replicated using a national sample, and again smoking in movies was found to be "the primary independent risk factor for smoking initiation" for young people.⁹³

Scholars have identified smoking in movies as having the single greatest effect prompting adolescents to begin smoking, accounting for 44% of teens' initiation, which is even stronger than the effect of other cigarette advertising.⁹⁴ Based on the cumulative strength of these studies, the National Cancer Institute concluded in 2008 that, "the total weight of evidence from cross-sectional, longitudinal, and

experimental studies indicates a casual relationship between exposure to depictions of smoking in movies and youth smoking initiation.”⁹⁵

While the science on food and beverage product placement in films is not as robust as tobacco, evidence suggests that such marketing promotes unhealthful products to children. An analysis of the top 20 grossing movies from each year between 1996 and 2005 found that 69% included food or beverage product placements.⁹⁶ Of the food brands, candy or confections (26%) and salty snacks (21%) appeared most frequently, sugar-sweetened beverages were by far the most prevalent beverage brands (76%), and two-thirds of food retail brand or products placements were for fast-food restaurants.⁹⁷ In addition, children who were exposed to a movie scene in which a Pepsi bottle was placed on a table were more likely to prefer Pepsi over Coke. Because this effect held even if a child did not recall seeing the product in the film, product placement has been deemed “on par with subliminal advertising.”⁹⁸

Given the number of product placements in PG-rated movies and the increased number of child-directed movies that are rated PG, the **FMW strongly recommends that the IWG expand the current definition of product placements to include placements in PG-rated movies.** We also urge the IWG to **clarify that the definition covers all solicited placements, both paid and unpaid.**

Specialty item or premium distribution [PREMIUMS, Attachment B, pg. B-7]

The definition for specialty items or premium distributions should explicitly list toys included with restaurant children’s meals as an example. Fast-food companies target children and adolescents with \$520 million worth of marketing each year, promoting products, brands, and toy premiums to kids as young as 2 years old. Toys included with children’s meals make up more than half (\$360 million) of that money, a marketing expenditure second only to TV advertising. Fast-food restaurants sell more than 1.2 billion children’s meals with toys each year.⁹⁹ Two-thirds of child-targeted advertising during preschool programming promotes fast-food restaurants.¹⁰⁰

Children’s menus and meals

The FMW recommends that the FTC add to the marketing definitions a category for children’s menus and meals, since children’s meals and menus are a widespread form of marketing to children.

That marketing is of concern, since the overwhelming majority (93%) of children’s meals at the nation’s largest chain restaurants is high in calories. Many also are high in sodium (86%) and saturated fat (45%).¹⁰¹ Studies show that repeated

exposure to fast food and soda, through advertising, marketing, and consumption, cultivates a pattern for future consumption and a preference for those and similar foods.¹⁰²

Packaging and labeling and in-store advertising and promotions
[PACK/LABEL and IN-STORE AD, Attachment B, pgs. B-5 and B-7]

Both on-package and in-store marketing are major forms of marketing to children. According to the 2008 FTC expenditures study, companies spend \$195 million a year on in-store marketing and packaging to reach children and adolescents, which is 12% of total child-directed marketing expenditures. Yet, the CFBAI program does not address on-package and in-store marketing. It is important that companies include such marketing in their voluntary marketing policies.

The FMW disagrees with industry's request that seasonal marketing be excluded from the IWG's on-package and in-store marketing recommendations. Seasonal promotions are a major form of child-directed marketing for some products. Holiday candies (candies produced for sale in conjunction with one of the four major US holidays) account for about a quarter (22%) of the total yearly candy sales in the U.S.¹⁰³ IWG standards would not preclude companies from making seasonal products, rather, they would address the marketing of seasonal products and recommend that such marketing not directly target children under 12. For example, Santa Claus is traditionally part of the Christmas holiday for children and adults. The IWG standards would not preclude companies from producing chocolates shaped like Santa, but they would preclude companies from using Santa to promote a soda in a television ad.

First Amendment and the right to commercial free speech (Question 30)

The IWG principles are voluntary, and there is no First Amendment obstacle whatsoever to the government's promulgating voluntary guidelines. The First Amendment circumscribes the government's ability to restrain¹⁰⁴ or compel¹⁰⁵ commercial speech—i.e., advertising. The IWG principles neither restrain nor compel speech by anyone; they are recommendations aimed at inspiring industry self-regulatory efforts. If the First Amendment has anything to say about the IWG principles, it is that when the government engages in its own expression, "the Free Speech Clause has no application" because it "does not regulate government speech."¹⁰⁶ The IWG is constitutionally free to articulate its own views of what food is appropriate to market to children in what media.

Antitrust implications of the proposed IWG principles

Section One of the Sherman Act prohibits any “contract, combination . . . , or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations” 15 U.S.C. §1 (2010). The Supreme Court has construed this section to only prohibit trade restraints that *unreasonably* restrict competition.¹⁰⁷

There is no reason to believe that adoption of the proposed IWG principles by companies would lead to violations of antitrust laws in any way that would be different from other existing self-regulatory programs or trade association standards and codes. It is possible to concoct theories for how companies could adopt the proposed principles in ways that might implicate antitrust concerns, but such scenarios would be little more than speculation.

