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FEDERAL TRADE COMMISSION  
DEPARTMENT OF HEALTH & HUMAN SERVICES  
  
PERSPECTIVES ON MARKETING, SELF-REGULATION  
AND CHILDHOOD OBESITY

Friday, July 15, 2005  
8:34 a.m.

Federal Trade Commission  
FTC Conference Center  
601 New Jersey Avenue, N.W.  
Washington, D.C.

## 1 FEDERAL TRADE COMMISSION

2 DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

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## P R O C E E D I N G S

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MS. FAIR: Good morning. And on behalf of the Department of Health and Human Services and the Federal Trade Commission, welcome back to the second day of our two-day workshop, Perspectives on Marketing, Self-Regulation and Childhood Obesity.

My name is Lesley Fair from the Bureau of Consumer Protection. I think most of you are returning from yesterday, but just in case we have some newcomers, let me briefly remind you of a few of our security guidelines. First and foremost, you must wear your nametag at all times in order to remain here. If you leave the building for any reason, you will need to have to go back through the security screening process.

Also, as a number of you realized yesterday, our microphones are very, very sensitive, even in that back soundboard hallway where the sound staff is located, and unless you wish your phone conversations to be on the public record in this event, please step over to the lobby or step outside if you need to make a call.

We will have another open forum session from 10:30 to 11:00 today. If you are interested in signing up, the sign-up period at the registration desk will be from 9:00 to 10:00 this morning. Remember, the three-

1 minute limitation. We ask only one person from an  
2 organization to speak. And that will take place  
3 immediately after the first panel of the morning. So, we  
4 would ask you to sign up between 9:00 and 10:00 a.m.  
5 Operators will be standing by at the registration desk to  
6 take care of you.

7 Finally, I don't know about you, but I was  
8 pretty impressed with the research that the Sesame Street  
9 workshop presented yesterday. They showed some slides  
10 and showed that preschool children ate broccoli at only  
11 about a 20 percent level, but when accompanied by an  
12 endorsement from Elmo, their preference shot up. I think  
13 you all remember that.

14 We did some of our own market research last  
15 night. And we found out that in adults over 21, over 37  
16 percent complied with the moderator's request to turn off  
17 their cell phones. But when that same request was made  
18 with an endorsement by Elmo, compliance skyrocketed. So  
19 thank you very much for complying with that right now.

20 On this second day of this very important  
21 workshop, it is my particular honor to welcome  
22 Commissioner Thomas Leary of the Federal Trade  
23 Commission.

24 **(Applause)**.

25 COMMISSIONER LEARY: We're going to have

1 welcomes and welcomes here because the first thing I'm  
2 supposed to do is welcome you all to the Federal Trade  
3 Commission. And my second delightful chore of the  
4 morning is to introduce our first speaker, the Surgeon  
5 General, Richard Carmona. And I don't know how many of  
6 you know the biography of this guy. In one minute, I'm  
7 not going to be able to give you a flavor. Go to the  
8 website.

9 Here's somebody who apparently was too bored to  
10 even finish high school, so he drops out of high school  
11 and he joins the Army and he goes to Vietnam in the  
12 Special Forces and wins a bunch of medals over there and  
13 then decides he wants to become a doctor. So, he comes  
14 back and he gets a B.S. and a medical degree within two  
15 years of each other. I don't know how you do that, quite  
16 frankly.

17 But he not only gets a medical degree but he  
18 winds up first in his class, okay? The next thing you  
19 know, why, I see he's in some county sheriff's department  
20 in Arizona and he's not only a surgeon in the county  
21 sheriff's department but also apparently a member of the  
22 SWAT team, which is kind of an odd combination. I guess  
23 you kind of control your intake. It's very strange.

24 **(Laughter).**

25 COMMISSIONER LEARY: And then he does a lot of

1 other interesting stuff and winds up the Surgeon General  
2 of the United States. For me, the intriguing thing is I  
3 don't know what to call him. Of course he's a doctor,  
4 been a doctor for 35 years, so we could call him doctor.  
5 If he stayed in the Special Forces, I assume he would  
6 have been a general.

7 And a Surgeon General, probably some of your  
8 friends in social settings call you general and, I don't  
9 know, I kind of like to call you Sheriff. That's really  
10 not -- I had a great-grandfather who was a sheriff, and  
11 it's got kind of a frontier ring to it. I like that  
12 title sheriff. And then as you can see, he wears sort of  
13 -- wears the uniform of a Vice Admiral in the United  
14 States Navy. So, I guess you'd be called Admiral.

15 I think probably the only thing to do really is  
16 I'll call you sir, if you don't mind. And, so, sir, I  
17 want to welcome you to the Federal Trade Commission. And  
18 I know we want to hear what you have to say. Thank you.

19 **(Applause.)**

20 SURGEON GENERAL CARMONA: Well, thank you for  
21 that introduction. I feel like I should go home now. I  
22 guess when you find out your Surgeon General was a high  
23 school dropout, that doesn't engender a lot of  
24 confidence. So, you know, if I had the time, I'd like to  
25 explain away a lot of those things, but rest assured that

1 my high school, 37 years ago I left and I didn't  
2 graduate, but last year, they invited me back and I did  
3 get my high school diploma, so I am a high school  
4 graduate now.

5 **(Applause.)**

6 SURGEON GENERAL CARMONA: And of course I have  
7 had many jobs, as you heard. All of them have helped me  
8 to be a better Surgeon General, however, generally when  
9 those things come out people wonder -- half the people  
10 probably think, well, that's pretty cool, this is a very  
11 successful person; and the other half wonder if this is  
12 just a person that couldn't keep a job. And I think  
13 there's probably some truth on both sides.

14 Well, good morning, and thank you for allowing  
15 me to visit with you this morning to deal with some of  
16 these very big problems of childhood obesity. As you  
17 know, as the Surgeon General of the United States, my job  
18 is to protect and advance the health of the nation. I do  
19 that through the best science in the world, through all  
20 of our operating divisions, many of my colleagues you've  
21 heard from, National Institutes of Health, CDC and many  
22 other of the 68,000 or so employees within the Department  
23 of Health and Human Services who help to move this agenda  
24 forward.

25 But what we know today is that 16 percent of

1 our children, almost 9 million children in this country  
2 are overweight or obese. Two out of three Americans are  
3 overweight or obese. The clock is ticking as these risk  
4 factors accumulate in this population that continues to  
5 get heavier, risk factors for cardiovascular disease, for  
6 cancer. Now, we can track these trends over the last  
7 several decades. This didn't just happen in a year or  
8 two years or even a decade. But you can go back and look  
9 at epidemiologic trends really beginning around the  
10 second World War and after and see the culture change,  
11 the American culture change, to becoming a little bit  
12 more sedentary, a little less physical activity, a little  
13 bit more indiscriminate eating.

14 So, when you look back, of course,  
15 retrospectoscope is always 20/20. You can say, gee, we  
16 should have anticipated this. Well, the fact is that  
17 many people spoke about it, but as they say in  
18 Washington, it didn't get a lot of traction for a while.  
19 And now it's an epidemic, and it really has caught on and  
20 is a significant problem.

21 When we look at the variables that contribute  
22 to this problem, there are many, but what we do know is  
23 that the average kid is watching TV several hours a day.  
24 We know that the average kid spends far more time on  
25 Playstations than they do on playgrounds; and physical



1 activity is a big part -- or lack of physical activity is  
2 a big part of this.

3 What we're seeing is Generation Y is quickly  
4 becoming Generation XL.

5 **(Laughter.)**

6 SURGEON GENERAL CARMONA: We must remember that  
7 the best role models that a child has are the parents.  
8 And I recognize the difficulty in parenting today; and I  
9 recognize that almost half the families in this country  
10 may have only one parent, but nevertheless, that parent  
11 or parents play a very significant role in the life of  
12 that child, because even without stating anything,  
13 children often model their behavior eventually after  
14 their parents. And if parents are inactive, if parents  
15 are snacking, if parents are not practicing good health  
16 habits, children will inevitably do the same.

17 I often jokingly say to my colleagues, when we  
18 speak about these issues, well, it's pretty easy, if you  
19 want to see what this child will look like in 20 years,  
20 look across the couch in the living room every night and  
21 see what those parents are doing. And if the parent is  
22 overweight, if the parent is snacking, if the parent is  
23 not practicing good health habits, why would you think  
24 the child would do otherwise? So, let's not forget the  
25 importance of parenting and role models and mentors with

1       our children.

2                   Children need to get at least an hour of  
3 physical activity a day; and adults we suggest 30  
4 minutes. Yet we are plagued with a rash of school  
5 districts that are eliminating physical activity. Much  
6 of what I do every day is to try and convince health  
7 districts, health administrators, principals, large  
8 organizations that represent all of the stakeholders that  
9 you must think about the untoward consequences of your  
10 policies when you decrease physical activities in  
11 schools. And children who then spend hours on TV,  
12 children who eat indiscriminately, children who don't get  
13 any physical activity, which could go on for years at a  
14 time, don't be surprised that they may be overweight.

15                   When I became Surgeon General about three years  
16 ago, the President, President Bush, challenged me with a  
17 portfolio that was fairly wide, diverse, but very  
18 strongly evidence-based. The first thing in that  
19 portfolio that he passionately spoke to me about was  
20 prevention, that we needed to become a nation that  
21 embraces prevention as much as or more than we embrace  
22 care.

