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VIA ELECTRONIC MAIL

Jon Leibowitz, Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

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

Dear Chairman Leibowitz:

Mars, Incorporated (Mars)¹ appreciates the opportunity to comment on the Interagency Working Group's (IWG) Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts. Mars commends the thoughtful work of the IWG and shares the IWG's concerns about the marketing and advertising of certain foods to children under the age of 12.

As discussed in more detail below, Mars believes that, consistent with available science, the core area of focus for all stakeholders should be a drive toward broader industry participation in, compliance with, and enforcement of voluntary marketing and advertising standards for children under the age of 12 years. Mars trusts that the Administration recognizes the great strides the food industry has made in addressing this issue, and also appreciates that different food sectors have different challenges and approaches in meeting our joint objectives. Mars would like to continue to work in close collaboration with the industry and other key stakeholders to further strengthen protocols for marketing and advertising of foods to children under age 12, including the establishment of uniform nutrition criteria and marketing definitions, and stronger enforcement mechanisms. We believe there is a role for other stakeholders – public health and other nongovernmental organizations (NGOs), schools, broadcasters, retailers, and consumers –

¹ Based in McLean, Virginia, Mars employs more than 65,000 associates worldwide and has global net sales of more than \$30 billion across six business segments including Petcare, Chocolate, Wrigley, Food, Drinks and Symbioscience.

in the development of strong industry standards for food advertising and marketing to children under 12.

To that end, we have provided below: (1) a brief summary of Mars' Marketing Code; (2) the scientific rationale for limiting industry marketing restrictions to children under age 12; and (3) Mars' recommendations for the continued development of a strong, enforceable industry self-regulatory mechanism to achieve a reasonable and effective industry-wide advertising and marketing code for children under the age of 12.

I. Mars' Marketing Code

Like others in our industry, Mars is concerned about the growing body of scientific evidence demonstrating that children under the age of 12 may not understand the nature and purpose of food marketing directed toward them. That's why, as early as 2007, Mars established a Marketing Code that refrains from advertising our food products to children under the age of 12.

Our global marketing commitments apply to marketing communications for all food, chocolate, confections, and gum products produced and licensed by Mars and Wrigley on a worldwide basis² including media advertising (e.g. broadcast, print, and digital, including websites), advertorials, sponsorship, sweepstakes, contests, and similar promotions. This blanket prohibition on marketing to children under 12 enables us to better enforce our Code and helps ensure transparency for consumers and other stakeholders. We have developed a strong internal training and enforcement mechanism within our company to ensure the highest level of compliance with our Code.

In line with our commitment, we do not purchase advertising time or space where the composition of the under-12 audience, at the time of the media buy, is expected to exceed 25%, nor do we advertise, sponsor, or undertake product placement in films or media programming where the intended audience is primarily children under 12.

We aim to focus our marketing communications in all media to individuals who make household purchasing decisions (gatekeepers), both in terms of ad content and media purchasing. Our marketing communications aim to allow gatekeepers to make informed choices about whether our products are appropriate for the children in their care. Mars actively participates in the external monitoring of its voluntary commitments to ensure compliance with regional, national, or global industry pledge commitments.

II. Efforts Should Focus on the Establishment of Advertising and Marketing Standards for Children Under Age 12

The IWG notes in its proposal that research regarding the impact of advertising on the food preferences of adolescents between the ages of 12 and 17 is inconclusive. Mars agrees, which is why we have based our Marketing Code on the 2006 National Academy of Sciences report, *Food Marketing to Children and Youth: Threat or Opportunity?*, which concluded that there is “strong evidence” that television advertising influences the food and beverage preferences and purchase requests of children ages 2-11, and “moderate evidence” that television advertising influences the food and beverage beliefs of children ages 2-11, but there is “insufficient evidence” that television advertising influences the preferences, purchase requests, or beliefs of teens ages 12-18.³

The Federal Trade Commission (FTC) has itself acknowledged the importance of targeting marketing restrictions to children under 12, stating in its 2008 report, *Marketing Food to Children and Adolescents*, that “all companies that market food and beverage products to children should adopt and adhere to meaningful nutrition-based standards for marketing their products to children under 12.”⁴

In spite of these findings, the IWG’s proposed guidelines apply the same advertising and marketing criteria to both children and adolescents. Such uniform restrictions do not take into account the fundamental developmental differences between children and adolescents, and in particular, how these age groups understand and respond to various marketing techniques. The IWG’s proposal to apply the same advertising and marketing restrictions to both children and adolescents also risks diverting attention, will, and resources away from the practices that are of most concern, namely, the advertising and marketing of certain types of foods to children under age 12 – where strong evidence exists that advertising has an impact, but the industry has failed to consistently act. Further, restrictions on advertising to the 12-17 age group unavoidably result in impermissible restrictions on advertising to a substantial number of adults, particularly with respect to sports and prime time programming, which erect a substantial obstacle for industry buy-in.