As the IWG understands, antitrust is a very fact-specific area of law, so hypothetical antitrust cases are difficult to analyze. Nonetheless, in imagining a case based on implementation of the proposed IWG principles, there would be three main considerations: 1) whether implementation requires a “contract, combination, or conspiracy;” 2) whether implementation causes anticompetitive effects, and if so, what kind; and 3) whether those effects outweigh any pro-competitive benefits.

Regarding the first consideration, there would be no antitrust implications if companies adopted the proposed principles unilaterally.¹⁰⁸ Moreover, the proposed principles could be readily adopted by an industry trade association or self-regulatory body without causing unreasonable anticompetitive effects. Trade associations commonly implement ethical or standardization programs for their members that promote ethical conduct, improved product safety, quality, and lower costs. Such programs are often upheld against antitrust challenges¹⁰⁹ so long as their apparent purpose or effect is not to decrease competition among members, fix prices, or the like.¹¹⁰ There is no reason to believe that implementation of the proposed IWG principles would necessitate such obviously anticompetitive outcomes.

Finally, the proposed IWG principles present many pro-competitive benefits. For instance, the industry would promote consumer choice if it provided a wider range of healthy food choices designed to appeal to children. In addition, implementation by retailers could create shopping or restaurant environments, which appeal to consumer-parents. “Junk food ad” free magazines, programs, or websites also could be more appealing to consumers -- another pro-competitive benefit. These are just a few among many possibilities. Thus, any economic effects of the principles would be no broader than necessary to achieve the important, non-economic goal of improving children’s health, and would have significant pro-competitive benefits.

As commentators -- including the Director of the National Advertising Division -- have noted, "where there is not a will to act in the interest of true self-regulation, antitrust can provide a handy scapegoat for industry claims that there is not a way to respond adequately to public pressure for change."¹¹¹ The IWG should not allow the remote specter of antitrust liability to be used to thwart its efforts to finalize these voluntary proposed principles.

Conclusions

We urge the Interagency Working Group to address the public comments and release the final marketing principles by the end of the year. We also urge the CFBAI and all companies that market to children to adopt the voluntary standards. We especially encourage restaurants and media companies, who have been lagging behind food and beverage manufacturers in the national self-regulatory effort, to adopt these sensible, self-regulatory guidelines.

Respectfully,

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July 14, 2011

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Commissioner Margaret Hamburg
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Subject: Interagency Working Group on Food Marketed to Children: Proposed Nutrition Principles, General Comments, and Proposed Marketing Definitions: FTC Project No. P094513

Dear Secretary Vilsack, Chairman Leibowitz, Director Frieden, and Commissioner Hamburg:

We, the undersigned, strongly support the Interagency Working Group (IWG) on Food Marketed to Children's proposed nutrition principles and marketing definitions. This is an important time to address food marketing to children and youth. Our nation faces unprecedented rates of obesity and other nutrition-related diseases.

Food companies have taken steps to address food marketing, but the current self-regulatory program is flawed. Studies show that the overwhelming majority of foods marketed to children are still high in calories, saturated fat, sugars, or salt. The IWG's guidelines will provide a strong model for companies to develop or strengthen marketing policies and address current weaknesses in the self-regulation of food marketing to children.

In developing the standards, the IWG fulfilled the congressional directive set out in the 2009 Omnibus Appropriations Act (H.R. 1105). As directed by Congress, the IWG has carefully studied food and beverage marketing and developed a set of principles that are strongly based in science and consensus nutrition and marketing recommendations from authoritative sources.

We enthusiastically 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. To be consistent with the *Dietary Guidelines*,

those recommendations should be based on serving sizes of foods (Principle A, option 2), except in the case of whole grains, for which the *Dietary Guidelines* makes a recommendation based on percentages (50% of grains should be whole grains; i.e., use Principle A, option 1 for grains).

While we strongly support the overall proposed nutrition principles, we offer several recommendations to clarify and strengthen them:

- Revise the suggested timeframe for implementation of the proposed nutrition principles to two-years, with a five-year timeframe for implementation of the final sodium standards. Allowing companies ten years to fully comply with the nutrition principles would mean that a whole generation of children would not be protected by the IWG recommendations.
- Clarify that the proposed nutrition principles apply to *all* foods marketed to children, not just those most heavily marketed to them. It would be unfair to companies, confusing to parents, and unhelpful to children to have the principles apply to some marketed foods and not others.
- Include calorie limits. The *DGA* stresses that obesity results from a caloric imbalance, not a nutrient imbalance.
- Combine fish, extra lean meat, poultry, eggs, nuts, and beans into a single food group, to be consistent with MyPlate and the *DGA*. Separating those groups overemphasizes protein, which is not a nutrient of public health concern for children.
- We strongly support the IWG's interim and long-term sodium benchmarks for individual foods. We suggest that the IWG adjust the standard for main dishes and add a separate standard for meals.