23                   In my own experience, I understand that because  
24 before being Surgeon General, as I jokingly say to my  
25 colleagues also, I used to be a real doctor, now I just

1 play one on TV. But when I was a real doctor taking care  
2 of individuals and not populations that I have the  
3 responsibility for as today, I was a trauma surgeon, an  
4 emergency physician. And every day, I would see the  
5 gurneys roll into the hospital and two or three out of  
6 every four patients that I admitted didn't have to be in  
7 that hospital.

8 It creates a huge disease burden and an  
9 economic burden on our society. And it's about people  
10 who made bad decisions that day, if you look at the list  
11 of reasons why they came in: drunk driving, domestic  
12 violence, all of the acute things, crime, drugs, alcohol.  
13 But then there were chronic things, people who didn't  
14 value physical activity; people who didn't take care of  
15 their health over the years; people who engaged in high-  
16 risk activities. But the sum total of that was that body  
17 shows up in front of you and we're expected to take the  
18 most extraordinary science that this country has ever  
19 known, apply it to that individual, to save their life at  
20 a huge cost, and of course we pride ourselves on saving  
21 someone. You come into that emergency room with a pulse,  
22 we're going to save you, maybe in spite of yourself.

23 And of course, as surgeons, our discharge  
24 criteria was rather simple: the patient was upright, the  
25 patient was afebrile, patient ate, patient had a bowel

1 movement, we sent them home. But what did we do to  
2 change their behavior? Not much. Chances are they're  
3 going to cycle back through the system and come back with  
4 the same heart attack, congestive failure, co-morbidity  
5 of obesity, and that disease burden continues to mount  
6 and that economic burden continues to mount, and yet most  
7 of it is preventable.

8 So, from a personal standpoint, I understand  
9 it, having been in those trenches. In fact, that's what  
10 drove me into public health over a decade ago, seeing how  
11 much of what I was caring for was preventable. So,  
12 prevention is first on our agenda.

13 Second is preparedness, and I won't spend a lot  
14 of time on that, but suffice it to say that the new world  
15 order dictates that we all have to learn, citizens and  
16 professionals, that planes can now be weapons; that  
17 pathogens are weapons; that the world has changed; that  
18 the sense of security and maybe complacency that we had  
19 throughout our lives is gone. And, so, the President has  
20 directed us to get our citizens ready, train our firemen,  
21 train our police, train our soldiers, our sailors, our  
22 Coast Guardmen, our airmen, to be better prepared, to  
23 prevent, to mitigate, to respond to all hazards and  
24 emergencies.

25 The third area the President was passionate

1 about that I am so happy he felt as I did was the issue  
2 of health disparities. Health disparities, as you know,  
3 simply represented, are the fact that generally people of  
4 color in this country, what we might call minorities,  
5 have less access to healthcare and when they do have that  
6 access, typically they have poorer outcomes. But when we  
7 look at certain diseases, when we look at obesity, which  
8 is what we're speaking of today, we see disproportionate  
9 representation, often in the minority populations. And  
10 with that obesity comes more cardiovascular disease,  
11 comes more loss of quality of life, comes increased cost  
12 of care, and the list just goes on and on and on,  
13 disproportionately represented.

14 Now, why am I so passionate about that? Well,  
15 I was one of those poor Latino kids. As you heard, I  
16 dropped out of high school. I was first-generation born  
17 in this country. My grandmother came here with 27  
18 children and no money and settled in a tenement in New  
19 York City. And I am her grandson. So, one generation  
20 removed, we go from a whole family with no education who  
21 are laborers to producing a Surgeon General. It's a  
22 pretty extraordinary country.

23 But yet I understand first-hand the inequities  
24 of disparities, having had to go to public hospitals  
25 myself, having had to struggle with a mother who was too

1 proud to take welfare but yet wanted her kids to prosper  
2 in this country but she struggled every single day,  
3 including her substance problems. So, those issues are  
4 really real to me because I lived them and now I feel I  
5 have an obligation socially, morally and ethically to try  
6 and change that.

7 As the President has said to me, we really  
8 don't want to reduce health disparities, we really should  
9 be shooting to eliminate health disparities. We need to  
10 level the playing field in this country.

11 Prevention, preparedness, health disparities,  
12 those are probably the three things that take up most of  
13 my time, on behalf of the President and Secretary  
14 Leavitt, but there's a common currency that we need to  
15 use to be successful in all of those endeavors, and that  
16 is health literacy, because we are largely a health-  
17 illiterate country. The fact of the matter is is that  
18 the average person doesn't understand the health messages  
19 we give them. We tell them to eat healthy, yet how many  
20 people can go to the store and look at the food label and  
21 understand and know the difference between a gram of  
22 protein or a gram of fat or how much of this or how much  
23 of that I should eat?

24 Yet my challenge every day is not enough  
25 science, because I have an enviable Rolodex. I have the

1 best consultants in the world in everything. And I have  
2 a lot of questions every day, as the Surgeon General of  
3 the United States. But I can call the world's expert on  
4 almost every subject and within minutes be schooled up on  
5 whatever the issue is. What I lack is the translational  
6 element, how to deliver the best science in a culturally  
7 competent manner to the diverse populations that I have  
8 the privilege of serving. That's the bottom line.

9 And I go back to my own childhood and remember  
10 those lessons, because as a little kid going to doctors,  
11 going to the Social Security office with my grandmother  
12 who spoke no English, with my aunts and uncles who spoke  
13 no English, yet as a seven, eight, nine, ten-year-old  
14 boy, I was their interpreter. How much could I really  
15 understand and interpret to adults who are trying to  
16 convey complex social and medical and economic problems?  
17 Not likely.

18 So, I understand those things very well, but we  
19 have to figure out a way to better engage the populations  
20 that we serve. And paradoxically, what I see every day,  
21 the very strength that we have in this country, as the  
22 United States of America, which is founded on diversity,  
23 is often what separates us and makes it even more  
24 difficult for all of us to do our job. That's why we're  
25 all here, to come together and figure out what are the

1 best things to do to make this country healthier, to make  
2 this country safer, to reduce the cost of care, to  
3 improve the quality, all of those things. And, again,  
4 many of those lessons I will tell you as it relates to  
5 disparity and cultural competence, I learned from a lady  
6 we called our Aleta, who was my grandmother, who had no  
7 education, but thinking back to how she purchased her  
8 food, how she cooked her food, the best cook in the  
9 world, but it probably wasn't healthy, because one of the  
10 first things I remember to this day, when she started  
11 cooking, it was a big thing of lard in the back of the  
12 refrigerator that got thrown into the frying pan.

13 **(Laughter).**

14 SURGEON GENERAL CARMONA: Yet it was great.  
15 So, we must not forget the culture that brings us all  
16 together often divides us, because what grandmother  
17 taught you, you teach to your children, and that cultural  
18 norm continues, from purchasing the food, to cooking the  
19 food, to eating the food, and it's a very sensitive issue  
20 to go to somebody's culture and say don't do it that way  
21 anymore. In fact, there's pushback often. So, we have  
22 to be very sensitive in how we do that.

23 This year, the Department of Agriculture and  
24 the Department of Health & Human Services released the  
25 2005 Dietary Guidelines for Americans. It's on-line and



1       it's in a brochure. Hopefully, this will help to  
2       increase health literacy. We are doing all we can. I  
3       know in every report I do now is a Surgeon General Call-  
4       to-Action, Surgeon General reports, there is a people's  
5       piece that is written at a sixth or seventh-grade level,  
6       because my goal is to communicate with the biggest  
7       medical population in the world. My practice, 300  
8       million people. And I have to get it to them in the  
9       right way so that they understand it. My messages will  
10      fail, the science that my colleagues give me to give to  
11      my citizens will fail, unless I can engage that public,  
12      unless they see this information and feel it and make the  
13      changes that are necessary to improve their health.

14                 We have to think out of the box. We have to  
15      start using community health workers; we have to use  
16      promoters. People with credibility in the community  
17      sometimes do far better than advanced-degree health  
18      professionals who have no credibility in that community.  
19      So, reaching out to the faith-based community, getting  
20      the promoters, getting the community health workers. And  
21      the literature is very strong in this area that shows you  
22      can really change the health and status of a community  
23      using community health workers if you do it wisely and  
24      apply the science in a culturally competent manner. And  
25      this issue of obesity lends itself to that type of a

1 thought process.

2 This year, we proclaimed it to be the year of  
3 the healthy child. Eighty-two percent of our 70 or so  
4 million children are pretty healthy, but we shouldn't be  
5 complacent, because as you do a gap analysis across the  
6 board, you find holes where we still have pockets of  
7 increased morbidity and mortality, cost of health care,  
8 that need to be addressed.

9 We're looking at all aspects of a child's life,  
10 from body, mind, spirit. We're looking at breastfeeding,  
11 we're looking at immunizations, oral health, prevention  
12 of drug, alcohol, smoking, injury prevention, which is a  
13 big one. If you're a baby and you make it through  
14 infections and genetic problems, chances are if you don't  
15 make it to your adolescent or teen years, it's trauma  
16 that's going to kill you, and almost all of it's  
17 preventable.

18 We started a 50/50 program, where I  
19 symbolically go into every state. We pick a school; I  
20 try and pick a school in generally the lowest  
21 socioeconomic area, the ones with the worst metrics for  
22 quality of life; and spend hours, if not a day, there;  
23 get on the lunch line with the kids; see what they're  
24 thinking; why are they buying this food; speak to the  
25 teachers, the school administrators; why do you do things

1 this way, get a better understanding.

