

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:** Deborah Platt Majoras, Chairman  
Pamela Jones Harbour  
Jon Leibowitz  
William E. Kovacic  
J. Thomas Rosch

FTC Matter No. P064504

**ORDER TO FILE SPECIAL REPORT**

Pursuant to a resolution of the Federal Trade Commission dated July 31, 2007, titled “*Resolution Directing Use of Compulsory Process to Collect Information for Use in Preparing a Report to Congress Regarding the Marketing of Food and Beverages to Children and Adolescents*,” a copy of which is enclosed, Stemilt Growers, Inc., hereinafter referred to as “the company,” is ordered to file with the Commission, no later than 90 days after the date of issuance of this Order, a Special Report containing the information and documents specified herein.<sup>2</sup>

The information provided in the Special Report will assist the Commission in compiling a report that Congress instructed the FTC to prepare regarding food industry marketing activities and expenditures targeted toward children and adolescents.<sup>3</sup>

The Special Report should restate each item of this Order with which the corresponding answer is identified. Your report is required to be subscribed and sworn to by an official of the

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<sup>1</sup> Under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. For this information request, that number is 3084-0139.

<sup>2</sup> For purposes of this Order, the term “the company” includes all of the entities identified in response to specification 1.B, below.

<sup>3</sup> See Conference Report to Pub. L. No. 109-108, H.R. Rep. No. 109-272 (2005) (incorporating language from S. Rep. No. 109-88 (2005)). For purposes of this Order, the term “children” includes individuals ages 2-11 and the term “adolescents” includes individuals ages 12-17.

company who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in your possession. If any question cannot be answered fully, give the information that is available and explain in what respects and why the answer is incomplete. The Special Report and all accompanying documentary responses should be bates-stamped.

Please provide the following information and documents, consistent with the definitions, instructions, and formatting requirements contained in Attachments A, B, C, D, and E:

1. A. **Identification of Report Author:** Identify by full name, business address, telephone number, and official capacity, the officer of the company who has prepared or supervised the preparation of the company's response to this Order.
- B. **Company Information:** Identify the company by full name, address, and state of incorporation. If the company is a subsidiary company, identify the full name and address of its ultimate parent company.<sup>4</sup> In addition, identify each subsidiary, joint venture, affiliated company, partnership, or operation under an assumed name that the company controls, and that engages in the manufacturing, labeling, advertising, promoting, marketing, offering for sale, sale, or distribution of any food<sup>5</sup> product in the United States.
- C. **Identification of Food Categories:** From the following categories, identify each category of food product advertised, promoted, marketed, offered for sale, sold, or distributed by the company in the United States, during the calendar year 2006. In preparing this response, refer to the food category definitions set forth in Attachment A to this Order.
  - (1) Breakfast cereals
  - (2) Snack foods
  - (3) Candy
  - (4) Dairy products
  - (5) Baked goods

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<sup>4</sup> For purposes of this Order, "subsidiary company" means a company that is controlled by another entity; "ultimate parent company" means an entity that controls another company and is not controlled by another entity. Furthermore, for purposes of this Order, "control" (as used in the terms "control(s)" and "controlled") means either holding 50 percent or more of the outstanding voting securities of an issuer or in the case of an entity that has no outstanding voting securities, having the right to 50 percent or more of the profits of the entity, or having the right in the event of dissolution to 50 percent or more of the assets of the entity.

<sup>5</sup> For purposes of this Order, "food" means any food or beverage intended for human consumption.

- (6) Carbonated beverages
- (7) Fruit juice and non-carbonated beverages
- (8) Prepared foods and meals
- (9) Frozen and chilled desserts
- (10) Fruits and vegetables
- (11) Restaurant food

D. **Identification of Food Products:** For each of the food categories identified in response to Specification 1.C, above, identify each brand of food products, and each sub-brand or brand variant within the brand, that the company advertised, promoted, marketed, offered for sale, sold, or distributed in the United States, during the calendar year 2006. For each brand, identify which entity within the company, identified in response to Specification 1.B, above, is responsible for that brand.

**Exception for Non-Advertised Sub-Brands and Brand Variants:**

Identify distinct sub-brands and brand variants in response to this Specification 1.D, only if the company engaged in any form of advertising or promotional activity, as defined in Attachment D to this Order, for those distinct sub-brands and brand variants.

**Non-Branded Fruit, Vegetable, or Dairy Products:** For any non-branded fruit, vegetable, or dairy products that the company advertised, promoted, marketed, offered for sale, sold, or distributed, list the individual fruit, vegetable, or dairy product varieties.

**Restaurant Foods:** For the restaurant food category, identify only the name of the restaurant chain(s) and state which entity within the company, identified in response to Specification 1.B, above, is responsible for the restaurant chain.

E. **Identification of Food Products Bearing Nutritional Seals or Icons:** Does the company offer a line of food products bearing a nutritional icon, seal, or symbol, or otherwise identified as “better for you,” healthier, more nutritious, lower calorie, or lower fat than other products? If so, state the name of the nutritional product line or icon; identify the nutritional criteria for inclusion of a food product in the product line; and identify the food categories, brand names, and sub-brands or brand variants of food products sold in the product line, or for the restaurant food category, identify the specific menu items included in the product line.

2. **Expenditures on Marketing Food Products:** For each brand of food products, sub-brand or brand variant, restaurant chain, or non-branded fruit, vegetable, or dairy product variety identified in response to Specification 1.D, above (**collectively and hereafter,**

“**food product**”), report in Attachment E to this Order<sup>6</sup> the expenditure data requested in subparagraphs 2.A through 2.E, below, within the following advertising and promotional activity categories:

- (a) Television advertising
- (b) Radio advertising
- (c) Print advertising
- (d) Company-sponsored Internet sites
- (e) Other Internet advertising
- (f) Packaging and labeling
- (g) Movie theater/video/video game advertising\*
- (h) Other digital advertising\*
- (i) In-store advertising and promotions\*
- (j) Specialty item or premium distribution\*
- (k) Promotion or sponsorship of public entertainment events\*
- (l) Product placements\*
- (m) Character licensing, toy co-branding, and cross-promotions\*
- (n) Sponsorship of sports teams or individual athletes\*
- (o) Word-of-mouth marketing\*
- (p) Viral marketing\*
- (q) Celebrity endorsements\*
- (r) In-school marketing\*
- (s) Advertising in conjunction with philanthropic endeavors\*
- (t) Other promotional activities\*

A. **Marketing Toward Children:** Report the dollar amount expended by the company, during the calendar year 2006, within each advertising and promotional activity category listed above for marketing targeted toward children. Follow the instructions and definitions in Attachment B to this Order (Advertising and Promotional Activities Targeted Toward Children), and report these expenditures in columns 6, 10, 14, 18, 22, 26, 30, 34, 38, 42, 46, 50, 54, 58, 62, 66, 70, 74, 78, and 82 of Attachment E.

B. **Marketing Toward Adolescents:** Report the dollar amount expended by the company, during the calendar year 2006, within each advertising and promotional activity category listed above for marketing targeted toward adolescents. Follow the instructions and definitions in Attachment C to this Order (Advertising and

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<sup>6</sup> An electronic version of Attachment E, an Excel spreadsheet, is provided on the included CD.

\* For special instructions on reporting expenditures in these categories, see the instructions for Attachments B, C, and D to this Order.

Promotional Activities Targeted Toward Adolescents), and report these expenditures in columns 7A, 7B, 11, 15, 19, 23, 27, 31, 35, 39, 43, 47, 51, 55, 59, 63, 67, 71, 75, 79, and 83 of Attachment E.

- C. **Duplicative Marketing:** Report any expenditures reported in response to Specification 2.B that are duplicative of expenditures reported in response to Specification 2.A. Report these duplicative expenditures in columns 8, 12, 16, 20, 24, 28, 32, 36, 40, 44, 48, 52, 56, 60, 64, 68, 72, 76, 80, and 84 of Attachment E.
- D. **Marketing for All Audiences:** For each food product for which the company reported expenditures within one or more advertising or promotional activity categories in response to Specification 2.A or 2.B, report:
- i. the total dollar amount expended by the company, during the calendar year 2006, to market the product within each category in which the company reported expenditures in response to Specification 2.A or 2.B. Follow the instructions and definitions in Attachment D to this Order (Advertising and Promotional Activities for All Audiences), and report these expenditures in columns 9, 13, 17, 21, 25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 65, 69, 73, 77, 81, and 85 of Attachment E; and
  - ii. the total dollar amount expended by the company, during calendar year 2006, for all advertising and promotional activities to market the product. Follow the instructions and definitions in Attachment D to this Order (All Audiences), and report these expenditures in column 86 of Attachment E.
- E. **Additional Information:** For each food product for which expenditures are reported in response to Specification 2.A or 2.B, provide the following additional information, using the format set forth in Attachment E:
- i. company name (column 1);
  - ii. food category, identified in response to Specification 1.C, above (column 2);
  - iii. brand name or name of restaurant chain, identified in response to Specification 1.D, above (column 3);
  - iv. sub-brand or brand variant, identified in response to Specification 1.D, above, if relevant (column 4); and
  - v. an indication (“Y” or “N”) of whether the food product is part of a nutritional product line, identified in response to Specification 1.E, above

(column 5).

