

July 13, 2011

Chairman Jon Leibowitz  
Commissioner Julie Brill  
Commissioner William Kovacic  
Commissioner Edith Ramirez  
Commissioner J. Thomas Rosch  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

***Concerns by the Black, Latino and Asian American Communities About the Promotion of Unhealthy Foods and Obesity: Partial Support for Proposed Voluntary Principles for Marketing Food to Children (File No. P094513)***

Dear Chairman Leibowitz and Commissioners Brill, Kovacic, Ramirez and Rosch,

These public interest comments are filed by the Black Economic Council, the Latino Business Chamber of Greater LA and the National Asian American Coalition on behalf of America's more than 110 million Blacks, Latinos and Asian Americans.<sup>1</sup> Over the last two years, we have filed numerous comments concerning the dominant powers of most corporations in influencing behavior and outcomes of the minority community before the FTC, FCC, FERC, Federal Reserve, FDIC, OCC, Treasury and the Department of Justice.

We note with some disappointment that we are the only Black or Asian American group that has filed comments and that the only Hispanic marketing group whose priorities are not children. Given no other variables, all three groups oppose mandatory advertising programs. That is, a mandatory program that is fought through the court system and never secures true corporate support may not be as effective as a program warmly embraced by the CEOs of giant corporations that wish to secure a competitive advantage through a corporate responsibility image.

On its face, the FTC's voluntary guidelines appear to be the best approach to the differential between the knowledge of children and the enormous influence of corporate interests that focus on their vulnerabilities. Unfortunately, the industry has decided, at least as a whole, not to support these voluntary principles. Our comments are in this context.

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<sup>1</sup> All three groups greatly appreciated their meetings with Chairman Leibowitz and other commissioners over the last two and a half years and believe that this new FTC, unlike its predecessor, is poised to be creative and flexible in seeking solutions to a growing problem. During our bimonthly DC meetings with key congressional leaders, including the leadership of the Black, Hispanic and Asian Pacific American caucuses, we will work with your staff to help promote these guidelines and/or secure appropriate legislation.

First, children of Harvard-educated professors residing in Cambridge are of little or any risk relating to untruthful corporate advertisers. In contrast, children of new immigrants, whose families speak languages other than English, are totally vulnerable. Similarly, for a wide variety of reasons, a disproportionate percentage of Black, Latino and Asian American children are at a far greater risk than a typical affluent child watching TV.

Second, there are a number of alternatives to the voluntary guidelines set forth. Many of these alternatives should appeal to many of the most prominent TV advertisers whose products are directed at children. We offer a few:

A. Particular companies that are proud of their products and have a long and generally beneficial public interest reputation may wish on their own to develop a gold fiduciary standard of conduct. This is similar to what we have offered to the FCC in the pending Bill Shock case where we have urged the CEOs of Verizon and AT&T to break from lowest common denominator standards of their industry and develop separate gold standards. With the support of the FTC and other government agencies, as well as First Lady Michelle Obama's personal influence, we could raise the standards for all of the industry, since those with gold standards will have a competitive advantage. In fact, perhaps their food products could receive a special label, such as the label in the 1930s that enabled the banks to prosper, the FDIC-insured label.

B. Education is a key element in ensuring that children are wise consumers. Some or all of the major advertisers should be encouraged to develop multi-million dollar "food literacy" and obesity programs much as, for example, Citigroup has done in the area of financial literacy. These outreach and educational programs could be targeted to the most vulnerable members of our society, low-income, minority and new immigrant families, so that they eventually become no more vulnerable to misleading advertising than the children of Harvard professors.

C. Obesity is a growing problem that will eventually affect 40% or more of our population and that presently affects a third of our population, including over 25% in California. Excessive consumption combined with quality of foods consumed is clearly a major factor in obesity. Thus, advertisers should invest in also promoting appropriate and vigorous exercise beginning at the kindergarten level. We have a recently large population, including within the public schools system. The larger goal should be combining healthy diet with appropriate exercise.

Given the substantial declines in public school education budgets, it might be appropriate for the primary advertisers and promoters of food products, not just those who promote on TV but through all media and promotions, to allocate a minimum of 2% of their pretax profits to a broad range of community-based partnerships to not only stop the growth of obesity but, to where possible, terminate it within 20 years. For example, new immigrants who come to the United States with good dietary habits and a hard physical work ethic are generally and have been historically immune from obesity. But this is ending as a result of the growing influence of corporate advertising. Reinforcing of these new immigrant dietary and exercise histories could be one of the objectives in a new era of corporate responsibility that might be considered by the FTC, corporate advertisers and the First Lady's anti-obesity campaign.

### Public Hearings

Due to the industry's recent refusal to support the voluntary guidelines and their decision to fight back, we urge FTC Chairman Leibowitz and the commissioners to use their bully pulpit to encourage positive change. As a first step, we urge that the commissioners hold numerous public hearings across the United States, including hearings in particularly minority areas, such as Oakland, East Los Angeles, Southeast Los Angeles, Santa Ana and San Jose.

A second recommendation is that Chairman Leibowitz and the commissioners bring together the leadership from the Top 50 foundations in America concerned about obesity and the growing health problems of Americans to discuss how they might jointly work with CBOs to arm our children, particularly vulnerable children, from the onslaught of unfair corporate advertising practices.

Lastly, we urge the Chairman and the commissioners to bring together health professionals, including nurses and other Main Street health practitioners, to a conference with CBOs and foundations to discuss viable and effective options to the voluntary guidelines.

y submitted,

Chairman

President and CEO  
National Asian American Coalition

Chairman  
Latino Business Chamber of Greater LA