2 And I wish I could go to every school in the  
3 country, but we symbolically pick one. We hope to get  
4 enough press and coverage to raise the issue in that  
5 state, and a lot of it has to do with obesity and healthy  
6 habits and physical activity, engaging the children,  
7 engaging the parents and the schools. The 50/50 program  
8 has been very successful.

9 We talk about staying in school, because the  
10 fact of the matter is a third of our minority kids drop  
11 out of high school -- in some places up to half,  
12 depending on which 'hood you're looking at. And yet we  
13 want a diversified workforce. The best chance for us to  
14 be successful in the future is to have that diversified  
15 workforce with culturally diverse people who represent  
16 all disciplines, because that's the people that will get  
17 into those communities and understand that culture and  
18 really shake it up and change it.

19 Some guy showing up with a couple of degrees  
20 who doesn't understand the culture is probably not going  
21 to have a lot of effect. So, it's extraordinarily  
22 important we keep our kids in school, we get them out of  
23 high school and graduate. We have no change of having a  
24 diverse workforce, especially in the sciences. Right  
25 now, we're graduating about -- about a third of our

1       doctoral students in this country come from foreign  
2       countries. We are certainly helping a lot of people, but  
3       not helping ourselves. We've got to keep our own kids in  
4       school.

5                 We are supporting the First Lady's efforts to  
6       make a difference in youth by bringing together parents,  
7       child advocacy groups, policy makers and everybody who  
8       has an impact on a child's life. We've created  
9       partnerships with the American Academy of Pediatrics,  
10      Campbell's Soups, others, and the SAY program, the  
11      Shaping America's Youth. My friend and colleague, former  
12      Surgeon General David Satcher, has a program with the  
13      National Football League, which we've partnered with to  
14      promote school-based solutions to obesity.

15                Nike, LeBron James, Mia Hamm, Freddie Adoo and  
16      the Nike P.E. to Go Program provides equipment and  
17      expertise to schools, many schools who otherwise wouldn't  
18      have P.E. teachers for their children to stay physically  
19      active. ESPN and girls and boys clubs, Play your Way  
20      program, and focusing on physical activity and health  
21      today and for the future. All of these programs have  
22      that in common. Teaching our children to make healthy  
23      choices, stay physically active and eat a balanced diet.

24                We must be careful not to stigmatize the  
25      overweight or obese youth. Don't blame them; encourage

1       them to make healthier choices. Set the example  
2       yourself. Remember that there are significant mental  
3       health consequences. There's loss of self-confidence,  
4       self-esteem for those children who are struggling. We  
5       see the problem, one epidemiologically, as a number, but  
6       this kid has to live that every day and typically they're  
7       ostracized, they don't play in the games, they're not the  
8       first one chosen, if they get chosen at all, when games  
9       are being played. It's a tough life for a kid who is  
10      overweight or obese, because they don't fit into this  
11      streamlined society that we have today.

12                So, be sensitive. Help them along, because  
13      they are struggling also. They don't want to be that  
14      way. The President has given all of us who work for him  
15      a charge: Help Americans live longer, healthier lives  
16      and do it in a way that maintains our economic  
17      competitiveness as a nation.

18                On behalf of President Bush and Secretary  
19      Leavitt, I want to thank you for coming together to  
20      discuss the best practices and the approaches we should  
21      take as a nation to eliminate this epidemic of obesity.  
22      Together with your help, we can ensure the best possible  
23      health and the greatest productivity and independence for  
24      all of our children. Thank you very much.

25                    **(Applause.)**

1                   COMMISSIONER LEARY: Well, that's a wake-up,  
2 isn't it? I just want to take a few minutes to give you  
3 some purely personal perspective on what I see the role  
4 of the Federal Trade Commission in this battle, number  
5 one, as a law enforcer; and number two, as an agency that  
6 encourages private initiatives to help cope with this  
7 problem, among many others. And I think maybe the best  
8 way to do that would be to give you some basic scenarios.

9                   The first basic scenario addresses deceptive  
10 advertising of any product, whether it's a healthy  
11 product or an unhealthy product, or whether it is  
12 advertised to young people or the population at large.  
13 In general, the Federal Trade Commission has the  
14 authority to prosecute cases of deceptive advertising,  
15 across the board.

16                   And it doesn't matter as far as the basic  
17 authority is concerned whether the advertising is to  
18 youth or to the general population. Where the  
19 advertising to youth is concerned, there may be some  
20 difference in the definition of what is deceptive,  
21 because something that to an adult may merely be harmless  
22 exaggeration or what we'd say in the advertising  
23 community "puffing," to a child may be real. So, the  
24 standard for deception can be a little bit different, but  
25 the authority is there across the board.

1                   What about private self-regulation targeted at  
2                   deception? The issue here is a competition/anti-trust  
3                   issue and it invokes -- what we're talking about now when  
4                   we're talking about private activity, we're talking about  
5                   essentially the two wings of the Federal Trade  
6                   Commission's authority and the reason why I personally  
7                   have always believed the Federal Trade Commission is  
8                   uniquely qualified to deal with some of these issues.

9                   The anti-trust/competition issue reflects a  
10                  broad suspicion of private law-making because private  
11                  law-making has been too often historically associated  
12                  with efforts to repress competition that is disruptive,  
13                  and the best example I could cite for an audience here  
14                  would be the codes of ethics of our own legal profession,  
15                  which finally were addressed by the Supreme Court a  
16                  little over 30 years ago.

17                  So, that's the source of the suspicion, that  
18                  private activity, while ostensibly directed at deception,  
19                  is really directed at aggressive competitive activity,  
20                  and that was the basis for the California Dental case,  
21                  which the Supreme Court held against the Commission a few  
22                  years ago. The Commission brought a case against an  
23                  ethical code of the California dentists, which was aimed  
24                  at restricting facially false and deceptive advertising,  
25                  but which, in its actual application, was much more

1 broadly directed at disruptive price advertising and  
2 quality advertising of all kinds.

3 So, the lesson from the California Dental case  
4 is not that the Federal Trade Commission is going to jump  
5 on you if you have an advertising code and enforce it,  
6 directed at deception; the lesson from it is that you  
7 ought to enforce your code as written and not more  
8 broadly to suppress unwanted competition, and as you all  
9 know, there are many advertising codes in existence out  
10 there that we affirmatively support that address  
11 deception, among other things. The Better Business  
12 Bureau, the Direct Marketing Association.

13 A good very recent example close to home are  
14 the initiatives that the Federal Trade Commission  
15 undertook beginning about two years ago to address phony  
16 weight loss products with appeals to the media, through  
17 private initiatives, not to run ads that are patently  
18 false. And we weren't asking them to apply any high  
19 science, we were simply asking them to refuse to run  
20 advertising that was so obviously false that anybody  
21 ought to know it and be able to recognize it, and they  
22 published the booklet on the so-called red flag claims,  
23 and we have encouraged them to do it in talks to groups  
24 of them. And if they want to do it collectively and if  
25 that's the only way to do it, I promise you, they're not



1 going to get any trouble from the Federal Trade  
2 Commission, provided it's done, as I said, focusing on  
3 the problem at hand and not more broadly.

4 I remember one time I was talking at a meeting  
5 in New York and they were saying -- people in the  
6 publishing community, they were saying, well, you're  
7 asking us to apply technical science and that's not our  
8 job in reviewing ads. I said, it's not technical  
9 science. I said, would you run in a responsible  
10 publication an advertisement for some kind of a belt that  
11 would offset the law of gravity and enable people to  
12 commute to work over the bottleneck, you see. You  
13 wouldn't run an ad like that, would you? No, of course  
14 we wouldn't. Why not? It violates fundamental physics.  
15 Ah-ha. Same thing is true for ads that you promise you  
16 can lose weight without diet or exercise. It violates  
17 the fundamental laws of physics. Think of it in the same  
18 way and apply the same standards.

19 Now, scenario number two, a little bit more  
20 complicated. Non-deceptive advertising of an unhealthy  
21 product, assuming we can define what an unhealthy product  
22 is. Generally, the Federal Trade Commission today does  
23 not have the authority to bar the advertising, the non-  
24 deceptive advertising of a product that may be unhealthy.  
25 Now, there's a caveat there again. In some areas, an

1 advertisement that is literally true can be deceptive if  
2 it impliedly makes a health claim. In other words, if  
3 you literally state whatever the content of a particular  
4 food may be so that you imply in the ad that this is  
5 healthy food because it's only got X grams of whatever,  
6 but if it has some other unhealthy attribute and you are  
7 impliedly claiming it is a healthy food, even through a  
8 literally true statement, we may charge you with  
9 deception.

10 Now, what about non-deceptive ads directed at  
11 minors? The outcome there may depend on whether or not  
12 it is legal to sell the product to a minor or not. If it  
13 is clearly illegal to sell a product to a minor, the FTC  
14 can and has acted under its unfairness authority. I  
15 think of the Camel Cigarette case, for example. Ads  
16 obviously targeted at minors, no deception involved.  
17 Actually, there was really no content to the ads at all,  
18 they were just funny cartoons, but they were aimed at  
19 minors or the theory of the complaint was that they were  
20 aimed at minors. There was no deception, but it was  
21 unfair to advertise an illegal product to minors.

