LAND O'LAKES, INC.

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July 14, 2011

Mr. Donald S. Clark
Secretary
Federal Trade Commission
Room H-113 (Annex W)
600 Pennsylvania Avenue, NW
Washington, DC 20580

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

Dear Mr. Clark:

Land O'Lakes, Inc. is submitting comments in response to the Interagency Working Group's proposed nutrition principles to guide the food industry's marketing to children. I am writing on behalf of the cooperative to express my opposition to the Preliminary Proposed Nutrition Principles to Food Marketed to Children by the Interagency Working Group (IWG), and strongly urge the withdrawal of these marketing restrictions. Land O'Lakes is aligned with the concerns of the National Milk Producers Federation and the Grocery Manufactures Association.

Land O'Lakes, Inc. is a national, farmer-owned food and agricultural cooperative with annual sales of $12 billion. Land O'Lakes, the nation's second-largest cooperative, does business in all 50 states and more than 60 countries. It is a leading marketer of a full line of dairy-based consumer, foodservice and food ingredient products across the United States; serves its international customers with a variety of food and animal feed ingredients; and provides farmers and ranchers with an extensive line of agricultural supplies (feed, seed, and crop protection products) and services. Land O'Lakes also provides agricultural assistance and technical training in more than 25 developing nations.

Land O'Lakes is concerned the IWG proposal would result in a decrease in dairy consumption at a time when children are not consuming the currently recommended numbers of servings. Further decreases in dairy consumption could adversely affect the diets of children and adolescents across the country, and unfairly malign the nutritional contributions of dairy products that don't comport with the proposed principles. In the comments below, we suggest a number of ways to modify the principles to better serve the interests of children and to reduce the guidelines' potential negative impact on the consumption of popular and nutritious dairy products. Key recommendations are to include reduced-fat cheeses as well as flavored milk and yogurt that contain moderate amounts of added sugar among foods approved for marketing to children.

Dairy in Children's Diets

Milk and dairy products are good or excellent sources of nine nutrients – calcium, potassium, phosphorus, high-quality protein, vitamins A, D and B12, riboflavin and niacin – important to the diets of children and adolescents. Milk is the number one source of calcium, vitamin D, phosphorus and potassium in the diets of children ages 2 to 18 and the number one source of protein in the diets of children ages 2 to 11. Yogurt is a good source protein, calcium, riboflavin, vitamin B12 and phosphorus and is often recommended to those who are lactose intolerant as a dairy food that can be consumed without negative side effects. Cheese is a good source of protein, calcium and phosphorus in children's diets and, due to its high quality naturally-occurring protein, is categorized as a meat substitute in the federal school meals programs. Many cheeses are also low in lactose. Both cheese and yogurt also help increase consumption of other nutrient-rich foods—including fruits, vegetables and whole grains—when used in combination with them.

Milk, yogurt and cheese are also the primary source of three of the four nutrients — vitamin D, calcium, and potassium— that are under-consumed by children and represent a substantial public health concern. For that reason, the nutrient contribution of low-fat and fat-free milk and dairy products was emphasized throughout the 2010 *Dietary Guidelines for Americans,* which included dairy products among the foods for which consumption should be increased.

Consumption of dairy products has been linked to improved bone health, which is especially important for children and adolescents. In addition, consumption of milk and dairy products has been linked to reduced risks of cardiovascular disease, type 2 diabetes and lower blood pressure in adults. As a result, it is important to promote strong milk drinking habits in children, since those who consume milk at an early age are more likely to reap dairy's health benefits in adulthood.

Despite these well-established benefits, many children are not consuming enough dairy. According to the report of the 2010 Dietary Guidelines Advisory Committee, nearly half of children ages four to eight do not meet the recommended daily consumption of dairy products. Among older children, more than half of boys between 9 and 18 do not meet dairy recommendations. Among girls, more than 75 percent of those 9 to 13 and more than 90 percent of those 14 to 18 do not consume enough dairy. Also, while children and adolescents are drinking less milk, they are consuming more soft drinks and other low-nutrient beverages. This is a troubling trend that has been identified as a potential reason for chronic calcium shortages and the rising rates of obesity among America's youth.

For these reasons, the 2010 *Dietary Guidelines* increased the recommended intake of dairy for children age four to eight from two to 2.5 servings per day. For older children, the *Guidelines* recommend three servings of low-fat and fat-free dairy products each day.