3. **Descriptions and Samples of Advertising and Promotional Activities:** If, in response to Specification 2.A or 2.B, above, expenditures are reported for any food product within any of the advertising and promotional activity categories set forth in Specification 2(d) through (t), list and provide samples of (or list and describe in detail, if providing samples is not practicable) the specific advertising and/or promotional activities for each food product in each of these categories for which expenditures are reported.
4. **Advertising or Promotional Activities Without Reportable Expenditures:**
  - A. Identify which food products identified in response to Specification 1.D, if any, the company advertised or promoted to children or adolescents, as defined in either Attachment B or C to this Order during the calendar year 2006, but for which the company reported no advertising or promotional activity expenditures in response to Specification 2.<sup>7</sup>
  - B. For each food product identified in response to Specification 4.A, list and provide samples of (or list and describe in detail, if providing samples is not practicable) each instance of such advertising and/or promotional activity by the advertising and promotional activity categories set forth in Specification 2(a) through (t).<sup>\*</sup> For each reportable activity, identify whether the activity met one or more of the definitions set forth in Attachment B or one or more of the definitions set forth in Attachment C, or whether the activity met the definitions set forth in both Attachments B and C.
5. A. **Policies on Food Marketing:** Identify and describe all company policies, plans, and directives, whether formally adopted or informally issued, in place on or after January 1, 2006, pertaining to food advertising and promotional activities targeted to children or adolescents, as defined in Attachments B or C, including policies regarding use or non-use of all advertising and promotional activities. Describe the steps taken to implement these policies, including directions to internal or external staff responsible for advertising preparation, review, or dissemination regarding the meaning of these policies and how to comply with them. Provide copies of all such policies and directions to internal or external staff.

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<sup>7</sup> Examples of such a reportable activity would be use of a licensed character, a celebrity endorser, a product placement, or co-branding of a toy where no payment is made or costs incurred with such an arrangement.

<sup>\*</sup> For special instructions on reporting activities in categories (g) through (t), see the instructions for Attachments B and C to this Order.

- B. **Market Research:** Since January 1, 2005, has the company sponsored or commissioned any marketing research studies regarding the appeal to individuals under the age of 18 of any particular types of advertising or promotional techniques, including the effectiveness of any particular types of advertising or promotional techniques in increasing interest in or consumption of any food product among individuals under the age of 18? If the answer is “yes,” provide copies of such studies and describe how the resulting data has been incorporated into the company’s marketing practices.
6. A. **Initiatives on Healthy Eating and Lifestyle:** Identify and describe all company policies, programs, initiatives, or activities undertaken or implemented by the company, on or after January 1, 2006, to encourage healthy eating and lifestyle choices by children and adolescents. These may include, but are not limited to, the following:
- (1) development of new products or reformulation of existing products that are lower in calories and more nutritious and are marketed to children or adolescents;
  - (2) efforts to make nutritious, lower-calorie products appealing to children or adolescents and convenient for them to consume;
  - (3) packaging of nutritious, lower-calorie products in ways that are appealing to children or adolescents;
  - (4) packaging of products marketed to children or adolescents in smaller portions or single servings to assist them in controlling portion size and calorie intake;
  - (5) labeling initiatives, such as nutritional icons or seals, to help consumers more easily identify nutritious, lower-calorie products;
  - (6) measures to improve the overall nutritional profile of products marketed to children and adolescents (*e.g.*, minimum nutritional standards for products marketed to children and adolescents or standards that shift such marketing to emphasize nutritious, lower-calorie products);
  - (7) public education efforts, such as messages targeted to children or adolescents addressing nutrition and physical fitness, including any partnerships or cross-promotional arrangements of any sort with other food and beverage companies, media outlets, non-profit organizations, or other entities for the purpose of promoting healthier eating, increased physical activity and/or healthier lifestyles;

- (8) efforts to improve the overall nutritional profile of products marketed and sold to children or adolescents in schools.

**B. Research on Initiatives:** Has the company conducted research or otherwise obtained data to evaluate the effectiveness of any of the policies, programs, initiatives, or activities identified and described in response to Specification 6.A, above, including any studies regarding the appeal to individuals under the age of 18 of any of the company's more nutritious, lower-calorie food products and/or any advertising or promotional activities contemplated or used to market such products? If the answer is "yes," provide copies of such research or other data.

7. **Marketing to Children and Adolescents by Gender, Race, Ethnicity, or Income Level:** Have any of the advertising or promotional activities for which expenditures and activities are reported in response to Specifications 2.A, 2.B, 3, or 4, above, been specifically directed, according to a marketing plan<sup>8</sup> or by virtue of advertising placement, language used, characters used, or other content, to individuals of a specific gender, race, ethnicity, or income level? If the answer is "yes," please indicate which expenditures reported in response to Specifications 2.A and 2.B and which advertising or promotional activities listed in response to Specifications 3 and 4 were directed in such manner and indicate the particular sub-population to which they were directed.

Please file the Special Report called for in this Order no later than 90 days after the date of issuance of the Order, or by November 1, 2007.

All responses should be provided in two (2) printed copies and in electronic form (by CD or as email attachments), formatted as Word or Word Perfect documents, with the exception of the responses to Specification 2, which should be provided in two (2) printed copies and in electronic form (by CD or as email attachments) on the included Excel Spread Sheet. A sample Excel Spread Sheet is attached to this Order as Attachment E and provided on the included CD. All responses should be labeled to indicate the Specification to which the information or data responds. All files contained in electronic submissions should have a file name that includes the company name, Specification numbers included in the file, and date of the submission, in the following format: [COMPANY-NAME]\_Spec.\_[SPEC. #S]\_[MM-DD-YY].

Penalties may be imposed under applicable provisions of federal law for failure to file Special Reports or for filing false reports.

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<sup>8</sup> See *infra* note 11 for the definition of "marketing plan."



By direction of the Commission.

Deborah Platt Majoras  
Chairman

SEAL

Date of Order: July 31, 2007

The Special Report required by this Order,  
or any inquiry concerning it, should be  
addressed to the attention of:

Keith Fentonmiller  
Division of Advertising Practices  
Federal Trade Commission  
601 New Jersey Avenue, NW, NJ-3212  
Washington, D.C. 20580  
(202) 326-2775 telephone  
(202) 326-3259 facsimile  
kfentonmiller@ftc.gov

or

Mary Johnson  
Division of Advertising Practices  
Federal Trade Commission  
601 New Jersey Avenue, NW, NJ-3212  
Washington, D.C. 20580  
(202) 326-3115 telephone  
(202) 326-3259 facsimile  
mjohnson1@ftc.gov

## Attachment A Food Categories

For purposes of this Order, the food categories<sup>9</sup> set forth in Specification 1.C. include the following items:

- (1) **Breakfast cereals** – all cereals, whether intended to be served hot or cold (PCC F122)<sup>10</sup>
- (2) **Snack foods** – snack chips (such as potato chips, tortilla chips, and corn chips), pretzels, snack nuts (salted and roasted), popcorn, snack bars (including breakfast and cereal bars), crackers, cookies, processed fruit snacks (such as fruit leather), gelatin, and pudding (PCC F115, F163, F212)
- (3) **Candy** – chocolate and other candy bars, other chocolate candy, hard candy, chewy candy (including licorice, gummi candy, and jelly beans), and sour candy (PCC F211, excluding gum and breath mints)
- (4) **Dairy products** – milk (including flavored milk drinks), yogurt, yogurt drinks, and cheese (but not frozen dairy products, such as ice cream or frozen yogurt) (PCC F131, excluding butter, eggs, and cream, F132, F139, excluding cottage cheese and sour cream, F223)
- (5) **Baked goods** – snack cakes, pastries, doughnuts, and toaster baked goods (such as frozen waffles, French toast sticks, and toaster pastries) (PCC F161, excluding bread, rolls, bagels, breadsticks, buns, croissants, taco shells, and tortillas, F162)
- (6) **Carbonated beverages** – all carbonated beverages, both diet and regular (PCC F221, F222)
- (7) **Fruit juice and non-carbonated beverages** – fruit juice, juice drinks, fruit-flavored drinks, vegetable juice, tea drinks, energy drinks, sports drinks, cocoa, bottled water, and all other non-carbonated beverages; include ready-to-pour beverages as well as those sold in concentrated or powdered form (PCC F171, excluding all varieties of coffee, F172, F173, F224)
- (8) **Prepared foods and meals** – frozen and chilled entrees, frozen pizzas, canned soups and pasta, lunch kits, and non-frozen packaged entrees (such as macaroni and cheese) (PCC

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<sup>9</sup> The food categories are intended to be mutually exclusive. Do not include a food product in more than one category.

<sup>10</sup> The PCC codes listed in Attachment A are Nielsen Media Research categorizations and are provided as a reference.

F121, F125, F126)

- (9) **Frozen and chilled desserts** – ice cream, sherbet, sorbet, popsicles and other frozen novelties, frozen yogurt, and frozen baked goods (including frozen pies and cakes, but not those frozen breakfast items listed above under “baked goods”) (PCC F133)
- (10) **Fruits and vegetables** – all fruits and vegetables, whether sold fresh (packaged or loose), canned, frozen, or dried (PCC F141, F142, F143)
- (11) **Restaurant food** – menu items offered in the restaurant (PCC G330, excluding banquet facilities, comedy clubs, dining clubs, dinner theaters, and nightclubs)

**Attachment B**  
**Advertising and Promotional Activities Targeted Toward Children**

**INSTRUCTIONS**

Use the following definitions for purposes of reporting the advertising expenditures and activities requested in Specifications 2.A, 2.C, 3, 4, and 7. The terms provided in parentheses after each advertising or promotional activity category are the codes used in Attachment E to designate expenditures in the category. These codes should be used by the company when preparing its response to Specification 2, following the format set forth in Attachment E. Except where otherwise noted, the media categories set forth below are mutually exclusive. Do not report an expenditure in more than one category, unless otherwise directed. Also, limit reported expenditures to advertising and promotional activities that were conducted in the United States (including the U.S. territories).

For the advertising and promotional activity categories listed in (a) through (f), below, report expenditures to the nearest \$10,000. For the advertising and promotional activity categories listed in (g) through (t), below, the company may report expenditures in the following ranges: \$10,000 to \$50,000; \$50,000 to \$100,000; \$100,000 to \$250,000; and then in increments of \$250,000.