22 If the product is legal, if it's legal to sell  
23 the product to minors, the FTC will act only in  
24 extraordinary circumstances. As a general proposition,  
25 that is outside the scope of our authority. We did have

1 a case a number of years ago of non-deceptive advertising  
2 encouraging kids to make 900 calls at home without  
3 parental supervision and there was nothing illegal about  
4 the products that were being advertised. The unfairness  
5 was encouraging kids to incur telephone charges at home  
6 without the parents knowing about it. It was ultimately  
7 folded into -- the principle to that case became part of  
8 the 900 number rule, which is now a rule. And so, you do  
9 have some regulation there of non-deceptive advertising  
10 of products that are perfectly legal with lack of  
11 parental supervision. But, in general, we're not in that  
12 business.

13 You may remember -- some of you with long  
14 memories may remember the famous KidVid controversy going  
15 back about 25 years where the Federal Trade Commission  
16 took it upon itself to consider whether or not it would  
17 ban as unfair non-deceptive advertisements to kids of  
18 unhealthy food like sweet cereals and things like that,  
19 and it's a long, painful history. I'll just summarize  
20 it. We got our head handed to us and we're not likely to  
21 do that again in the near future.

22 What about self-regulation aimed at non-  
23 deceptive advertising or promotion or sale of unhealthy  
24 stuff? And, again, if the sales would be illegal, it's  
25 an easier case. It is done today -- for example, you

1 have industry codes. A good example is the liquor  
2 industry, which has an industry code directed at limiting  
3 the exposure of minors to advertising of alcohol, which,  
4 of course, is illegal for them to buy. If the sales to  
5 minors would be legal, it's a harder case, but my  
6 personal view is that private restrictions are possible  
7 if they are carefully tailored to address the problem at  
8 hand and there is no obvious commercial motivation.

9 Now, let me give you an example that will  
10 illustrate the difference. We do have advertising codes  
11 right now dealing with the promotion of adult video games  
12 or R-rated films to children. It's non-deceptive. It's  
13 not illegal to sell children adult video games or not  
14 illegal to admit children to R-rated movies, but there  
15 are nevertheless codes that are aimed at restricting  
16 promotion of those products to children and we're not  
17 about to challenge them as anti-trust offenses.

18 But let me give you an example -- even, by the  
19 way, we're not going to challenge them even if a  
20 spillover effect of self-regulation of that kind might be  
21 somewhat higher prices. However, assume hypothetically  
22 that a group of sellers got together and said, well, one  
23 way to restrict children's access to these legal products  
24 is to engage in a price-fixing conspiracy and price the  
25 kids out of the market. It might be very effective. We

1 would attack that as an anti-trust violation. Why?  
2 Because it's not targeted to the problem at hand and  
3 there's an obvious commercial motivation.

4 So, what's the conclusion? The conclusion I  
5 want to leave with you is that there is a greater scope  
6 for self-regulation than you might think and there are  
7 many examples out there of self-regulation engaged in  
8 with the acquiescence and encouragement of the Federal  
9 Trade Commission. And if you're getting overly cautious  
10 anti-trust advice, come to us and we'll give you an  
11 advisory opinion that may surprise you.

12 The second lesson I want to -- my personal --  
13 my purely personal view is, and I haven't discussed this  
14 with my colleagues, is I am not all that enthusiastic  
15 about the idea of giving the Federal Trade Commission  
16 greater authority than it has today to regulate in the  
17 area of non-deceptive promotion of unhealthy food to  
18 kids. And maybe that reflects the Libertarian in me, but  
19 I simply am not comfortable with that reach of federal  
20 authority and I really don't want to be part of a nanny  
21 agency or a nanny state. And that's all I have to say to  
22 you this morning. I thank you, again, for being here for  
23 this lively discussion.

24 **(Applause.)**

25 MS. FAIR: Thank you very much, Commissioner

1 Leary, and thank you to Admiral Carmona for putting  
2 things into perspective for us this morning.

3 I'd like to ask the members of the first panel  
4 to approach so we can get started. I would also remind  
5 them again to speak directly into the mic, since that's  
6 the only way we have to create our public record. The  
7 other usual disclaimer, the same reminder of yesterday,  
8 that statements of HHS and FTC staff reflect their  
9 opinions and are not necessarily the official positions  
10 of their agency.

11 I'd like to remind you that we'll use the same  
12 question procedure that we used yesterday. Staff will be  
13 coming through with an array of question cards. If you  
14 have questions for this panel, please fill one out and  
15 we'll do our best to address that.

16 The final issue is just to remind you that you  
17 have until 10:00 a.m. to sign up at the registration desk  
18 to participate in the open forum that will happen  
19 immediately after this panel.

20 Let me introduce our two moderators for this  
21 panel. First is Dick Kelly, a senior attorney with the  
22 FTC's Division of Advertising Practices. Next to him is  
23 Dr. Barbara Schneeman, Director of the Office of  
24 Nutritional Products, Labeling and Dietary Supplements in  
25 the Center for Food Safety and Applied Nutrition at the

1 Food and Drug Administration. They have way better  
2 titles than we do, I got to say.

3 Let me turn things over to Mr. Kelly and Dr.  
4 Schneeman.

5 **PANEL 4: SELF-REGULATORY AND OTHER STANDARDS FOR**  
6 **MARKETING FOOD TO CHILDREN**

7 MR. KELLY: Good morning. We're reminded again  
8 by the Surgeon General's comments about the scope of this  
9 problem that we all are here today to try to at least  
10 partially address and the many and varied solutions that  
11 there are out there to find a way to solve this problem.

12 Commissioner Leary was wonderful. He helped  
13 set up this panel. It's called Self-Regulatory and Other  
14 Standards for the Marketing of Foods to Children. He  
15 gave us a great overview of FTC's jurisdiction, his own  
16 personal comments on what those limits should be or are,  
17 and also reminded us of the potential value and reach of  
18 self-regulatory programs to do things to solve this  
19 problem. We also had a little bit of discussion about  
20 limits and there are limits of course to what self-  
21 regulation can do and I'm sure we'll get into that as we  
22 have our discussion for this panel.

23 But, you know, three days ago all of us awoke  
24 to this headline in the Wall Street Journal, Food  
25 Marketers Propose Tougher Guidelines for Children's Ads.

1        Among the proposals being offered to the Children's  
2        Advertising Review Unit by the Grocery Manufacturers of  
3        America, we read, were ways to crack down on product  
4        placement in TV shows, the use of licensed characters in  
5        ads and food packaging and advergaming. GMA was also  
6        proposing to boost CARU's resources and staffing and make  
7        its monitoring process both public and more transparent.

8                As Barbara and I considered how this proposal  
9        would impact on our panel, it seemed there were at least  
10       two possible ways to view this. One as an end to a  
11       process, or, two as one company official said yesterday,  
12       a good start. And yesterday, we listened to the steps  
13       individual companies are taking to adjust their marketing  
14       efforts and product lines to deal with the problem of  
15       childhood obesity. We also heard about ongoing efforts  
16       by media groups and the advertising community to educate  
17       children about nutrition and exercise. Those efforts,  
18       taken together, present a part, a rather important part  
19       of industry's response to the problem of childhood  
20       obesity.

21               But, today, we want to focus on another part of  
22       that response, a more than 30-year effort by industry to  
23       police itself by setting general principles and specific  
24       guidelines that apply to all companies advertising food  
25       and beverages to children and that seek to prevent



1 advertising that is misleading or inappropriate for a  
2 child.

3 DR. SCHNEEMAN: As we've heard from Richard's  
4 comments about the panels yesterday and our opening this  
5 morning, I think we can compliment the panels yesterday  
6 for doing an excellent job in laying out the issues,  
7 showing us where the challenges are, the breadth of these  
8 issues, and as we move through this morning's  
9 presentations, I think we're going to start talking about  
10 how can we address those challenges, what are some of the  
11 solutions that can help us get to a better place.

12 Now, at the start of our panel this morning, we  
13 will hear from the Children's Advertising Review Unit  
14 about those guides and how they are enforced. So, we'll  
15 hear it first-hand. We'll then hear two presentations,  
16 the first about efforts in Europe and elsewhere to  
17 respond to the problem of childhood obesity and the  
18 second about a proposal offered by the Center for Science  
19 and the Public Interest for a different and perhaps more  
20 expansive approach to self-regulation.

21 And after brief comments from our other  
22 panelists, we'll begin what hopefully will be a wide-  
23 ranging discussion of not only the strengths and  
24 limitations of what is already in place, but also the  
25 pros and cons of expanding that base to issues that go

1 beyond the current guides and even beyond the proposals  
2 that we read about in the Wall Street Journal article.

3 I'm going to start by doing the introduction of  
4 our panel for this morning. First, we will have  
5 Elizabeth Lascoutx who is Director of the Children's  
6 Advertising Review Unit and a Vice President of the  
7 Council for Better Business Bureaus. CARU enforces the  
8 self-regulatory guidelines for children's advertising  
9 that applies to all food and beverage advertising  
10 directed to children under the age of 12. Ms. Lascoutx  
11 has been with CARU for nearly 25 years, serving as its  
12 Director for the last decade.

13 Next, we will hear from Charlotte Hebebrand who  
14 is from the Food Safety, Health and Consumer Affairs  
15 Section of the European Commission Delegation where she  
16 serves as Special Advisor for Agriculture and Consumer  
17 Affairs. Charlotte stepped in at the last second to take  
18 John Bell's spot on our panel. Mr. Bell, unfortunately,  
19 was called away on Wednesday, called back to Brussels  
20 because of a family emergency, and Charlotte, we  
21 appreciate your being here and stepping in at the last  
22 minute.