Impact of the Proposed Principles

The IWG's proposed principles were written with rising child obesity rates in mind. They are designed to encourage children, through advertising and marketing, to choose foods that contribute to a healthy diet and contain limited amounts of nutrients that could harm health and weight. The principles would be applied to individual foods, main dishes and full meals. Foods that contribute to a healthy diet are defined under Principle A, while those deemed to have a negative impact on health and weight are covered under Principle B. The "nutrients to limit" targeted under Principle B are saturated fat, *trans* fat, added sugars and sodium. Two options are offered to identify foods under Principle A, one based on weight and the other on RACC, or Reference Amount Customarily Consumed.

In placing a strong emphasis on "nutrients to limit," the IWG's proposed guidelines penalize many nutrient-rich foods that contribute significantly to children's diets. According to one analysis, 88 of the 100 most commonly consumed foods and beverages in America would fail to meet the working group's advertising and marketing standards. These include many foods that qualify for FDA health claims, satisfy standards for the Women, Infants and Children nutrition program, and are encouraged for consumption under the 2010 *Dietary Guidelines.* For example, some enriched grain products, nut products, lean deli meats and some canned or frozen fruits and vegetables contribute important nutrients to children's diets but would not meet the requirements under Principle B because of saturated fat, sodium, or added sugar limits. Principle B also would preclude the marketing to children of all non-low-fat dairy products as well as many flavored low-fat yogurts and flavored low-fat and

fat-free milks. The principles would also negatively affect milk consumption by limiting the marketing of many ready-to-eat cereals. Approximately 40 percent of the milk consumed by children is in conjunction with cereal.

Recommendations for Improving the Principles

Land O'Lakes encourages the working group to seek a better balance in the principles between addressing childhood obesity and the consumption of nutrient-rich foods. For example, including reduced-fat cheeses, as well as favored milk and yogurt with moderate amounts of added sugars, among foods approved for marketing will help children and adolescents reach both their recommended daily servings of dairy products and improve the quality of their overall diets. It is also consistent with the *Dietary Guidelines.*

Cheese

Because of the proposed limits on saturated fat and other nutrients to avoid, only low-fat and fat-free cheeses meet the requirements of Principle B. Unfortunately, while dairy food scientists have engaged in extensive efforts to develop good tasting low-fat and fat-free cheeses, very few of these products are currently on the market. Substantial technological challenges (functionality, food safety, and sensory challenges) remain in developing low-fat and fat-free cheeses, and many that are currently available are higher in sodium compared to higher-fat cheeses. That means, under the proposed principles, children and adolescents could miss out on enjoying cheese, a highly popular food with many beneficial nutrients.

Compounding this problem, the proposed standard that a cheese serving must meet to qualify as low-fat is particularly high, due to the Food and Drug Administration's 50-gram rule. Because the Reference Amount Customarily Consumed, or RACC, for cheese is 30 grams or less, it must contain no more than three grams of fat per 50 grams to qualify as low-fat. This translates to only 1.8 grams of fat per 30 grams of cheese. For Cheddar, that would require a fat reduction of more than 80 percent. Combined with Principle B, the 50-gram rule would further prevent many reduced-fat cheeses that make positive contributions to diets from being marketed to children. The 50-gram rule's threshold for qualifying is so high as to discourage manufacturers from reformulating products to meet low-fat requirements.

A reasonable solution to these problems is to include reduced-fat and part-skim cheeses to qualify under Principle A. Reduced-fat cheese contains at least 25 percent less fat than full-fat cheese and would still contribute about 20 percent of the calcium in children's diets. This change would be consistent with both the *Dietary*

Guidelines, which includes choosing reduced-fat cheese as a strategy to help meet dairy food recommendations, and the 2009 Institute of Medicine report on school meals, which included reduced-fat cheese in lunches that met its calorie and fat targets. In addition, reduced-fat and part-skim cheeses are widely distributed by the Agriculture Department for use in school meals and other federal nutrition programs. Also, at 22 percent of the market, reduced-fat cheeses are much more widely available than low-fat and fat-free cheeses. Including reduced-fat cheese in Principle A would provide a meaningful incentive to food manufacturers to utilize lower fat cheeses, thereby more likely contributing to actual reductions in fat levels of foods consumed by children.

Including reduced-fat and part-skim cheeses under Principle A could help children decrease their fat and saturated fat intake while still providing the nutrient benefits of including cheese in the diet. Land O'Lakes also urges the working group to calculate the nutrients to limit under Principle B on the levels in actual serving sizes, not through use of the 50-gram rule. This will result in more realistic standards that will help reduce the fat in children's diets, will increase the availability of lower fat cheeses in the market, and, when applicable, will encourage age-appropriate serving sizes (e.g., cheese snacks and slices).