**Special Instructions for Reporting Expenditures in Categories (g) through (t) in Response to Specification 2.A for Certain Food Categories:** For any food product identified in response to Specification 1.D and that also falls within the food categories listed in Specification 1.C.(1) through (5), (8) or (9), the company need not report expenditures in response to Specification 2.A for the advertising and promotional activity categories listed in (g) through (t), if both of the following conditions are met:

- (1) The company had no reportable expenditures for the food product in response to Specification 2.A for any of the advertising and promotional activity categories listed in (a) through (f) of this Attachment B; and
- (2) No marketing plan<sup>11</sup> for the food product indicates that the company planned or engaged in any form of advertising or promotional activity for the product during the calendar year 2006 that was intended to reach an audience that, in whole or in

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<sup>11</sup> A “marketing plan” includes documents addressing advertising and marketing objectives and strategies, themes, or concepts, as well as media recommendations, media plans, marketing reports, business studies, creative strategies or briefs, category management plans, media exposure projections, and any other documents that set out, describe, or discuss the planned or actual approaches for marketing, advertising, or promoting a food brand, food product line, food product, or restaurant chain, whether created by the company or by its agents, including but not limited to ad agencies, media buyers, or advertising consultants.

part, consisted of children ages 2-11.

**Special Instructions for Reporting Activities in Categories (g) through (t) in Response to Specification 4.A or 4.B for Certain Food Categories:** For any food product identified in response to Specification 1.D that also falls within food categories 1.C.(1) through (5), (8) or (9), the company need not report, in response to Specification 4.A or 4.B, activities for the advertising and promotional activity categories listed in (g) through (t) of this Attachment B, if both of the following conditions are met:

- (1) The company had no reportable activities for the food product in response to Specification 4.A or 4.B for any of the advertising and promotional activity categories listed in (a) through (f) of this Attachment B; and
- (2) No marketing plan for the food product indicates that the company planned or engaged in any form of advertising or promotional activity for the product during the calendar year 2006 that was intended to reach an audience that, in whole or in part, consisted of children ages 2-11.

#### **DEFINITIONS**

- (a) **Television advertising (TV AD)** means advertising on broadcast, cable, or satellite television channels, including during syndicated programming, or branded messages relating to company sponsorship or underwriting of a television program, excluding product placements. Report television advertising expenditures if any of the following apply:
1. A marketing plan specifically indicates that the television advertising was intended to reach children under age 12; or
  2. The advertising appeared in, during, or contiguous to any television program, programming block, or daypart that had a viewing audience consisting of 30% or more children ages 2-11, as measured on an annual basis.<sup>12</sup>
- (b) **Radio advertising (RAD AD)** means advertising on AM, FM, HD Radio, or satellite radio channels, excluding product placements. Report radio advertising expenditures if any of the following apply:
1. A marketing plan specifically indicates that the radio advertising was intended to reach children under age 12; or

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<sup>12</sup> A 30% audience share was chosen for children ages 2-11 because this level of audience share is approximately double the proportion of that group in the general U.S. population.

2. The advertising appeared in, during, or contiguous to any radio program, programming block, or daypart for which children ages 2-11 constituted at least 30% of the listening audience, as measured on an annual basis.
- (c) **Print advertising (PRT AD)** means advertising placed in magazines, comic books, newspapers (including advertising placed in free-standing inserts), or other print publications. Report print advertising expenditures if any of the following apply:
1. A marketing plan specifically indicates that the print advertising was intended to reach children under age 12; or
  2. The advertising appeared in a publication for which children ages 2-11 constituted at least 30% of the readers and/or subscribers, as measured on an annual basis.
- (d) **Company-sponsored Internet sites (WEBSITE AD)** means any company-sponsored Internet site or page that contains information about or images of the company's food brands or products, including, but not limited to, advergames,<sup>13</sup> and that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page. Report expenditures on, and activities associated with, company-sponsored Internet sites if any of the following apply:
1. A marketing plan specifically indicates that the site or page was intended to reach children under age 12;
  2. Audience demographic data indicate that 20% or more of visitors to the site or page were children ages 2-11 for any month during 2006;<sup>14</sup> or
  3. The site or page:
    - A. prominently featured child-oriented animated or licensed characters;
    - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a

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<sup>13</sup> The term "advergame" refers to an interactive, electronic game on a company-sponsored website that prominently features one or more of the company's products or brands.

<sup>14</sup> A 20% audience share was chosen for children ages 2-11 because this level of audience share is approximately double the proportion of that group in the population of active Internet users during 2006. Data from March through December 2006 show that children ages 2-11 constituted between 8.87 and 9.47% of the active Internet audience. Source: Nielsen/Net Ratings NetView (Home and Work Panel).

publicly available opinion poll of children;

- C. used language, such as “kid,” “child,” “tween,” or similar words, or prominently depicted models or characters who were or appeared to be younger than age 12, in order to indicate that the site or page was intended for children; or
- D. promoted child-oriented themes, activities, incentives, products, or media.

(e) **Other Internet advertising (INTERNET AD)** means advertising on or through Internet sites or pages other than company-sponsored Internet sites that bear or otherwise display the name or logo or any portion of the package of any of the company’s food brands or otherwise refers or relates to such food brands, including, but not limited to, sponsored hyperlinks, banner or pop-up advertisements, in-stream and in-page audio and video advertisements, sponsored text advertising, sponsored search keywords, and advertising in chat rooms, weblogs, social networking sites, online video games, bulletin boards, and listservs. Report expenditures on, and activities associated with, other Internet advertising if any of the following apply:

- 1. A marketing plan specifically indicates that the Internet advertising was intended to reach children under age 12;
- 2. The company knowingly sought the participation of children in the Internet advertising campaign;
- 3. The advertising appeared on any Internet website for which audience demographic data indicate that children ages 2-11 constituted at least 20% of the audience for any month during 2006; or
- 4. The advertising:
  - A. prominently featured child-oriented animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company’s possession, custody, or control; or a publicly available opinion poll of children;
  - C. used language, such as “kid,” “child,” “tween,” or similar words, or prominently depicted models or characters who were or appeared to be younger than age 12, in order to indicate that the advertising was intended for children; or

D. promoted child-oriented themes, activities, incentives, products, or media.

(f) **Packaging and labeling (PACK/LABEL)** means all product packaging and labeling (including all words and images therein) for any of the company's food products. 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). Report expenditures on, and activities associated with, packaging and labeling if any of the following apply:

1. A marketing plan specifically indicates that the packaging or labeling was designed to appeal to children under age 12;
2. The packaging or labeling:
  - A. prominently featured child-oriented animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children;
  - C. used language, such as "kid," "child," "tween," or similar words, or prominently depicted models or characters who were or appeared to be younger than age 12, in order to indicate that the product was intended for children; or
  - D. promoted child-oriented themes, activities, incentives, products, or media.

(g) **Movie theater/video/video game advertising (MOV/VID AD)** means advertising preceding a movie shown in a movie theater or placed on a video (DVD or VHS) or within a video game (including as a pre-roll, post-roll, or banner advertisement), excluding product placements. Report expenditures on, and activities associated with, movie theater/video/video game advertising if any of the following apply:

1. A marketing plan specifically indicates that such advertising was intended to reach children under age 12;
2. The advertising appeared in, during, or contiguous to a motion picture:
  - A. distributed in movie theaters, on video (*e.g.*, DVD or VHS), or digitally, that was rated G by the Motion Picture Association of America; or
  - B. for which children ages 2-11 constituted at least 30% of the viewing



audience, according to demographic data or other information within the company's possession, custody, or control;

3. The advertising appeared in, during, or contiguous to a video game:
  - A. rated EC or E by the Entertainment Software Rating Board; or
  - B. for which children ages 2-11 constituted at least 30% of the users, according to demographic data or other information within the company's possession, custody, or control; or
4. The advertising:
  - A. prominently featured child-oriented animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children;
  - C. used language, such as "kid," "child," "tween," or similar words, or prominently depicted youthful performers or characters, in order to indicate that the advertising was intended for children; or
  - D. promoted child-oriented themes, activities, incentives, products, or media.

(h) **Other digital advertising (DIGITAL AD)** means advertising and promotional content transmitted to personal computers and other digital devices, including PDAs (personal digital assistants), mobile phones, and other portable devices, whether or not Internet-enabled, that bears or otherwise displays the name or logo or any portion of the package of any of the company's food brands or otherwise refers or relates to such food brands; this category includes, but is not limited to, expenditures for advertising or promotional content in electronic mail (email) messages, short message service (SMS or "text") messaging, instant messaging (IM), picture messaging, multimedia messaging, mobile broadcasts, downloads (such as ringtones, wallpapers, and videos), and podcasts. Report expenditures on, and activities associated with, other digital advertising if any of the following apply:

1. A marketing plan specifically indicates that the digital advertising was intended to reach children under age 12;
2. The company knowingly sought the participation of children in the digital advertising campaign;

3. 20% or more of the participants in or audience of the digital advertising campaign were children, according to demographic data or other information within the company's possession, custody, or control;
  4. The advertising:
    - A. prominently featured child-oriented animated or licensed characters;
    - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children;
    - C. used language, such as "kid," "child," "tween," or similar words, or prominently depicted models or characters who were or appeared to be younger than age 12, in order to indicate that the advertising was intended for children; or
    - D. promoted child-oriented themes, activities, incentives, products, or media.
- (i) **In-store advertising and promotions (IN-STORE AD)** means advertising displays and promotions at the retail site, including the offering of free samples and allowances paid to facilitate shelf placement or merchandise displays. Report expenditures on, and activities associated with, in-store advertising and promotions that, pursuant to a marketing plan or industry practice, were designed to appeal to children. Such design elements may involve the height of placement or display, and the use of licensed characters, images of children, and language, such as "kid," "child," or similar words.
- (j) **Specialty item or premium distribution (PREMIUMS)** means specialty or premium items other than food products that are distributed in connection with the sale of any of the company's food products, whether distributed by sale, by redemption of coupons, codes, or proofs of purchase, within food packages, in conjunction with restaurant meals, as prizes in contests or sweepstakes, or otherwise. For purposes of reporting expenditures in this category, include all net costs (deducting payments by consumers) of the items distributed to consumers. Report expenditures on, and activities associated with, specialty item or premium distribution if any of the following apply:
1. A marketing plan specifically indicates that the specialty item or premium distribution was intended to reach children under age 12;
  2. The promotion of the specialty or premium item or the item itself:
    - A. prominently featured child-oriented animated or licensed characters;

- B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children;
  - C. used language, such as "kid," "child," "tween," or similar words, or prominently depicted models or characters who were or appeared to be younger than age 12, in order to indicate that the item was intended for children; or
  - D. promoted child-oriented themes, activities, incentives, products, or media.
3. The specialty or premium item was a toy, doll, action figure, collectable item, puzzle, game, or other product for children.