23 Then we will hear from Margo Wootan, who is the  
24 Director of Nutrition Policy at the Center for Science  
25 and the Public Interest, a health advocacy organization

1 that specializes in issues related to nutrition and  
2 obesity. CSPI has proposed a nutrition-based set of  
3 guidelines that would apply to food and beverage  
4 advertising directed to children under 18. Dr. Wootan  
5 co-founded and coordinates the activities of the National  
6 Alliance for Nutrition and Activity.

7 Then our shorter presentations will begin with  
8 Patti Miller, who is Vice President and Director of the  
9 Children and Media Program at Children Now. Children Now  
10 is a national advocacy organization seeking to ensure  
11 that children are a top public policy priority. Ms.  
12 Miller has testified before the FCC on media  
13 consolidation and children's programming, as well as the  
14 potential impacts of digital television on youth.

15 Then we will hear from Kathryn Montgomery who  
16 is Professor of Communications at American University.  
17 Dr. Montgomery currently directs the project on youth,  
18 media and democracy through American University's Center  
19 for Social Media. She was the co-founder and former  
20 President of the Center for Media Education.

21 And, finally, we'll hear from Wally Snyder, who  
22 is President and CEO of the AAF, the American Advertising  
23 Federation, the trade association that represents  
24 professionals in the advertising industry. Before  
25 joining AAF in 1985, he was an FTC staff member and

1 former Director of the Division of Advertising Practices.  
2 Then we'll move into our discussion.

3 So, let's begin this panel now by hearing from  
4 Elizabeth Lascoutx of CARU.

5 MS. LASCOUTX: Thank you, Dr. Schneeman and  
6 Dick for having me here, and thank you to the FTC and the  
7 Department of Health and Human Services.

8 The Children's Advertising Review Unit is a  
9 Division of the Council of Better Business Bureaus,  
10 created in 1974 at the request of the advertising  
11 industry with a mandate to ensure that advertising  
12 directed to kids under 12 is truthful, accurate and  
13 appropriate for the developing cognitive abilities of its  
14 audience. Our system is overseen by the National  
15 Advertising Review Council, which is called NARC, I'm  
16 sorry to say, a strategic alliance of the AAAAs, ANA, AAF  
17 and Council of Better Business Bureaus.

18 Policy for our self-regulatory system is set by  
19 NARC. Support comes from the industry. We are, after  
20 all, self-regulation. But our daily operations are  
21 independent of NARC and the industry under CBBB  
22 administration.

23 CARU's guidelines are comprehensive standards  
24 for messages targeting children in all media. They go  
25 far beyond truth and accuracy and far beyond anything

1 that could be required by law or regulation. They're  
2 developed and revised with input from our Academic  
3 Advisory Board, experts in the fields of communication,  
4 child development, child mental health and as of last  
5 year, nutrition. We draw further input from industry  
6 experts, where appropriate, and final approval comes from  
7 NARC, and I was supposed to put my slides up. Sorry  
8 about that.

9 The guidelines are carefully and broadly drawn  
10 to be flexible and adaptable to a constantly changing  
11 media and marketing landscape. In the mid-nineties, CARU  
12 and an industry task group developed guidelines for  
13 protecting children's privacy on the Internet which  
14 ultimately formed much of the basis for COPPA.  
15 Similarly, this last May, CARU convened a task force to  
16 develop an appropriate approach to advergames and we  
17 expect its recommendations later this fall.

18 Some of the guidelines specifically address  
19 food advertising, but all the guidelines apply to all  
20 advertising. Dick Kelly asked me to show some specific  
21 guidelines that we've applied to food. All right, this  
22 first one, copy, sound and visual presentations should  
23 not mislead children about product or performance  
24 characteristics, including nutritional benefits.  
25 Advertising and packaging for Unilever's Popsicle Juice

1 Pops contained a statement, real fruit juice pops. CARU  
2 determined that children might think they were 100  
3 percent juice when they were about 30 percent and the  
4 advertiser eliminated the claim from both advertising and  
5 packaging.

6 Yesterday, we saw an ad showing some fruit  
7 jumping into a blender and coming out as candy. We had  
8 exactly the same issue with that ad and the advertiser  
9 pulled it off the air at our request.

10 Second guideline, what is included and excluded  
11 in the initial purchase should be clearly established.  
12 Ads for Burger King and McDonald's children's meals  
13 showed the premium toy and the traditional burger, fries  
14 and soft drink that had long been the components of those  
15 meals. Our concern was that kids might not know that  
16 there were now other choices, applesauce, apple slices,  
17 milk, juice, that they could order and still get the  
18 kids' meals. Both advertisers agreed to show more  
19 choices in their ads.

20 Comparative claims should be based on real  
21 product advantages that are understandable to the child  
22 audience. An ad for Nutella truthfully claimed that it  
23 had less fat and sodium than peanut butter, but since it  
24 had more sugar, CARU asked them to modify the claim and  
25 they did.

1           The amount of products featured should be  
2           within reasonable levels for the situation depicted. An  
3           ad for Pringles showed four youths each with his or her  
4           six-serving can. The advertiser agreed to show single-  
5           serving cans in future ads.

6           Representations of food products should be made  
7           so as to encourage sound use of the product with a view  
8           toward healthy development of the child and development  
9           of good nutritional practices. An ad for an online  
10          promotion for Heinz Bagel Bites contained the line, the  
11          more you scarf, the more you can win. CARU believed this  
12          encouraged over-consumption of a snack food and the  
13          advertiser removed the line from its ads and its website.

14          Yesterday, I sat here and listened to some  
15          pretty harsh criticism of our self-regulatory system,  
16          which I'll assume was uninformed. But Linda Brugler and  
17          the panel on changes to advertising and marketing got it  
18          right. We're as good as it gets at fulfilling our  
19          mandate, which is to scrutinize how products are  
20          advertised to children, not what products are advertised.

21          We monitor over 1,000 commercials every month,  
22          along with print, online and radio and we don't miss  
23          anything. CARU investigates roughly 100 ads or websites  
24          a year. We have a compliance rate of over 97 percent  
25          when we ask for modification. And as I said, there's

1 nowhere we could refer these cases if advertisers  
2 refused. Our guidelines go beyond anything required by  
3 law. That speaks to the extraordinary support for our  
4 system from the business community.

5 As for transparency, CARU issues a press  
6 release at the conclusion of every case, which is also  
7 posted on our website. Full decisions are available to  
8 the general public on request.

9 A further indication of industry's buy-in of  
10 our guidelines is that most of the ads we see are already  
11 in full compliance because the internal reviews at the  
12 agency and client level have our guidelines in mind, and  
13 we will look at scripts, story boards, rough cuts and  
14 websites to ensure that the finished communication  
15 complies with the guidelines when asked to by the  
16 advertiser.

17 Our work with the industry isn't just  
18 monitoring for the ads that fall through the cracks,  
19 though. We work collaboratively with the industry to  
20 raise the bar on best practices. This spring, we engaged  
21 the major producers of fruit snacks to share our concern  
22 that the category name could confuse children as to the  
23 actual fruit content. The result is that they've agreed  
24 to change the name of their current products to fruit-  
25 flavored snacks in advertising and on packaging.



1           Lastly, while our industry is well aware of our  
2           system and guidelines, our outreach to consumers has been  
3           secondary. We've already been easy to find. If you  
4           google kids or children and advertising, we're the first  
5           up and we've always had a contact us link. But we've  
6           recently taken some steps to increase consumer awareness  
7           of CARU and our availability. We've redesigned our  
8           website to include an interactive complaint form with  
9           specific instructions on how to lodge a complaint and the  
10          NARC has created the new position of Communications  
11          Director to help in outreach to parents and consumers.

12                 I thank you for your time and I look forward to  
13          answering questions.

14                 DR. SCHNEEMAN: Next, we will hear from  
15          Charlotte Hebebrand from the European Commission.  
16          Charlotte?

17                 MS. HEBEBRAND: Good morning. I bring warm  
18          regards and regrets from John Bell who is the head of our  
19          Strategy Unit in Brussels and the Director General for  
20          Health and Consumer Protection. He had very much looked  
21          forward to participating in this very interesting  
22          workshop, but unfortunately, as Barbara has said, had to  
23          be called away to attend to a family emergency.

24                 It's a pleasure for the European Commission to  
25          participate here today and we thank our two hosts. The

1 Commission is very pleased with the excellent working  
2 relationship we have both with HHS and the FTC. I will  
3 just speak here a little bit about the fact that obesity  
4 is no longer an American problem and also to discuss a  
5 little bit to give you a very broad landscape of the  
6 marketing of food in Europe. Then I would like to close  
7 with explaining the actions that are being taken by the  
8 Commission to address the increasing problem of obesity.

9 So, very clearly, obesity is no longer confined  
10 to this side of the Atlantic. The statistics in Europe  
11 really speak for themselves. We are now looking at a  
12 situation where in the EU, one in five kids is  
13 overweight. We have 400,000 annual rise in cases, new  
14 cases of overweight or obese children in the EU. That's  
15 adding to those that are already overweight, 14 million  
16 and three million obese children.

17 Also interesting to note, seven member states  
18 in the EU right now have a higher obesity prevalence than  
19 the U.S. So, those are pretty alarming statistics.