In summary, by proposing marketing principles with age targets so broad in scope, the IWG misses an important opportunity to elevate industry marketing practices with respect to the age

² Following its acquisition by Mars in 2008, Wrigley adopted the Mars Marketing Code. Wrigley implementation of the Code was completed across geographies in 2010, with the exceptions of China, which will fully implement the Code by the end of 2012, and India, which will fully implement by the end of 2013.

³ See *Food Marketing to Children and Youth: Threat or Opportunity?*, Institute of Medicine, National Academy of Sciences, 379 (2006).

⁴ See *Marketing Food to Children and Adolescents*, Federal Trade Commission Report to Congress, 103 (2008).

group of greatest concern: children under 12. We believe that industry, government, and NGOs should instead focus on working together toward the establishment of common guidelines and universal compliance regarding advertising to children under the age of 12. Mars is committed to working with food manufacturers and a broad array of other stakeholders to develop a stronger industry-wide marketing code (based on reasonable nutrition limits) regarding advertising and marketing to children in this age group.

III. Mars Recommends Building on Existing Industry Self-Regulatory Programs to Develop a Voluntary, Strong, and Enforceable Program Restricting the Advertising and Marketing of Certain Foods to Children Under 12

Mars believes that the food industry should work together to expand and strengthen existing self-regulatory programs, and that this goal is achievable through our collective efforts. Specifically, Mars believes industry self-regulatory efforts should focus on the development of a voluntary, industry-wide marketing code that: (1) restricts the marketing of certain foods to children under 12, (2) includes reasonable, uniform, and transparent nutrition and marketing standards, and (3) adopts a meaningful enforcement mechanism.

Like many other U.S. food manufacturers, Mars is a member of the Council of Better Business Bureaus' (CBBB) Children's Food and Beverage Advertising Initiative (CFBAI), which was established in 2006 to shift the mix of advertising primarily directed to children to encourage healthier dietary choices and healthy lifestyles. Each company member of CFBAI is responsible for developing an individual child marketing commitment that addresses the program's core principles. A company's adherence to its individual marketing pledge is monitored and audited by CBBB, which reports on our activities annually. While the CFBAI has been very successful in elevating industry child marketing standards and is currently further modifying, enhancing, and seeking to align companies' nutrition standards, we believe more can be done to strengthen this self-regulatory program.

More specifically, Mars proposes that industry join together and build on the success of the CFBAI by expanding and strengthening the initiative such that it includes a universal, voluntary and transparent marketing code applicable to children under 12 and also includes a strong enforcement mechanism, similar to, and modeled after the process that currently is included in the CBBB's Children's Advertising Review Unit (CARU) program. CARU is the children's arm of the advertising industry's self-regulatory program and evaluates child-directed advertising and promotional material in all media to advance truthfulness, accuracy, and consistency with its *Self-Regulatory Guidelines for Children's Advertising* and relevant laws. Mars is a supporter of CARU, along with most of the U.S. food industry. CARU has been used effectively by industry to police its advertising practices and has been shown to have the authority required to ensure

responsible industry advertising practices. We believe we can make CFBAI stronger by incorporating some of the enforcement mechanisms currently part of CARU.

Mars believes that the best approach to elevating industry marketing practices with respect to children under 12 is to work through the CBBB to strengthen and expand existing self-regulatory mechanisms and develop an industry-wide code regarding the advertising and marketing of certain foods to children. The framework already exists within CFBAI and CARU to implement an industry-wide code on child marketing and ensure its effectiveness through monitoring and complaint processes. Further, our experience with CARU and other third-party audited, industry-driven commitments is that industry has the ability to negotiate and align around uniform commitments, and once it does, it is typically successful in complying with these standards. Accomplishing a uniform code on the marketing of foods to children under 12 would provide a benchmark for industry self-regulation, demonstrate commitment to our collective efforts, and provide an objective means for evaluating compliance.

IV. Conclusion

We believe it is possible for food manufacturers to align on the same nutritional and marketing criteria and develop an enforcement mechanism to ensure compliance. Mars appreciates the opportunity to submit these comments on the IWG's Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts and looks forward to continued active engagement with key stakeholders from all relevant disciplines (including scientific, regulatory, public health, consumer advocacy groups, other governments, and NGOs) to develop industry principles that will drive responsible marketing to children. We hope that the IWG will consider Mars a resource as it finalizes its recommendations.

Sincerely,

Brad Figel ✓
Vice President
Public Affairs-North America
Mars, Incorporated