(k) **Promotion or sponsorship of public entertainment events (EVENTS)** means events, including but not limited to concerts and sporting events, bearing or otherwise displaying the name or logo or any portion of the package of any of the company's food brands or otherwise referring or relating to such food brands. For purposes of reporting expenditures in this category, include all costs made by the company in promoting and/or sponsoring the event, including costs paid for billboards or banners in the name of any of the company's food brands or referring or relating to such food brands, and all expenditures connected with the production, offer, sale, or provision without fee of all functional promotional items at or in connection with a public entertainment event, including but not limited to, clothing, hats, bags, posters, sporting or racing goods and equipment bearing or otherwise displaying the name or logo or any portion of the package of any of the company's food brands or otherwise referring or relating to such food brands. Report expenditures on, and activities associated with, promotion or sponsorship of public entertainment events if any of the following apply:

- 1. A marketing plan specifically indicates that the event or promotion at the event was intended to reach children under age 12 or that the event would involve the participation or attendance of children;
- 2. The company actively sought the participation or attendance of children;
- 3. The event involved child-oriented themes, activities, incentives, products, or media;
- 4. 30% or more of the participants in, or audience of, the event were children under age 12, according to demographic data or other information within the company's possession, custody, or control; or

5. The advertising or promotions at the event:
- A. prominently featured child-oriented animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children;
  - C. used language, such as "kid," "child," "tween," or similar words, or prominently depicted models or characters who were or appeared to be younger than age 12, in order to indicate that the advertising or promotions were intended for children; or
  - D. promoted child-oriented themes, activities, incentives, products, or media.
- (l) **Product placements (PROD PLMT)** means permitting, promoting, or procuring the integration of any food product, logo, signage, trade name, or package into a television or radio program, motion picture, video, music recording, electronic game, or other form of entertainment programming. Report total expenditures on, and activities associated with, product placements delivered via all other advertising and promotional activities defined in this Attachment B.
- (m) **Character licensing, toy co-branding, and cross-promotions (CHAR LIC)** means licensing or otherwise obtaining permission to use a character or toy in the advertising or promotion of a food product, including both licensing agreements for character use in the company's advertisements or promotions and cross-promotional arrangements, such as a marketing partnership with a media company, film studio, theme park, or toy company to cross-promote each other's products by marketing (in any context) a food product or food brand name in conjunction with a character, film, theme park, or toy. Report expenditures on, and activities associated with obtaining and using, or obtaining and implementing, the character license, toy co-branding, and cross-promotional arrangement via all other advertising and promotional activities defined in this Attachment B.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., television advertising) defined in this Attachment B.**

- (n) **Sponsorship of sports teams or individual athletes (ATHL SPON)** means sponsorship of or provision of equipment or facilities for a professional or amateur athletic team (excluding primary and secondary school athletic teams to be reported under category (r), below) or an individual athlete, including, but not limited to, competitors in football, basketball, baseball, soccer, hockey, tennis, wrestling, karate, judo, weight lifting,

volleyball, skiing, skating, snowboarding, skateboarding, surfing, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, and hunting events, competitions, tournaments, and races. Report expenditures on, and activities associated with, sponsorships if any of the following apply:

1. A marketing plan specifically indicates that the sponsorship was intended to reach or designed to appeal to children under age 12;
2. The sponsored athlete was a child, or members of the sponsored team were children;
3. A marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children, indicates that the sponsored team or athlete is highly popular with children; or
4. Demographic data or other information within the company's possession, custody, or control indicates that 30% or more of the fan base for the sponsored team or athlete consisted of children under age 12.

(o) **Word-of-mouth marketing (WOM MKTG)** means providing incentives (financial or otherwise), product samples, or other support to non-employees (including individuals and groups) to promote consumption of a food product to other consumers or to encourage discussion of a food product or brand among consumers. For purposes of reporting expenditures in this category, include all costs of incentives or samples provided to non-employees, as well as costs associated with developing and implementing the word-of-mouth marketing campaign. Report expenditures on, and activities associated with, word-of-mouth marketing if any of the following apply:

1. A marketing plan specifically indicates that the word-of-mouth marketing campaign was intended to reach children under age 12;
2. The company knowingly sought the participation of children in the word-of-mouth marketing campaign;
3. The word-of-mouth marketing campaign:
  - A. prominently featured child-oriented animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children;

- C. used language, such as “kid,” “child,” “tween,” or similar words, or prominently depicted youthful individuals or characters, in order to indicate that the campaign was intended for children; or
  - D. promoted child-oriented themes, activities, incentives, products, or media; or
4. 20% or more of the participants in the word-of-mouth marketing campaign were children under age 12, according to demographic data or other information within the company’s possession, custody, or control.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., other digital advertising, viral marketing) defined in this Attachment B.**

(p) **Viral marketing (VIRAL)** means promotional messages intended to encourage consumers to discuss, or otherwise promote (such as by passing along or sharing the promotional messages), a food product or brand with other consumers, or to encourage consumers to interact with company-sponsored content, through the use of various forms of electronic communication. “Viral” marketing includes, but is not limited to, content developed for video, audio, or image file-sharing Internet websites that integrates a food product, logo, signage, trade name, or food package; company-sponsored blogs or social networking website profiles that discuss a food product or brand (whether or not the content is attributed to the company); and any other content posted on the Internet about a food product that is intended to be sent from one consumer to another (such as through a “send to a friend” email or through a promotional message that attaches to an email sent through a web-based email program). For purposes of reporting expenditures in this category, include all costs of developing and distributing the promotional messages. Report expenditures on, and activities associated with, viral marketing if any of the following apply:

- 1. A marketing plan specifically indicates that the viral marketing campaign was intended to reach children under age 12;
- 2. The company knowingly sought the participation of children in the viral marketing campaign;
- 3. The viral marketing campaign:
  - A. prominently featured child-oriented animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion

research data within the company's possession, custody, or control; or a publicly available opinion poll of children;

- C. used language, such as "kid," "child," "tween," or similar words, or prominently depicted youthful individuals or characters, in order to indicate that the campaign was intended for children; or
  - D. promoted child-oriented themes, activities, incentives, products, or media; or
4. 20% or more of the participants in the viral marketing campaign were children under age 12, according to demographic data or other information within the company's possession, custody, or control.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., other digital advertising, word of mouth marketing) defined in this Attachment B.**

(q) **Celebrity endorsements (CELEB END)** means an advertising or promotional message (including verbal statements, demonstrations, or depictions of the name, signature, likeness, or other identifying personal characteristics of an individual or the name or seal of an organization) relating to the company's food products, when such message is one that consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a public figure (including an entertainer, musician, athlete, or other well-recognized person). Expenditures in this category include all payments to the celebrity and costs associated with advertising and promotions featuring the celebrity. Report expenditures on, and activities associated with, obtaining and using the celebrity endorsement if any of the following apply:

- 1. A marketing plan specifically indicates that the endorser was employed to reach or appeal to children under age 12;
- 2. The celebrity endorser:
  - A. was a child;
  - B. was highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children; or
  - C. promoted child-oriented themes, activities, incentives, products, or media;

or

3. Demographic data or other information within the company's possession, custody, or control indicates that 30% or more of the celebrity's fan base consisted of children under age 12.

**Indicate to what extent, if any, these costs are duplicative of expenditures reported for other advertising and promotional activities (e.g., television advertising) defined in this Attachment B.**

- (r) **In-school marketing (IN-SCHOOL)** targeted toward children means advertising or promotional activity in or around a pre-school or elementary school, including, but not limited to, the use of trade names, logos, displays, signage, or other branded materials in or around cafeterias, vending machines, or gymnasiums, at school events, youth athletic events, athletic fields or arenas, and on school buses, Channel One or other closed circuit television channels. This category includes payments pursuant to food and beverage contracts with schools or school systems and philanthropic donations to schools or particular school clubs, teams, events, or programs, including donations of or discounts on products, coupons for products, and branded materials such as equipment, classroom materials, and curricula created by or sponsored by food companies. This category does not include an advertising or promotional activity that occurred at a pre-school or elementary school at a time when no children were present or likely would have been present (e.g., a PTA meeting).
- (s) **Advertising in conjunction with philanthropic endeavors (PHLNTHRPY)** targeted toward children means advertising or promotional activity in conjunction with a donation to an organization, program, or event, other than a school or school-sponsored program or event, including, but not limited to, the use of trade names, logos, displays, signage, or other branded materials in connection with child-oriented clubs, parks, activities, or community programs or events. Report expenditures on, and activities associated with, advertising and promotional activity for all such philanthropic endeavors if any of the following apply:
  1. A marketing plan specifically indicates that the organization, program, or event would reach children under age 12 or would involve the participation or attendance of children under age 12;
  2. The company actively sought the participation or attendance of children;
  3. The program or event involved child-oriented themes, activities, incentives, products, or media;
  4. 30% or more of the participants in, or attendees or beneficiaries of, the



organization, program, or event were children under age 12, according to demographic data or other information within the company's possession, custody, or control; or

5. The advertising or promotional activity:
  - A. prominently featured child-oriented animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with children, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of children;
  - C. used language, such as "kid," "child," "tween," or similar words, or prominently depicted models or characters who were or appeared to be younger than age 12, in order to indicate that the advertising or promotions were intended for children; or
  - D. promoted child-oriented themes, activities, incentives, products, or media.
- (t) **Other promotional activities (OTHER)** means any advertising or promotional activities not covered by another reporting category; describe fully and break down by type. Report expenditures on, and activities associated with, other promotional activities not reported in any other category if a marketing plan specifically indicates that such activities were intended to reach children under age 12.