20 Now, what is happening in the EU with regard to  
21 marketing of food to children? There are some EU-wide  
22 provisions that apply to all of our member states and  
23 there are two in particular that I will highlight. One  
24 is a very new directive that has just been passed this  
25 year. It's called the Unfair Commercial Practices

1 Directive, and that includes safeguards to ensure  
2 responsible advertising to children. For example, it  
3 bans ads that encourage children to use what's called  
4 pester power to get their parents to buy certain  
5 products. It also bans ads that tell children directly  
6 that they must buy a particular product. So, those are  
7 no longer allowed across Europe.

8 There is an older directive called TV Without  
9 Frontiers in Europe, which essentially the purpose is to  
10 regulate broadcasting in Europe, but it also includes  
11 provisions on the protection of minors when it comes both  
12 to advertising and tele-shopping.

13 But, of course, there has been more activity  
14 beyond this sort of umbrella at the EU level in the  
15 individual member states, and I will just try to give you  
16 a flavor for some of those. Some member states have gone  
17 to more restrictive measures than the ones I've just  
18 outlined. We have one member state, Sweden, which has a  
19 total ban on ads aimed at minors, regardless of what type  
20 of ad. Another member state, Greece, has a ban on toy  
21 ads from 7:00 in the morning to 10:00 at night.

22 Some member states have legal restrictions on  
23 ads around kids programming or detailed rules on the  
24 content of ads. Most recently, you've seen this in  
25 France and Ireland. And it's important to emphasize that

1 most of the member state activities aim at reinforcing  
2 industry voluntary measures. There has been a lot of  
3 action by individual companies. There have been quite a  
4 number of industry codes of conduct in member states.

5 And the governments are really focusing on  
6 getting the food and the advertising industry to  
7 voluntarily restrict their activities, in particular with  
8 regard to having responsible self-regulation, and they  
9 are sort of issuing a challenge to the industry to use  
10 their social marketing techniques to promote healthier  
11 food.

12 But I think it's fair to say that more remains  
13 to be done. A number of studies in Europe have shown  
14 that advertised foods differ from what's recommended for  
15 a healthy diet and they also show that ads do have an  
16 impact on children's diet.

17 Perhaps the study that's gotten the most  
18 attention recently was one which the U.K. Food Safety  
19 Agency commissioned in 2003, the so-called Hastings  
20 Report, which concluded that food promotion affects  
21 children's food preferences, purchase behavior and  
22 consumption in two ways. At the brand level it can  
23 influence a kid to buy one brand over another, but also  
24 at the category level, that is perhaps confectionaries  
25 over fruit.

1 I'd like to now speak a little bit more  
2 broadly, not just on marketing, but what is the EU doing  
3 to address the problem of obesity. We have an ongoing  
4 scientific assessment by our food safety authority, EFSA,  
5 to look at the issue and to come up with some nutritional  
6 guidelines. We also are working on reviewing our  
7 nutritional labeling in Europe which for now is still a  
8 voluntary measure unless you make a nutrition claim. So,  
9 you will see maybe some proposals coming forth in the  
10 next year.

11 Since 2003, we have a network on nutrition and  
12 physical activity which is advising the Commission on  
13 preparing a strategy to combat obesity. We are  
14 undergoing a consultation process, the result of which  
15 will be a nutrition green paper, which will then be  
16 followed up by an EU Commission communication on  
17 nutrition, physical activity and obesity. And very  
18 importantly, in order to focus minds, the European  
19 Commission has launched a European Platform for Action on  
20 Diet, Physical Activity and Health. This was just  
21 launched in March of this year by Commissioner Kiprianu.  
22 It is meant to be a forum for open and informal  
23 discussions on diet and physical activity. The focus  
24 here is on self-regulation, but I think Commissioner  
25 Kiprianu has been quite clear in saying that if at the

1 end of the day those self-regulation efforts don't really  
2 amount to very much, he will not be afraid to propose  
3 some legislative acts as well.

4 The members of this platform basically include  
5 all relevant players that are willing to enter into  
6 binding and verifiable commitments that can help to halt  
7 and reverse current obesity trends. So, we have the food  
8 industry there, the advertisers, retailers, the catering  
9 industry, NGOs, as well as scientific experts from WHO  
10 and other places.

11 The aim of this platform is to get the partners  
12 to share their initiatives, to gather best practices, but  
13 also very concretely for the different players to make  
14 very concrete commitments and allocation of additional  
15 resources to fight the problem. So, you've had the  
16 players already give their baseline commitments for this  
17 year, and by the end of this year, we expect to see  
18 increased commitments that they're willing to make for  
19 the following year.

20 The platform also includes a number of working  
21 groups whose purpose it is to deepen our understanding of  
22 the issue. One of them, in particular, will look at the  
23 issue of food marketing. It is a working group on  
24 informing consumer behavior, education, information and  
25 commercial communication.

1           What we are planning now as part of this  
2 platform is a trans-Atlantic platform event. We are  
3 hoping this could take place in May of next year because,  
4 obviously, we have the same problem on both sides of the  
5 Atlantic and arguably, we have the same players on both  
6 sides of the Atlantic. Certainly, the food industry is  
7 very international.

8           We are very keen to learn from the U.S.  
9 experience and we are looking at inviting around 50  
10 experts from the U.S. This would be from the  
11 administration, regulators, consumers and certainly also  
12 from the business community. The idea would be for the  
13 EU and the U.S. participants to, again, exchange best  
14 practices and discuss what could work best going forward  
15 in the future.

16           This event -- and we don't yet have an agenda  
17 outlined, but I will be glad to, and my office will be  
18 glad to, keep all of you informed about this, but it will  
19 be opened by Commissioner Kiprianu, as well as the  
20 Minister President of the then EU presidency from Austria  
21 and also some key members of the European Parliament.  
22 So, we really are very excited about this event and I  
23 know that we will see quite a number of you or  
24 representatives of your organizations at that event.

25           So, with that, thank you very much and we'll be

1 in touch as the agenda for this develops further.

2 DR. SCHNEEMAN: Margo Wootan will be next from  
3 CSPI.

4 DR. WOOTAN: Well, good morning. Just to  
5 start, I guess I'd like to echo what Chairman Majoras  
6 said yesterday. We completely agree that obesity and  
7 children's poor diets are affected by many different  
8 factors, but that food marketing is one of the most  
9 important. So, we're very pleased that the FTC and HHS  
10 are stepping up their efforts, giving more attention to  
11 these issues.

12 We also want to say, from CSPI's perspective,  
13 we don't believe that the food industry or food marketers  
14 are intentionally trying to undermine children's health.  
15 We recognize that it's just not their goal necessarily to  
16 address health. But I think there's no doubt, no  
17 question that the goal of food marketing aimed at  
18 children is to influence their food choices, their food  
19 preferences, what they ask their parents to purchase, and  
20 one thing that hasn't been mentioned yet in this meeting,  
21 is what they purchase themselves. Since a lot of people  
22 are only talking about the little tiny kids, we forgot  
23 that many children have lots of money in their pocket,  
24 lots of opportunity to make food choices on their own.  
25 So, it also affects what they buy themselves.



1                   We haven't heard in this workshop very much  
2                   about the science behind that, but certainly companies  
3                   know and parents know and studies show that food  
4                   advertising works, that it is effective. And if you're  
5                   not familiar with this science base, I would encourage  
6                   you to read one of the many reviews that is now  
7                   available. The Institute of Medicine is currently  
8                   pulling together a review of the science, which is  
9                   supposed to be available this fall. We haven't heard a  
10                  lot about the IOM, though many of us have been following  
11                  that process very carefully.

12                  There also is a very well done, comprehensive,  
13                  systematic review of the literature that's been done for  
14                  the U.K. Food Standard Agency which is quite good, and a  
15                  number of non-profits, including the Center for Science  
16                  and the Public Interest have a review of the issue of  
17                  food marketing. This is ours, which is available on our  
18                  website. But Kaiser Family Foundation has one, American  
19                  Psychological Association and others. So, if you are  
20                  thinking there isn't science in this area, you need to  
21                  look a little closer because there have been dozens and  
22                  dozens, hundreds of studies done in this area, looking at  
23                  food marketing aimed at children.

24                  Now, considering the current political  
25                  environment, government, as we've heard throughout this

1 workshop again and again and again, government is  
2 unlikely to require companies to change the way they  
3 market food to children any time soon. The steps that  
4 Kraft and Nickelodeon and PepsiCo and other companies are  
5 beginning to take is very encouraging and we're really  
6 feeling very optimistic and hopeful that things around  
7 food marketing to kids may change in the near future.  
8 But they haven't changed much yet. That if you watch  
9 children's television for an hour or two or take a walk  
10 down the aisles of a supermarket with a child or surf the  
11 Internet, you will see that food marketing aimed at kids  
12 is just out of control. There's a lot of it, it's very  
13 sophisticated, slick, very enticing and it's almost  
14 exclusively for foods of poor nutritional quality. That  
15 currently self-regulation through the Children's  
16 Advertising Review Unit is not working.

17 So, we're going to talk on our panel about ways  
18 to strengthen self-regulation. In fact, that currently  
19 seems like the most promising approach. The Center for  
20 Science and the Public Interest developed a set of  
21 guidelines for responsible food marketing to help move  
22 the issue of self-regulation along to give companies a  
23 starting point from which they could work to develop  
24 their own guidelines, to help give CARU some ideas of  
25 ways that they could strengthen their own guidelines

1 around food marketing to kids. We thought these are more  
2 up-to-date, they're more comprehensive, they're much  
3 clearer than much of what's out there today.