As noted above with respect to cheese, an additional barrier to encouraging consumption of low-fat, fat-free and low-sugar dairy products is tying Principle B nutrient targets to RACCs rather than actual serving sizes. RACCs are based on 30- to 40-year-old consumption surveys and are not age-specific. The RACC for yogurt, for example, is eight ounces, even though most yogurts marketed to children are in four- or six-ounce containers. That makes it harder for yogurt to qualify under Principle B's added sugar limit. Rather than using RACC, nutrients to limit under Principle B should be applied to single-serving food packages, including single-serve milk and yogurt containers.

Dairy Ingredients

Milk, milk-derived ingredients (whey, whey protein concentrates, dry milk powder, etc.) and cheese are used extensively as dry or semi-solid ingredients in foods, main dishes and meals, all of which are covered under the principles. Thirteen percent of milk consumed by children ages 2 to 18 is in foods like pudding, macaroni and cheese, frozen desserts, smoothies, sauces and soups. Nearly two-thirds of cheese consumed by children is in foods like pizza, pasta, Mexican dishes, sandwiches, sauces and soups. Dry or semi-solid milk-based ingredients are often grouped together on food labels as simply "dairy ingredients." Their nutrient profile is similar to that of milk. With the exception of dried lactose (added as a separate ingredient),

which would be considered an added sugar under Principle B, the nutrients in these ingredients should be considered significant contributions to a healthy diet. Also, like their native counterparts – fluid low-fat and non-fat milk – the naturally- occurring nutrients (sodium, lactose, saturated fat) should be excluded when calculating amounts of nutrients to limit under Principle B. This will encourage manufacturers to include more dairy-based ingredients in foods and contribute to healthier diets overall.

The working group suggested two options for determining what constitutes a significant contribution to a healthy diet under Principle A. The first is based on weight and the second on RACCs. In general, Land O'Lakes feels that Option 1 — requiring foods contributing to a healthy diet to contain at least 50 percent of one or more beneficial items by weight — is preferable.

To determine whether foods with dairy ingredients make a significant contribution to a healthy diet under Option 1, Land O'Lakes suggests a standard of at least 4.4% non-fat milk solids by weight (equivalent to one-half of the non-fat milk solids contained in non-fat or low-fat milk by weight). For example, under Option 1, a smoothie product would qualify if it contained 50% nonfat or lowfat milk by weight. If nonfat dry milk powder and water were used instead, 4.4% nonfat milk solids in the smoothie would represent an equivalent level of milk solids. Option 2 requires foods making a significant contribution to a healthy diet to include three-quarters of a cup of non-fat or fat-free milk, which translates to 16 grams of non-fat milk solids. Therefore, should the working group settle on Option 2, Land O'Lakes suggests that foods containing dairy ingredients with at least 16 grams of non-fat milk solids qualify as contributing to a healthy diet.

Other Issues

Sodium

Land O' Lakes commends the IWG for not counting naturally-occurring nutrients – like sodium – in nutrient-rich dairy products toward the limits in Principle B. However, Principle B sets an ultimate goal for sodium of 140 milligrams per RACC, which will be especially challenging to meet with respect to cheese. Sodium is important to maintaining the flavor, body, texture, shelf life and safety of cheese. In addition, federal regulations require specific amounts of sodium in the standards of identity for many cheeses (insert example). Extensive R&D efforts are underway in an effort to reduce the sodium in cheese, but effective results and timelines for progress are uncertain. Consequently, Land O'Lakes recommends as an alternative goal to the New York Sodium Reduction Initiative target of 600 milligrams per 100 grams for natural cheeses, which corresponds to 180 milligrams per RACC.

Conclusion

The IWG's proposed principles for foods and beverages marketed to children exclude many dairy foods that make significant beneficial contributions to the diets of children and adolescents. This could lead to a decrease in dairy consumption at a time when the *Dietary Guidelines* recommends that most children increase their consumption of low-fat- and fat-free dairy products. Land O'Lakes has suggested several modifications to the principles that would include more dairy products among foods that qualify for marketing. Making these changes would reduce nutrients to limit in children's diets while increasing consumption of foods that contribute to a healthy diet.

Land O'Lakes appreciates this opportunity to offer its views on the working group's proposed principles. We respectfully request the Interagency Working Group to withdraw its proposed food marketing restrictions. Please contact us if you have questions or need additional information.

Sincerely,

Christopher J. Policinski
President and Chief Executive Officer
Land O'Lakes, Inc.