**Attachment C**  
**Advertising and Promotional Activities Targeted Toward Adolescents**

**INSTRUCTIONS**

Use the following definitions for purposes of reporting the advertising expenditures and activities requested in Specifications 2.B, 2.C, 3, 4, and 7. The terms provided in parentheses after each advertising or promotional activity category are the codes used in Attachment E to designate expenditures in the category. These codes should be used by the company when preparing its response to Specification 2, following the format set forth in Attachment E. Except where otherwise noted, the media categories set forth below are mutually exclusive. Do not report an expenditure in more than one category, unless otherwise directed. Also, limit reported expenditures to advertising and promotional activities that were conducted in the United States (including the U.S. territories).

For the advertising and promotional activity categories listed in (a) through (f), below, report expenditures to the nearest \$10,000. For the advertising and promotional activity categories listed in (g) through (t), below, the company may report expenditures in the following ranges: \$10,000 to \$50,000; \$50,000 to \$100,000; \$100,000 to \$250,000; and then in increments of \$250,000.

**Special Instructions for Reporting Expenditures in Categories (g) through (t) in Response to Specification 2.B for Certain Food Categories:** For any food product identified in response to Specification 1.D and that also falls within the food categories listed in Specification 1.C.(1) through (5), (8) or (9), the company need not report expenditures in response to Specification 2.B for the advertising and promotional activity categories listed in (g) through (t), if both of the following conditions are met:

- (1) The company had no reportable expenditures for the food product in response to Specification 2.B for any of the advertising and promotional activity categories listed in (a) through (f) of this Attachment C; and
- (2) No marketing plan<sup>15</sup> for the food product indicates that the company planned or engaged in any form of advertising or promotional activity for the product during the calendar year 2006 that was intended to reach an audience that, in whole or in part, consisted of adolescents ages 12-17.

**Special Instructions for Reporting Activities in Categories (g) through (t) in Response to Specification 4.A or 4.B for Certain Food Categories:** For any food product identified in response to Specification 1.D that also falls within food categories 1.C.(1) through (5), (8) or (9), the company need not report, in response to Specification 4.A or 4.B, activities for

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<sup>15</sup> See note 11, *supra*, for the definition of “marketing plan.”

the advertising and promotional activity categories listed in (g) through (t) of this Attachment C, if both of the following conditions are met:

- (1) The company had no reportable activities for the food product in response to Specification 4.A or 4.B for any of the advertising and promotional activity categories listed in (a) through (f) of this Attachment C; and
- (2) No marketing plan for the food product indicates that the company planned or engaged in any form of advertising or promotional activity for the product during the calendar year 2006 that was intended to reach an audience that, in whole or in part, consisted of adolescents ages 12-17.

### DEFINITIONS

- (a) **Television advertising** means advertising on broadcast, cable, or satellite television channels, including during syndicated programming, or branded messages relating to company sponsorship or underwriting of a television program.
- i. Report television advertising expenditures, excluding product placements, under column 7A of Attachment E (**TV AD**) if any of the following apply:
    - A. A marketing plan specifically indicates that the television advertising was intended to reach adolescents ages 12-17; or
    - B. The advertising appeared in, during, or contiguous to any television program, programming block, or daypart that had a viewing audience consisting of 20% or more adolescents ages 12-17, as measured on an annual basis.<sup>16</sup>
  - ii. Separately report expenditures under column 7B of Attachment E (**TV AD TOP 5**) for television advertising (including product placements) that appeared in, during, or contiguous to any of the following five broadcast television programs, which constituted the top five broadcast television programs watched by adolescents ages 12-17 during the 2005-2006 television year, by audience numbers:<sup>17</sup> AMERICAN IDOL, AMERICAN DAD, FAMILY GUY, UNANIMOUS, SIMPSONS.

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<sup>16</sup> A 20% audience share was chosen for adolescents ages 12-17 because this level of audience share is approximately double the proportion of that group in the general U.S. population.

<sup>17</sup> Source: Nielsen Media Research.

- (b) **Radio advertising (RAD AD)** means advertising on AM, FM, HD Radio, or satellite radio channels, excluding product placements. Report radio advertising expenditures if any of the following apply:
1. A marketing plan specifically indicates that the radio advertising was intended to reach adolescents ages 12-17; or
  2. The advertising appeared in, during, or contiguous to any radio program, programming block, or daypart for which adolescents ages 12-17 constituted at least 20% of the listening audience, as measured on an annual basis.
- (c) **Print advertising** means advertising placed in magazines, comic books, newspapers (including advertising placed in free-standing inserts), or other print publications. Report print advertising expenditures if any of the following apply:
1. A marketing plan specifically indicates that the print advertising was intended to reach adolescents ages 12-17; or
  2. The advertising appeared in a publication for which adolescents ages 12-17 constituted at least 20% of the readers and/or subscribers, as measured on an annual basis.
- (d) **Company-sponsored Internet sites (WEBSITE AD)** means any company-sponsored Internet site or page that contains information about or images of the company's food brands or products, including, but not limited to, advergames,<sup>18</sup> and that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page. Report expenditures on, and activities associated with, company-sponsored Internet sites if any of the following apply:
1. A marketing plan specifically indicates that the site or page was intended to reach adolescents ages 12-17;
  2. Audience demographic data indicate that 20% or more of visitors to the site or page were adolescents ages 12-17 for any month during 2006;<sup>19</sup> or

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<sup>18</sup> See the definition of "advergame" at note 13, *supra*.

<sup>19</sup> A 20% audience share was chosen for adolescents ages 12-17 because this level of audience share is approximately double the proportion of that group in the population of active Internet users during 2006. Data from March through December 2006 show that adolescents ages 12-17 constituted between 10.59 and 11.25% of the active Internet audience. Source: Nielsen/NetRatings NetView (Home and Work Panel).

3. The site or page:
  - A. prominently featured adolescent-oriented, animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
  - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted models or characters who were or appeared to be teen-aged, in order to indicate that the site or page was intended for adolescents; or
  - D. promoted adolescent-oriented themes, activities, incentives, products, or media.
  
- (e) **Other Internet advertising (INTERNET AD)** means advertising on or through Internet sites or pages other than company-sponsored Internet sites that bear or otherwise display the name or logo or any portion of the package of any of the company's food brands or otherwise refers or relates to such food brands, including, but not limited to, sponsored hyperlinks, banner or pop-up advertisements, in-stream and in-page audio and video advertisements, sponsored text advertising, sponsored search keywords, and advertising in chat rooms, weblogs, social networking sites, online video games, bulletin boards, and listservs. Report expenditures on, and activities associated with, other Internet advertising if any of the following apply:
  1. A marketing plan specifically indicates that the Internet advertising was intended to reach adolescents ages 12-17;
  2. The company knowingly sought the participation of adolescents in the Internet advertising campaign;
  3. The advertising appeared on any Internet website for which audience demographic data indicate that adolescents ages 12-17 constituted at least 20% of the audience for any month during 2006; or
  4. The advertising:
    - A. prominently featured adolescent-oriented, animated or licensed characters;
    - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion

research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;

- C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted models or characters who were or appeared to be teen-aged, in order to indicate that the advertising was intended for adolescents; or
- D. promoted adolescent-oriented themes, activities, incentives, products, or media.

(f) **Packaging and labeling (PACK/LABEL)** means all product packaging and labeling (including all words and images therein) for any of the company's food products. 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). Report expenditures on, and activities associated with, packaging and labeling if any of the following apply:

- 1. A marketing plan specifically indicates that the packaging or labeling was designed to appeal to adolescents ages 12-17;
- 2. The packaging or labeling:
  - A. prominently featured adolescent-oriented, animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
  - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted models or characters who were or appeared to be teen-aged, in order to indicate that the product was intended for adolescents; or
  - D. promoted adolescent-oriented themes, activities, incentives, products, or media.

(g) **Movie theater/video/video game advertising (MOV/VID AD)** means advertising preceding a movie shown in a movie theater or placed on a video (DVD or VHS) or within a video game (including as a pre-roll, post-roll, or banner advertisement), excluding product placements. Report expenditures on, and activities associated with, movie theater/video/video game advertising if any of the following apply:

1. A marketing plan specifically indicates that such advertising was intended to reach adolescents ages 12-17;
  2. The advertising appeared in, during, or contiguous to a motion picture:
    - A. distributed in movie theaters, on video (*e.g.*, DVD or VHS), or digitally, that was rated PG by the Motion Picture Association of America; or
    - B. for which adolescents ages 12-17 constituted at least 20% of the viewing audience, according to demographic data or other information within the company's possession, custody, or control;
  3. The advertising appeared in, during, or contiguous to a video game:
    - A. rated E or E10+ by the Entertainment Software Rating Board; or
    - B. for which adolescents ages 12-17 constituted at least 20% of the users, according to demographic data or other information within the company's possession, custody, or control; or
  4. The advertising:
    - A. prominently featured adolescent-oriented, animated or licensed characters;
    - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
    - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted youthful performers or characters, in order to indicate that the advertising was intended for adolescents; or
    - D. promoted adolescent-oriented themes, activities, incentives, products, or media.
- (h) **Other digital advertising (DIGITAL AD)** means advertising and promotional content transmitted to personal computers and other digital devices, including PDAs (personal digital assistants), mobile phones, and other portable devices, whether or not Internet-enabled, that bears or otherwise displays the name or logo or any portion of the package of any of the company's food brands or otherwise refers or relates to such food brands; this category includes, but is not limited to, expenditures for advertising or promotional content in electronic mail (email) messages, short message service (SMS or "text")

messaging, instant messaging (IM), picture messaging, multimedia messaging, mobile broadcasts, downloads (such as ringtones, wallpapers, and videos), and podcasts. Report expenditures on, and activities associated with, other digital advertising if any of the following apply:

1. A marketing plan specifically indicates that the digital advertising was intended to reach adolescents ages 12-17;
  2. The company knowingly sought the participation of adolescents in the digital advertising campaign;
  3. 20% or more of the participants in or audience of the digital advertising campaign were adolescents, according to demographic data or other information within the company's possession, custody, or control;
  4. The advertising:
    - A. prominently featured adolescent-oriented, animated or licensed characters;
    - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
    - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted models or characters who were or appeared to be teen-aged, in order to indicate that the advertising was intended for adolescents; or
    - D. promoted adolescent-oriented themes, activities, incentives, products, or media.
- (i) **In-store advertising and promotions (IN-STORE AD)** means advertising displays and promotions at the retail site, including the offering of free samples and allowances paid to facilitate shelf placement or merchandise displays. Report expenditures on, and activities associated with, in-store advertising and promotions that, pursuant to a marketing plan or industry practice, were designed to appeal to adolescents. Such design elements may involve the height of placement or display, and the use of licensed characters, images of adolescents, and language, such as "adolescent" "teen," "teenager," or similar words.
- (j) **Specialty item or premium distribution (PREMIUMS)** means specialty or premium items other than food products that are distributed in connection with the sale of any of the company's food products, whether distributed by sale, by redemption of coupons,



codes, or proofs of purchase, within food packages, in conjunction with restaurant meals, as prizes in contests or sweepstakes, or otherwise. For purposes of reporting expenditures in this category, include all net costs (deducting payments by consumers) of the items distributed to consumers. Report expenditures on, and activities associated with, specialty item or premium distribution if any of the following apply:

1. A marketing plan specifically indicates that the specialty item or premium distribution was intended to reach adolescents ages 12-17;
2. The promotion of the specialty or premium item or the item itself:
  - A. prominently featured adolescent-oriented, animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
  - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted models or characters who were or appeared to be teen-aged, in order to indicate that the item was intended for adolescents; or
  - D. promoted adolescent-oriented themes, activities, incentives, products, or media.
3. The specialty or premium item was a toy, doll, action figure, collectable item, puzzle, game, or other product for adolescents.

(k) **Promotion or sponsorship of public entertainment events (EVENTS)** means events, including but not limited to concerts and sporting events, bearing or otherwise displaying the name or logo or any portion of the package of any of the company's food brands or otherwise referring or relating to such food brands. For purposes of reporting expenditures in this category, include all costs made by the company in promoting and/or sponsoring the event, including costs paid for billboards or banners in the name of any of the company's food brands or referring or relating to such food brands, and all expenditures connected with the production, offer, sale, or provision without fee of all functional promotional items at or in connection with a public entertainment event, including but not limited to, clothing, hats, bags, posters, sporting or racing goods and equipment bearing or otherwise displaying the name or logo or any portion of the package of any of the company's food brands or otherwise referring or relating to such food brands. Report expenditures on, and activities associated with, promotion or sponsorship of public entertainment events if any of the following apply:

1. A marketing plan specifically indicates that the event or promotion at the event was intended to reach adolescents ages 12-17 or that the event would involve the participation or attendance of adolescents;
  2. The company actively sought the participation or attendance of adolescents;
  3. The event involved adolescent-oriented themes, activities, incentives, products, or media;
  4. 20% or more of the participants in, or audience of, the event were adolescents ages 12-17, according to demographic data or other information within the company's possession, custody, or control; or
  5. The advertising or promotions at the event:
    - A. prominently featured adolescent-oriented, animated or licensed characters;
    - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
    - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted models or characters who were or appeared to be teen-aged, in order to indicate that the advertising or promotions were intended for adolescents; or
    - D. promoted adolescent-oriented themes, activities, incentives, products, or media.
- (l) **Product placements (PROD PLMT)** means permitting, promoting, or procuring the integration of any food product, logo, signage, trade name, or package into a television or radio program, motion picture, video, music recording, electronic game, or other form of entertainment programming. Report total expenditures on, and activities associated with, product placements delivered via all other advertising and promotional activities defined in this Attachment C.
- (m) **Character licensing, toy co-branding, and cross-promotions (CHAR LIC)** means licensing or otherwise obtaining permission to use a character or toy in the advertising or promotion of a food product, including both licensing agreements for character use in the company's advertisements or promotions and cross-promotional arrangements, such as a marketing partnership with a media company, film studio, theme park, or toy company to cross-promote each other's products by marketing (in any context) a food product or food

brand name in conjunction with a character, film, theme park, or toy. Report expenditures on, and activities associated with obtaining and using, or obtaining and implementing, the character license, toy co-branding, and cross-promotional arrangement via all other advertising and promotional activities defined in this Attachment C.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., television advertising) defined in this Attachment C.**

- (n) **Sponsorship of sports teams or individual athletes (ATHL SPON)** means sponsorship of or provision of equipment or facilities for a professional or amateur athletic team (excluding primary and secondary school athletic teams to be reported under category (r), below) or an individual athlete, including, but not limited to, competitors in football, basketball, baseball, soccer, hockey, tennis, wrestling, karate, judo, weight lifting, volleyball, skiing, skating, snowboarding, skateboarding, surfing, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, and hunting events, competitions, tournaments, and races. Report expenditures on, and activities associated with, sponsorships if any of the following apply:
1. A marketing plan specifically indicates that the sponsorship was intended to reach or designed to appeal to adolescents ages 12-17;
  2. The sponsored athlete was an adolescent, or members of the sponsored team were adolescents;
  3. A marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents, indicates that the sponsored team or athlete is highly popular with adolescents; or
  4. Demographic data or other information within the company's possession, custody, or control indicates that 20% or more of the fan base for the sponsored team or athlete consisted of adolescents ages 12-17.
- (o) **Word-of-mouth marketing (WOM MKTG)** means providing incentives (financial or otherwise), product samples, or other support to non-employees (including individuals and groups) to promote consumption of a food product to other consumers or to encourage discussion of a food product or brand among consumers. For purposes of reporting expenditures in this category, include all costs of incentives or samples provided to non-employees, as well as costs associated with developing and implementing the word-of-mouth marketing campaign. Report expenditures on, and activities associated with, word-of-mouth marketing if any of the following apply:

1. A marketing plan specifically indicates that the word-of-mouth marketing campaign was intended to reach adolescents ages 12-17;
2. The company knowingly sought the participation of adolescents in the word-of-mouth marketing campaign;
3. The word-of-mouth marketing campaign:
  - A. prominently featured adolescent-oriented, animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
  - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted youthful individuals or characters, in order to indicate that the campaign was intended for adolescents; or
  - D. promoted adolescent-oriented themes, activities, incentives, products, or media; or
4. 20% or more of the participants in the word-of-mouth marketing campaign were adolescents ages 12-17, according to demographic data or other information within the company's possession, custody, or control.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., other digital advertising, viral marketing) defined in this Attachment C.**

- (p) **Viral marketing (VIRAL)** means promotional messages intended to encourage consumers to discuss, or otherwise promote (such as by passing along or sharing the promotional messages), a food product or brand with other consumers, or to encourage consumers to interact with company-sponsored content, through the use of various forms of electronic communication. "Viral" marketing includes, but is not limited to, content developed for video, audio, or image file-sharing Internet websites that integrates a food product, logo, signage, trade name, or food package; company-sponsored blogs or social networking website profiles that discuss a food product or brand (whether or not the content is attributed to the company); and any other content posted on the Internet about a food product that is intended to be sent from one consumer to another (such as through a "send to a friend" email or through a promotional message that attaches to an email sent through a web-based email program). For purposes of reporting expenditures in this category, include all costs of developing and distributing the promotional messages.

Report expenditures on, and activities associated with, viral marketing if any of the following apply:

1. A marketing plan specifically indicates that the viral marketing campaign was intended to reach adolescents ages 12-17;
2. The company knowingly sought the participation of adolescents in the viral marketing campaign;
3. The viral marketing campaign:
  - A. prominently featured adolescent-oriented, animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
  - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted youthful individuals or characters, in order to indicate that the campaign was intended for adolescents; or
  - D. promoted adolescent-oriented themes, activities, incentives, products, or media; or
4. 20% or more of the participants in the viral marketing campaign were adolescents ages 12-17, according to demographic data or other information within the company's possession, custody, or control.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., other digital advertising, word of mouth marketing) defined in this Attachment C.**

- (q) **Celebrity endorsements (CELEB END)** means an advertising or promotional message (including verbal statements, demonstrations, or depictions of the name, signature, likeness, or other identifying personal characteristics of an individual or the name or seal of an organization) relating to the company's food products, when such message is one that consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a public figure (including an entertainer, musician, athlete, or other well-recognized person). Expenditures in this category include all payments to the celebrity and costs associated with advertising and promotions featuring the celebrity. Report expenditures on, and activities associated with, obtaining and using the celebrity endorsements if any

of the following apply:

1. A marketing plan specifically indicates that the endorser was employed to reach or appeal to adolescents ages 12-17;
2. The celebrity endorser:
  - A. was an adolescent;
  - B. was highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents; or
  - C. promoted adolescent-oriented themes, activities, incentives, products, or media; or
3. Demographic data or other information within the company's possession, custody, or control indicates that 20% or more of the celebrity's fan base consisted of adolescents ages 12-17.

**Indicate to what extent, if any, these costs are duplicative of expenditures reported for other advertising and promotional activities (e.g., television advertising) defined in this Attachment C.**

- (r) **In-school marketing (IN-SCHOOL)** targeted toward adolescents means advertising or promotional activity in or around a middle school, junior high school, or high school, including, but not limited to, the use of trade names, logos, displays, signage, or other branded materials in or around cafeterias, vending machines, or gymnasiums, at school events, youth athletic events, athletic fields or arenas, and on school buses, Channel One or other closed circuit television channels. This category includes payments pursuant to food and beverage contracts with schools or school systems and philanthropic donations to schools or particular school clubs, teams, events, or programs, including donations of or discounts on products, coupons for products, and branded materials such as equipment, classroom materials, and curricula created by or sponsored by food companies. This category does not include an advertising or promotional activity that occurred at a middle school, junior high school, or high school at a time when no adolescents were present or likely would have been present (e.g., a PTA meeting).
- (s) **Advertising in conjunction with philanthropic endeavors (PHLNTHRPY)** targeted toward adolescents means advertising or promotional activity in conjunction with a donation to an organization, program, or event, other than a school or school-sponsored program or event, including, but not limited to, the use of trade names, logos, displays,

signage, or other branded materials in connection with adolescent-oriented clubs, parks, activities, or community programs or events. Report expenditures on, and activities associated with, advertising and promotional activity for all such philanthropic endeavors if any of the following apply:

1. A marketing plan specifically indicates that the organization, program, or event would reach adolescents ages 12-17 or would involve the participation or attendance of adolescents ages 12-17;
2. The company actively sought the participation or attendance of adolescents;
3. The program or event involved adolescent-oriented themes, activities, incentives, products, or media;
4. 20% or more of the participants in, or attendees or beneficiaries of, the organization, program, or event were adolescents ages 12-17, according to demographic data or other information within the company's possession, custody, or control; or
5. The advertising or promotional activity:
  - A. prominently featured adolescent-oriented, animated or licensed characters;
  - B. prominently featured a celebrity endorser highly popular with adolescents, according to any of the following sources: a marketing plan; opinion research data within the company's possession, custody, or control; or a publicly available opinion poll of adolescents;
  - C. used language, such as "adolescent," "teen," "teenager," or similar words, or prominently depicted models or characters who were or appeared to be teen-aged, in order to indicate that the advertising or promotions were intended for adolescents; or
  - D. promoted adolescent-oriented themes, activities, incentives, products, or media.