We support the IWG's comprehensive view of marketing to children and its proposal to define child-directed marketing according to the existing definitions developed by the FTC for its expenditures studies (*Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation*, Appendix B), with a few exceptions as noted below. However, we strongly recommend that the IWG adapt those to develop a set of clearly-stated model definitions that could be easily adopted by companies and incorporated, as is, into company marketing policies. This would make it easier for companies to apply the definitions and increase consistency between company marketing policies.

We applaud Congress and the IWG for considering marketing targeted to both children and adolescents. We strongly support the IWG's proposal to fully apply the nutrition principles to all marketing approaches aimed at children ages 2-11. Research shows that teens also are uniquely vulnerable to food marketing and are aggressively targeted by food marketers. We urge companies to be

responsible in how they market to teens and ask the IWG to include a section in the self-regulatory marketing principles on the unique vulnerabilities of adolescents to marketing, especially digital marketing.

We urge the IWG to make the following additions and clarifications to the final marketing definitions:

- Apply subjective criteria to *all* types of marketing approaches. Subjective criteria (such as whether the marketing includes child-oriented themes) should be applied not only to Internet, on-package, premiums, events, celebrities, and mobile devices, but also to television, radio, and print advertisements, as well as to movies, toys/premiums, and the use of licensed characters.
- Define brand marketing and require brand marketing to meet IWG nutrition principles. Many marketing efforts aimed at children do not promote individual products, but instead promote a line of products, one brand within a company, or a whole company.
- Provide a more detailed definition of in-school marketing to clearly delineate the wide variety of marketing techniques that are covered on the whole school campus for the extended school day. Include preschools, and elementary, middle, and high schools in that definition.
- Make clear that the definition of premiums includes toys used to promote restaurant meals; toy premiums make up more than half of fast-food marketing expenditures.
- Include PG-rated movies in the definitions of product placements and movie advertising. Child-directed movies have undergone a noticeable “ratings creep” over the past several years, with many child-directed movies now rated PG.

We urge the IWG to address the above issues and look forward to the release of the final recommendations by the end of 2011. We also urge the IWG to review and update the nutrition principles and marketing definitions every five years, given the changing nature of the media landscape and food environment for children.

Thank you for taking up this serious and important issue. As the Institute of Medicine and numerous researchers have demonstrated, marketing to children influences their food preferences, purchases, and ultimately what they eat. Right now, their environment is filled with marketing for unhealthy foods. We hope our nation’s food marketers will make children’s health a priority and adopt these voluntary principles.

Respectfully,

African American Collaborative
Obesity Network

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Arizona State University

American Association for Health
Education

American College of Preventative
Medicine

American Dietetic Association

American Heart Association

American Institute for Cancer
Research

American Public Health Association

American School Health Association

American Society of Bariatric
Physicians

Association of State and Territorial
Public Health Nutrition Directors

Association of State and Territorial
Health Officials

Berkeley Media Studies Group, a
project of the Public Health Institute

Black Women's Health Imperative

Boston Public Health Commission

California Pan-Ethnic Health
Network

California Association of Nutrition
and Activity Programs

California Center for Public Health
Advocacy

Campaign for a Commercial-Free
Childhood

CATCH - Coordinated Approach to
Child Health

Center for Communications, Health
and the Environment (CECHE)

Center for Digital Democracy

Center for Science in the Public
Interest

Consortium to Lower Obesity in
Chicago Children (CLOCC)

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FGE Food and Nutrition Team

First Focus

Food Trust

Healthy School Lunch Program

Healthy Schools Campaign

Indiana Rural Health Association

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Harvard Medical School

Leadership for Healthy Communities

National Action Against Obesity

National Alliance to Advance
Adolescent Health

National Association of County and
City Health Officials

National Association of School
Nurses

National Association of Sport and
Physical Education

National Association of State Boards
of Education

National Black Child Development
Institute

National Consumers League

National Forum for Heart Disease
and Stroke Prevention

National Policy & Legal Analysis
Network to Prevent Childhood
Obesity, a project of Public Health
Law and Policy

National PTA

National WIC Association

North Coast Opportunities
Community Action

New York State Healthy Eating and
Physical Activity Alliance

Ohio Public Health Association

Oral Health America

Oregon Public Health Institute

Partnership for Prevention

Prevention Institute

Preventive Cardiovascular Nurses
Association

Produce for Better Health
Foundation

Project Bread - The Walk for Hunger

Public Health - Seattle & King
County

Public Health Advocacy Institute

Public Health Law Center

Rudd Center, Yale University

Robert Wood Johnson Foundation
Center to Prevent Childhood Obesity

Samuels and Associates

Shape Up America!

Society for Nutrition Education

South Carolina Eat Smart, Move
More Coalition

Tamara Piety

Associate Dean of Faculty
Development and Professor of Law
University of Tulsa College of Law

Trust for America's Health

United Church of Christ, Office of
Communication, Inc.

United States Water Fitness
Association

Voices for America's Children

Young People's Healthy Heart
Program

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