4 Now, also, just one other clarifying point I'd  
5 like to make is that we don't think that self-regulation  
6 or government regulation is to supplant parental  
7 responsibility. Of course, parents are ultimately  
8 responsible for what they feed their children. But self-  
9 regulation or changes in regulation, changes in food  
10 marketing help to support parents to make it possible for  
11 them to feed their children a healthy diet. That getting  
12 our children to eat a healthy diet would be much easier  
13 if we, as parents, didn't have to contend with billions  
14 of dollars worth of marketing for almost exclusively  
15 nutrition-poor food.

16 Today's parents are just completely out-  
17 maneuvered by food marketers. Companies have  
18 considerably more expertise and persuasive techniques.  
19 They can hire nutritionists and psychologists and market  
20 researchers and other experts where parents have very  
21 little expertise in these areas. Companies also have  
22 cartoon characters, toy giveaways, contests and a wide  
23 range of techniques that we, as parents, don't have. We  
24 saw yesterday how powerful Elmo can be. You know, I  
25 can't get Shrek to come to dinner and sit down and

1 encourage my daughter to eat her zucchini. All I can do  
2 is say, you know, Cameron, please do it, I wish you would  
3 eat more vegetables. So, we have to keep in mind the  
4 differences in resources and expertise that parents have  
5 compared to what companies have. Also, that parental  
6 authority is significantly undermined by the wide  
7 discrepancies between what parents tell their children is  
8 healthy to eat and what companies tell our children is  
9 desirable to eat.

10 So, our guidelines for responsible food  
11 marketing address not only how food is marketed, but more  
12 importantly or as importantly, which foods are marketed  
13 to children. That's in, you know, big contrast to what  
14 CARU does or what the FTC looks at, which is mostly  
15 looking at techniques.

16 Those approaches really fail to address the  
17 heart of the problem with food marketing today, and that  
18 problem is not so much that marketing is bad. I wish we  
19 had more marketing for broccoli and bananas and other  
20 healthy foods. I'm glad to see some movement in that  
21 area. But simply changing the way a sales pitch is  
22 couched is often irrelevant because the real problem is  
23 that the food itself undermines children's diets and  
24 health.

25 So, CSPI is urging companies not to market

1       soda, caffeinated drinks, other sugary drinks, sports  
2       drinks, imitation juices and other sugary beverages, and  
3       we have nutrition standards for foods that limit the  
4       amount of saturated and trans fat, sodium, added sugars,  
5       limits on portion sizes, and also to make sure that the  
6       food contains some nutrients. Sometimes people forget,  
7       you know, the main reason we're supposed to eat, in  
8       addition to calories, is to provide nutrients in  
9       children's diets.

10               So, our marketing guidelines, set nutrition  
11       criteria that would limit the marketing of many products  
12       that are currently marketed to children, but it doesn't  
13       limit it to only the ideal foods. It's not that our  
14       nutrition standards would only allow the marketing of  
15       fruits, vegetables and whole grain, low fat milk, but  
16       it's a compromise, though maybe some in the food industry  
17       don't see it that way. But we allow for the marketing of  
18       some nutritionally improved versions of foods that we  
19       know children are going to eat. So, maybe some low fat  
20       cookies or baked chips that maybe aren't the healthiest  
21       things in the world, but are certainly better than many  
22       of the options that are currently being marketed to kids.

23               Now, just to give an example of the difference  
24       between the way we deal with the techniques by which  
25       foods are marketed compared to what CARU does, the

1 language that CSPI uses is much more specific, more  
2 actionable. That while there's a lot of overlap between  
3 the principles and guidelines of CSPI's and CARU's  
4 guidelines, ours are, on the whole, much more specific,  
5 much clearer, much more actionable.

6 For example, the CARU guidelines point out that  
7 the mere appearance of a character with a product can  
8 significantly alter a child's perception of a product.  
9 However, CARU's guidance suggests that character  
10 endorsements should reflect the true experience and  
11 belief of the endorser and that the character shouldn't  
12 be shown in both an ad and a show at the same time. You  
13 know, as if the biggest problem is like when the  
14 character is shown as opposed to the use of the character  
15 to promote an unhealthy food. Also, cartoon characters,  
16 which are often shown with food, don't ever eat. So, you  
17 know, it never reflects the true experiences of that  
18 character. In contrast, CSPI's guidelines urge companies  
19 not to use marketing tie-ins with movies or television  
20 shows, cartoon characters or celebrities with foods of  
21 poor nutrition quality.

22 So, our guidelines deal with many of the same  
23 kinds of techniques and issues, nagging, product  
24 formulation and reformulation, toys, contests, games,  
25 club memberships and advergames. They also provide a

1 lot of guidance about in-school marketing, which is very  
2 important, and our guidelines call on companies to  
3 support healthy eating in schools and to support parents'  
4 ability to feed their children a healthy diet for those  
5 many hours that our children are outside of our control  
6 and at schools and ask companies not to market, to sell  
7 or to give away low nutrition foods or brands anywhere on  
8 school campus. So, that includes selling sugary soft  
9 drinks, as well as the many different kinds of marketing.

10 So, our guidelines for responsible food  
11 marketing, I have some copies with me if anybody would  
12 like some. You can also find them on our website at  
13 [cspi.org/nutritionpolicy](http://cspi.org/nutritionpolicy). Thank you.

14 MR. KELLY: And next will be Patti Miller from  
15 Children Now.

16 MS. MILLER: Good morning. Thanks for having  
17 me here today. Over the last day-and-a-half, there's  
18 been a good deal of focus specifically on television  
19 advertising and there's also been several panelists who  
20 have urged the audience to focus more broadly on  
21 interactive media and the ways in which interactive media  
22 are being used to market products to children.

23 I'd like to take this opportunity this morning  
24 in my brief remarks to talk again about television, but  
25 specifically to focus on how television is changing and

1        what the implications are for the ways in which children  
2        are going to be marketed to and why this is going to be a  
3        very great concern to the nation's parents.

4                    As television transitions from analog to  
5        digital, children will soon be able to view television  
6        and access the Internet from the same platform with a  
7        simple click of a mouse. Young viewers may be able to  
8        link to the Internet during a TV show to access  
9        information about a program, surf a website or even  
10       purchase merchandise. As television changes, questions  
11       arise about how children are going to be targeted and  
12       marketed to in an interactive world and how these  
13       emerging advertising practices will affect young viewers,  
14       especially when you consider the fact that the majority  
15       of this advertising is for fast food, junk food and sugar  
16       cereal.

17                    Imagine this scenario, for example. Little  
18       Joey is watching Scooby Doo on television and he's able  
19       to click on Scooby's head where he's immediately  
20       transported to a website where he can be exposed to more  
21       marketing or even purchase Scooby Snacks or even the  
22       Scooby doll. Children Now and the Children's Media  
23       Policy Coalition are increasingly concerned about this,  
24       about the ways in which kids will be marketed to in a  
25       digital television environment, especially when you



1 consider their inherent vulnerability to commercial  
2 persuasion.

3 We know how interactive media, specifically the  
4 Internet, is already being used to entice children  
5 through, what we've heard a lot about over the last day  
6 or so, advergaming, and I won't go into specific examples  
7 of advergames since I know we've talked a little bit  
8 about that in the last day. But as we heard yesterday,  
9 the average amount of time that a child spends with an  
10 adverage is 26 minutes, and that's clearly much more  
11 than a 30-second commercial, which provides ample  
12 opportunity to expose children to specific brands.

13 Now, many companies are starting to investigate  
14 the potential of interactive advertising on television.  
15 Digital advertisers believe that the transition from the  
16 web to TV should be smooth given children's familiarity  
17 with computers. As one executive remarked, children  
18 already have been communicating with the brands through  
19 the web which should make it easier to build a dialogue  
20 through interactive television. Kentucky Fried Chicken  
21 is experimenting with interactive TV to reach young  
22 consumers. During a TV program targeted to 4 to 11-year-  
23 olds, KFC encourages young viewers to enter designated  
24 areas by clicking on a remote control when prompted by  
25 presenters on the show, and they have a special section

1 that features the company's logo, offers games and  
2 provides information about menu and restaurant locations.

3 We're also really concerned that interactive  
4 advertising is going to be used to track the viewing  
5 habits and interests of viewers without their knowledge  
6 or consent. Eventually, interactive television will  
7 allow advertisers to target individual viewers with  
8 personalized ads and they'll be able to target children  
9 according to gender, age, household income and race by  
10 tracking the history of their individual television  
11 viewing habits.

12 It's essential that children are protected,  
13 especially when considering the role that advertising of  
14 unhealthy foods plays in their short and long-term food  
15 preferences and consumption habits. Currently, we have  
16 rules about the amount of advertising allowed in  
17 children's programming and we have rules about the  
18 separation of programming and commercial content. It's  
19 essential that these rules are updated for the digital  
20 age, especially when you consider kids' unique  
21 vulnerability to commercial persuasion, the fact that  
22 they will be exposed to and will be interacting with  
23 advertising for undefined periods of time and the  
24 individualized ways in which children will be targeted in  
25 a digital television environment. The bottom line is

1 self-regulation is not going to be sufficient. Children  
2 will need greater protections.