- (t) **Other promotional activities (OTHER)** means any advertising or promotional activities not covered by another reporting category; describe fully and break down by type. Report expenditures on, and activities associated with, other promotional activities not reported in any other category if a marketing plan specifically indicates that such activities were targeted to adolescents ages 12-17.

**Attachment D**  
**Advertising and Promotional Activities for All Audiences**

**INSTRUCTIONS**

Use the following definitions for purposes of reporting the advertising expenditures and activities requested in Specification 2.D. The terms provided in parentheses after each advertising or promotional activity category are the codes used in Attachment E to designate expenditures in the category. These codes should be used by the company when preparing its response to Specification 2, following the format set forth in Attachment E. Except where otherwise noted, the media categories set forth below are mutually exclusive. Do not report an expenditure in more than one category, unless otherwise directed. Also, limit reported expenditures to advertising and promotional activities that were conducted in the United States (including the U.S. territories).

For the advertising and promotional activity categories listed in (a) through (f), below, report expenditures to the nearest \$10,000. For the advertising and promotional activity categories listed in (g) through (t), below, the company may report expenditures in the following ranges: \$10,000 to \$50,000; \$50,000 to \$100,000; \$100,000 to \$250,000; and then in increments of \$250,000.

**Special Instructions for Reporting Expenditures in Categories (g) through (t) in Response to Specification 2.D for Certain Food Categories:** For any food product identified in response to Specification 1.D and that also falls within the food categories listed in Specification 1.C.(1) through (5), (8) or (9), the company need not report expenditures in response to Specification 2.D for the advertising and promotional activity categories listed in (g) through (t) of this Attachment D, if both of the following conditions are met:

- (1) The company had no reportable expenditures for the food product in response to either Specification 2.A or 2.B for any of the advertising and promotional activity categories listed in (a) through (f) of Attachments B or C; and
- (2) No marketing plan<sup>20</sup> for the food product indicates that the company planned or engaged in any form of advertising or promotional activity for the product during the calendar year 2006 that was intended to reach an audience that, in whole or in part, consisted of children ages 2-11 or adolescents ages 12-17.

**DEFINITIONS**

- (a) **Television advertising (TV AD)** means advertising on broadcast, cable, or satellite television channels, including during syndicated programming, or branded messages

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<sup>20</sup> See note 11, *supra*, for the definition of “marketing plan.”



relating to company sponsorship or underwriting of a television program, excluding product placements.

- (b) **Radio advertising (RAD AD)** means advertising on AM, FM, HD Radio, or satellite radio channels, excluding product placements.
- (c) **Print advertising (PRT AD)** means advertising placed in magazines, comic books, newspapers (including advertising placed in free-standing inserts), or other print publications.
- (d) **Company-sponsored Internet sites (WEBSITE AD)** means any company-sponsored Internet site or page that contains information about or images of the company's food brands or products, including, but not limited to, advergames,<sup>21</sup> and that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page.
- (e) **Other Internet advertising (INTERNET AD)** means advertising on or through Internet sites or pages other than company-sponsored Internet sites that bear or otherwise display the name or logo or any portion of the package of any of the company's food brands or otherwise refers or relates to such food brands, including, but not limited to, sponsored hyperlinks, banner or pop-up advertisements, in-stream and in-page audio and video advertisements, sponsored text advertising, sponsored search keywords, and advertising in chat rooms, weblogs, social networking sites, online video games, bulletin boards, and listservs.
- (f) **Packaging and labeling (PACK/LABEL)** means all product packaging and labeling (including all words and images therein) for any of the company's food products. 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).
- (g) **Movie theater/video/video game advertising (MOV/VID AD)** means advertising preceding a movie shown in a movie theater or placed on a video (DVD or VHS) or within a video game (including as a pre-roll, post-roll, or banner advertisement), excluding product placements.
- (h) **Other digital advertising (DIGITAL AD)** means advertising and promotional content transmitted to personal computers and other digital devices, including PDAs (personal digital assistants), mobile phones, and other portable devices, whether or not Internet-enabled, that bears or otherwise displays the name or logo or any portion of the package of any of the company's food brands or otherwise refers or relates to such food brands;

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<sup>21</sup> See the definition of "advergame" at note 13, *supra*.

this category includes, but is not limited to, expenditures for advertising or promotional content in electronic mail (email) messages, short message service (SMS or “text”) messaging, instant messaging (IM), picture messaging, multimedia messaging, mobile broadcasts, downloads (such as ringtones, wallpapers, and videos), and podcasts.

- (i) **In-store advertising and promotions (IN-STORE AD)** means advertising displays and promotions at the retail site, including the offering of free samples and allowances paid to facilitate shelf placement or merchandise displays.
- (j) **Specialty item or premium distribution (PREMIUMS)** means specialty or premium items other than food products that are distributed in connection with the sale of any of the company’s food products, whether distributed by sale, by redemption of coupons, codes, or proofs of purchase, within food packages, in conjunction with restaurant meals, as prizes in contests or sweepstakes, or otherwise. For purposes of reporting expenditures in this category, include all net costs (deducting payments by consumers) of the items distributed to consumers.
- (k) **Promotion or sponsorship of public entertainment events (EVENTS)** means events, including but not limited to concerts and sporting events, bearing or otherwise displaying the name or logo or any portion of the package of any of the company’s food brands or otherwise referring or relating to such food brands. For purposes of reporting expenditures in this category, include all costs made by the company in promoting and/or sponsoring the event, including costs paid for billboards or banners in the name of any of the company’s food brands or referring or relating to such food brands, and all expenditures connected with the production, offer, sale, or provision without fee of all functional promotional items at or in connection with a public entertainment event, including but not limited to, clothing, hats, bags, posters, sporting or racing goods and equipment bearing or otherwise displaying the name or logo or any portion of the package of any of the company’s food brands or otherwise referring or relating to such food brands.
- (l) **Product placements (PROD PLMT)** means permitting, promoting, or procuring the integration of any food product, logo, signage, trade name, or package into a television or radio program, motion picture, video, music recording, electronic game, or other form of entertainment programming. Report total expenditures on, and activities associated with, product placements delivered via all other advertising and promotional activities defined in this Attachment D.
- (m) **Character licensing, toy co-branding, and cross-promotions (CHAR LIC)** means licensing or otherwise obtaining permission to use a character or toy in the advertising or promotion of a food product, including both licensing agreements for character use in the company’s advertisements or promotions and cross-promotional arrangements, such as a marketing partnership with a media company, film studio, theme park, or toy company to

cross-promote each other's products by marketing (in any context) a food product or food brand name in conjunction with a character, film, theme park, or toy. Report expenditures on, and activities associated with obtaining and using, or obtaining and implementing, the character license, toy co-branding, and cross-promotional arrangement via all other advertising and promotional activities defined in this Attachment D.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., television advertising) defined in this Attachment D.**

- (n) **Sponsorship of sports teams or individual athletes (ATHL SPON)** means sponsorship of or provision of equipment or facilities for a professional or amateur athletic team (excluding primary and secondary school athletic teams to be reported under category (r), below) or an individual athlete, including, but not limited to, competitors in football, basketball, baseball, soccer, hockey, tennis, wrestling, karate, judo, weight lifting, volleyball, skiing, skating, snowboarding, skateboarding, surfing, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, and hunting events, competitions, tournaments, and races.
- (o) **Word-of-mouth marketing (WOM MKTG)** means providing incentives (financial or otherwise), product samples, or other support to non-employees (including individuals and groups) to promote consumption of a food product to other consumers or to encourage discussion of a food product or brand among consumers. For purposes of reporting expenditures in this category, include all costs of incentives or samples provided to non-employees, as well as costs associated with developing and implementing the word-of-mouth marketing campaign.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., other digital advertising, viral marketing) defined in this Attachment D.**

- (p) **Viral marketing (VIRAL)** means promotional messages intended to encourage consumers to discuss, or otherwise promote (such as by passing along or sharing the promotional messages), a food product or brand with other consumers, or to encourage consumers to interact with company-sponsored content, through the use of various forms of electronic communication. "Viral" marketing includes, but is not limited to, content developed for video, audio, or image file-sharing Internet websites that integrates a food product, logo, signage, trade name, or food package; company-sponsored blogs or social networking website profiles that discuss a food product or brand (whether or not the content is attributed to the company); and any other content posted on the Internet about a food product that is intended to be sent from one consumer to another (such as through a "send to a friend" email or through a promotional message that attaches to an email sent through a web-based email program). For purposes of reporting expenditures in this

category, include all costs of developing and distributing the promotional messages.

**Indicate to what extent, if any, these activities and expenditures are duplicative of activities and expenditures reported for other advertising and promotional activities (e.g., other digital advertising, word of mouth marketing) defined in this Attachment D.**

- (q) **Celebrity endorsements (CELEB END)** means an advertising or promotional message (including verbal statements, demonstrations, or depictions of the name, signature, likeness, or other identifying personal characteristics of an individual or the name or seal of an organization) relating to the company's food products, when such message is one that consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a public figure (including an entertainer, musician, athlete, or other well-recognized person). Expenditures in this category include all payments to the celebrity and costs associated with advertising and promotions featuring the celebrity.

**Indicate to what extent, if any, these costs are duplicative of expenditures reported for other advertising and promotional activities (e.g., television advertising) defined in this Attachment D.**

- (r) **In-school marketing (IN-SCHOOL)** means advertising or promotional activity in or around an educational institution, such as a pre-school, elementary school, middle school, junior high school, high school, trade school, junior college, community college, four-year college, or university. It includes, but is not limited to, the use of trade names, logos, displays, signage, or other branded materials in or around cafeterias, vending machines, or gymnasiums, at school events, athletic events, athletic fields or arenas, and on school buses, Channel One or other closed circuit television channels; this category includes payments pursuant to food and beverage contracts with schools or school systems and philanthropic donations to schools or particular school clubs, teams, events, or programs, including donations of or discounts on products, coupons for products, and branded materials such as equipment, classroom materials, and curricula created by or sponsored by food companies.
- (s) **Advertising in conjunction with philanthropic endeavors (PHLNTHRPY)** means advertising or promotional activity in conjunction with a donation to an organization, program, or event, other than a school or school-sponsored program or event, including, but not limited to, the use of trade names, logos, displays, signage, or other branded materials in connection with clubs, parks, activities, or community programs or events.
- (t) **Other promotional activities (OTHER)** means any advertising or promotional activities not covered by another reporting category defined in this Attachment D; describe fully and break down by type.

**Attachment E  
Expenditures for Advertising and Other Promotional Activities**

*[The expenditure figures provided in this Attachment are intended to serve as examples and are not representative of any figures the agency expects to receive from any particular company.]*

**All figures are reported in U.S. dollars, rounded to the nearest \$10,000**

| 1               | 2                 | 3               | 4                      | 5                        | 6            | 7A            | 7B                  | 8                   |
|-----------------|-------------------|-----------------|------------------------|--------------------------|--------------|---------------|---------------------|---------------------|
| COMPANY NAME    | FOOD CATEGORY     | BRAND/REST NAME | SUB-BRAND NAME         | NUTRITIONAL PRODUCT LINE | TV AD (2-11) | TV AD (12-17) | TV AD TOP 5 (12-17) | TV AD (Duplicative) |
| Great Food Co.  | Breakfast Cereals | Great Flakes    | Honey Nut Great Flakes | N                        | \$1,250,000  | \$600,000     | \$390,000           | \$220,000           |
| Great Food Co.  | Breakfast Cereals | Great Bran      | n/a                    | Y                        | \$560,000    | \$880,000     | \$440,000           | \$150,000           |
| Great Dairy Co. | Dairy Products    | Milk            | n/a                    | N                        | \$1,140,000  | \$540,000     | \$350,000           | \$270,000           |

| 9           | 10            | 11             | 12                   | 13           | 14            | 15             | 16                   | 17           | 18                |
|-------------|---------------|----------------|----------------------|--------------|---------------|----------------|----------------------|--------------|-------------------|
| TV AD (AII) | RAD AD (2-11) | RAD AD (12-17) | RAD AD (Duplicative) | RAD AD (AII) | PRT AD (2-11) | PRT AD (12-17) | PRT AD (Duplicative) | PRT AD (AII) | MOV/MID AD (2-11) |
| \$2,750,000 | \$110,000     | \$50,000       | \$20,000             | \$210,000    |               |                |                      |              |                   |
| \$2,310,000 | n/a           | \$40,000       | \$0                  | \$150,000    |               |                |                      |              |                   |
| \$2,280,000 | \$320,000     | \$110,000      | \$50,000             | \$630,000    |               |                |                      |              |                   |

|    |                       |    |                             |    |                     |    |                      |    |                       |    |                             |    |                     |    |                       |    |                        |    |                              |
|----|-----------------------|----|-----------------------------|----|---------------------|----|----------------------|----|-----------------------|----|-----------------------------|----|---------------------|----|-----------------------|----|------------------------|----|------------------------------|
| 19 | MOV/VID AD<br>(12-17) | 20 | MOV/VID AD<br>(Duplicative) | 21 | MOV/VID AD<br>(All) | 22 | WEBSITE AD<br>(2-11) | 23 | WEBSITE AD<br>(12-17) | 24 | WEBSITE AD<br>(Duplicative) | 25 | WEBSITE AD<br>(All) | 26 | INTERNET AD<br>(2-11) | 27 | INTERNET AD<br>(12-17) | 28 | INTERNET AD<br>(Duplicative) |
|    |                       |    |                             |    |                     |    |                      |    |                       |    |                             |    |                     |    |                       |    |                        |    |                              |
|    |                       |    |                             |    |                     |    |                      |    |                       |    |                             |    |                     |    |                       |    |                        |    |                              |
|    |                       |    |                             |    |                     |    |                      |    |                       |    |                             |    |                     |    |                       |    |                        |    |                              |

| 29                   | 30                   | 31                    | 32                          | 33                  | 34                    | 35                     | 36                           | 37                   | 38              |
|----------------------|----------------------|-----------------------|-----------------------------|---------------------|-----------------------|------------------------|------------------------------|----------------------|-----------------|
| INTERNET AD<br>(All) | DIGITAL AD<br>(2-11) | DIGITAL AD<br>(12-17) | DIGITAL AD<br>(Duplicative) | DIGITAL AD<br>(All) | IN-STORE AD<br>(2-11) | IN-STORE AD<br>(12-17) | IN-STORE AD<br>(Duplicative) | IN-STORE AD<br>(All) | PREMIUMS (2-11) |
|                      |                      |                       |                             |                     |                       |                        |                              |                      |                 |
|                      |                      |                       |                             |                     |                       |                        |                              |                      |                 |
|                      |                      |                       |                             |                     |                       |                        |                              |                      |                 |



| 39                  | 40                        | 41                | 42                | 43                 | 44                      | 45           | 46                  | 47                   | 48                         |
|---------------------|---------------------------|-------------------|-------------------|--------------------|-------------------------|--------------|---------------------|----------------------|----------------------------|
| PREMIUMS<br>(12-17) | PREMIUMS<br>(Duplicative) | PREMIUMS<br>(All) | EVENTS (2-<br>11) | EVENTS (12-<br>17) | EVENTS<br>(Duplicative) | EVENTS (All) | PROD PLMT<br>(2-11) | PROD PLMT<br>(12-17) | PROD PLMT<br>(Duplicative) |
|                     |                           |                   |                   |                    |                         |              |                     |                      |                            |
|                     |                           |                   |                   |                    |                         |              |                     |                      |                            |
|                     |                           |                   |                   |                    |                         |              |                     |                      |                            |

| 49                 | 50              | 51               | 52                        | 53                | 54                  | 55                   | 56                         | 57                 | 58                   |
|--------------------|-----------------|------------------|---------------------------|-------------------|---------------------|----------------------|----------------------------|--------------------|----------------------|
| PROD PLMT<br>(All) | CHAR LIC (2-11) | CHAR LIC (12-17) | CHAR LIC<br>(Duplicative) | CHAR LIC<br>(All) | ATHL SPON<br>(2-11) | ATHL SPON<br>(12-17) | ATHL SPON<br>(Duplicative) | ATHL SPON<br>(All) | PACK/LABEL<br>(2-11) |
|                    |                 |                  |                           |                   |                     |                      |                            |                    |                      |
|                    |                 |                  |                           |                   |                     |                      |                            |                    |                      |
|                    |                 |                  |                           |                   |                     |                      |                            |                    |                      |

| 59                    | 60                          | 61                  | 62                 | 63                  | 64                        | 65                | 66           | 67            | 68                     |
|-----------------------|-----------------------------|---------------------|--------------------|---------------------|---------------------------|-------------------|--------------|---------------|------------------------|
| PACK/LABEL<br>(12-17) | PACK/LABEL<br>(Duplicative) | PACK/LABEL<br>(All) | WOM MKTG<br>(2-11) | WOM MKTG<br>(12-17) | WOM MKTG<br>(Duplicative) | WOM MKTG<br>(All) | VIRAL (2-11) | VIRAL (12-17) | VIRAL<br>(Duplicative) |
|                       |                             |                     |                    |                     |                           |                   |              |               |                        |
|                       |                             |                     |                    |                     |                           |                   |              |               |                        |
|                       |                             |                     |                    |                     |                           |                   |              |               |                        |

| 69          | 70                  | 71                   | 72                         | 73                 | 74                  | 75                   | 76                         | 77                 | 78                   |
|-------------|---------------------|----------------------|----------------------------|--------------------|---------------------|----------------------|----------------------------|--------------------|----------------------|
| VIRAL (AII) | CELEB END<br>(2-11) | CELEB END<br>(12-17) | CELEB END<br>(Duplicative) | CELEB END<br>(All) | IN-SCHOOL<br>(2-11) | IN-SCHOOL<br>(12-17) | IN-SCHOOL<br>(Duplicative) | IN-SCHOOL<br>(All) | PHLNTHRYPY<br>(2-11) |
|             |                     |                      |                            |                    |                     |                      |                            |                    |                      |
|             |                     |                      |                            |                    |                     |                      |                            |                    |                      |
|             |                     |                      |                            |                    |                     |                      |                            |                    |                      |

| 79                   | 80                       | 81                 | 82           | 83                | 84                   | 85          | 86                                    |
|----------------------|--------------------------|--------------------|--------------|-------------------|----------------------|-------------|---------------------------------------|
| PHLNTHRPY<br>(12-17) | PHLNTHRPY<br>(Duplicate) | PHLNTHRPY<br>(All) | OTHER (2-11) | OTHER (12-<br>17) | OTHER<br>(Duplicate) | OTHER (All) | TOTAL EXPENDITURES<br>(All Audiences) |
|                      |                          |                    |              |                   |                      |             |                                       |
|                      |                          |                    |              |                   |                      |             |                                       |
|                      |                          |                    |              |                   |                      |             |                                       |