3 Last fall, the FCC tentatively concluded that  
4 there should be no commercial links embedded in  
5 children's television programming. The Children's Media  
6 Policy Coalition is working to bring this issue to a  
7 conclusion to ensure that there are policies in place to  
8 protect the health and well-being of our nation's  
9 children in a digital television environment. Thank you.

10 MR. KELLY: Thank you. Dr. Montgomery from  
11 American University.

12 DR. MONTGOMERY: Thank you, and I'm very, very  
13 happy to be here. The last time I was at the Federal  
14 Trade Commission was in the late nineties. At that time,  
15 I was representing my organization, the Center for Media  
16 Education, and the topic was children's online privacy.  
17 And some of the same people who are here today were there  
18 then, the conversation was somewhat similar. I think  
19 there was a great deal of concern about the issue and  
20 many proposals to do something about it. The industry  
21 was very, very interested in promoting the concept of  
22 self-regulation and in resolving the problems through  
23 self-regulation. Industry came forward, individual  
24 companies with very good initiatives for responsible data  
25 collection practices to children and CARU also came

1 forward with some proposed additions to its guidelines  
2 for children.

3 Ultimately, however, what we needed and what we  
4 were able to get was a law, the Children's Online Privacy  
5 Protection Act of 1998, which most of you are familiar  
6 with, and that law gave the FTC the authority to develop  
7 some rules and to bring the parties together, the  
8 stakeholders together to work out some rules in a very  
9 narrowly tailored way, to create some safeguards around  
10 data collection to children in the online environment.  
11 And our effort from the beginning was to try to create a  
12 level playing field and a set of rules of the game for  
13 marketing to children in the digital media environment.

14 CARU is one of a number of self-regulatory  
15 initiatives that are part of the Safe Harbor Rule. So,  
16 CARU in the area of COPPA and also, I would say, in the  
17 area of children's television advertising, operates, in  
18 these cases, within a framework of law and rules, federal  
19 rules.

20 I think we're in a very similar situation now  
21 with perhaps even a great deal more at stake, and I see  
22 the workshop that the FTC has convened as a very, very  
23 good first step in bringing today's stakeholders  
24 together. But I believe that we will need more  
25 comprehensive approaches and a stronger role by

1 government to ensure really adequate safeguards for  
2 children in the future, particularly. And I think it's  
3 particularly important, as several others have said over  
4 these two days, that we take into account not just  
5 television but this expanding digital media landscape  
6 that our children are growing up in.

7 I also wanted to urge us to think about not  
8 just small children but about adolescents as well. I'm  
9 the mother of a tween. She has all of the  
10 characteristics of a tween, I can tell you. You guys  
11 have figured her out, and she'll soon be a teen. And I,  
12 like many other mothers, many other parents, know very  
13 well that she may not have the same cognitive issues, she  
14 may be able to cognitively figure things out, but there  
15 are emotional issues she deals with as an emerging  
16 teenager and she deserves to be treated fairly in the  
17 marketplace.

18 So, Patti's laid out some of the issues in the  
19 new media landscape, I want to just give you a couple  
20 more. I have a printed statement I'm happy to share with  
21 you that sort of illustrates where digital marketing is  
22 going and what we've got to look at. We've talked about  
23 advergaming, branded environments, integration of  
24 advertising and content, that is where everything is  
25 going in digital media. We must take that into account.

1 I got an email the other day from mycoke.com urging me to  
2 come back to the site and to create a blog that I could  
3 send to all my friends and fill out surveys where I could  
4 win some points that I could use. I could also win them  
5 by drinking lots of Coke. Viral marketing, I think many  
6 of you have heard about that. And then web-based  
7 promotions and integrated marketing campaigns.

8 I have a couple of examples here, and I don't  
9 have time to share them all, but Nick -- Nickelodeon,  
10 who's done some very, very good things, also last year  
11 had a campaign with Fairly Odd Parents where they put  
12 codes in Pringles Snacks Stax and the packages enabled  
13 kids to go to Nick.com and insert the code numbers and  
14 then watch the show and do all kinds of other things, and  
15 that was coordinated with a retail campaign where the  
16 products were supposed to jump off the shelves, as one  
17 marketer said, and as many of you know, Nick is going to  
18 have a souped-up website called TurboNick that will  
19 feature "leave-behind ads" that won't disappear from the  
20 screen until a new ad comes up.

21 Then, also, there are all kinds of things going  
22 on in the area of wireless technology with text  
23 messaging. There's some work going on with McDonald's  
24 and Kellogg, many, many more. These are just a handful.  
25 They're happening under the radar of parents and

1       policymakers as well and they're kind of hard to keep  
2       track of. I mean, as a parent, it's hard for us to know  
3       what games our kids are playing, you have to talk to  
4       them, I agree. You have to tell them you want to know  
5       where the games are, you have to join, you have to be a  
6       member. So, it's very challenging for parents.

7                 Here's what I think. I think that if the FTC  
8       is going to do research, and I believe it should, they  
9       really ought to be doing research on the contemporary  
10      food marketing practices aimed at children and teens in  
11      the digital media to determine what safeguards are  
12      needed. Some of these new practices in the interactive  
13      media environment may well violate existing government  
14      rules against deceptive advertising, which the FTC  
15      currently has the full authority to regulate.

16                We may need to have a requirement, as we do  
17      with COPPA, where companies will disclose, as they do  
18      their privacy practices, what their marketing practices  
19      are, you know, how they target children, what kinds of  
20      market research they do to probe the psycho-social and  
21      the cultural practices of children and teens. At any  
22      rate, we need to continue this dialogue and I look  
23      forward to participating. Thank you.

24                MR. KELLY: Thank you. And last, Wally Snyder  
25      from the American Advertising Federation.

1                   MR. SNYDER: Thank you very much. I want to  
2 echo the comments in all the panelists in thanking the  
3 FTC and HHS for holding this workshop. I think the  
4 tonality is excellent. These are very open and this is a  
5 great time to exchange ideas and join issues, quite  
6 frankly.

7                   I am President of the American Advertising  
8 Federation. I want to disclose to you, at this point, I  
9 am also a lawyer. I do that in the ad industry all the  
10 time. I want you to know, also, I'm a member of the  
11 National Advertising Review Council which does oversee  
12 the activities of CARU. I believe that CARU has, for  
13 many years, demonstrated its commitment to effective  
14 self-regulation of advertising directed to children.  
15 CARU has been enormously effective in helping to maintain  
16 the truthfulness and the appropriateness of advertising  
17 directed to children.

18                   Now, some have said CARU has no teeth. CARU  
19 does have teeth and there's a tremendous compliance  
20 record to show that fact. Of all the cases that are  
21 brought to CARU, well over 95 percent are resolved  
22 voluntarily, and another very important point to remember  
23 is, if they're not resolved voluntarily, they can come to  
24 the Federal Trade Commission for final resolution.

25                   Secondly, it's an organization which I think



1 really wants to reach out to the public and learn much  
2 more. One of the distinct advantages of the CARU  
3 guidelines is that they are not static. The guidelines  
4 evolve as necessary to address emerging issues. And I  
5 can tell you as a member of the Board of NARC that the  
6 Board of Directors and CARU remain committed to  
7 strengthening the children's advertising review process  
8 and it is always part of CARU's purview to be thinking  
9 about how to improve the process.

10 We understand that there are many stakeholders  
11 in this arena and so we really want to make sure that we  
12 hear from them and CARU hears from them. The  
13 recommendations that are coming from GMA will be  
14 carefully reviewed and they're, again, a great example of  
15 helping CARU to move on in its effectiveness. All of  
16 them, I think, will be given a great deal of attention.

17 You also heard Elizabeth mention we want more  
18 interaction with the public and particularly parents so  
19 that they understand how CARU works and that they can  
20 complain to us. Finally, the consumer groups certainly  
21 use CARU. CSPI, a leading consumer group, has, itself,  
22 asked CARU to take action on numerous occasions against  
23 particular advertising.

24 Now, CARU is evolving. A few years ago, CARU  
25 was at the forefront of reviewing child-directed

1 advertising on the Internet, and you heard how many  
2 websites are actively reviewed by CARU. CARU will also  
3 continue to evolve by adding more academic representation  
4 to its Advisory Task Force, and very importantly, you  
5 heard Elizabeth say and others that CARU is going to  
6 strengthen its review on the issue of advergaming and  
7 examining what role self-regulation will play in this  
8 area.

9 Now, I believe that CARU, however, is only part  
10 of the fabric of self-regulation. It is only part. The  
11 process begins at the point of creation of an ad.  
12 Advertising and agencies also have guidelines for  
13 ensuring the appropriateness and truthfulness of  
14 advertising. These are based upon the CARU guidelines  
15 and they're often even more stringent than the CARU  
16 guidelines. In addition, commercials must withstand the  
17 scrutiny of the standard departments of the broadcast and  
18 now many cable networks that have standards. And, again,  
19 these standards are based upon the CARU guides, but often  
20 go further. This review process is ongoing from  
21 conception to execution and every day pouches of scripts  
22 and commercials are sent to the networks for their  
23 review. Once a commercial does make it on the air, it is  
24 subject to the CARU guidelines and to the scrutiny of  
25 consumers and competitors who speak or complain to CARU

1 about the questionable advertisements.

2 In conclusion, I believe CARU is judged  
3 unfairly by those who feel that CARU should evaluate what  
4 foods are advertised to consumers. CARU's expertise is  
5 in the message, not what foods, and CARU needs to stay  
6 focused on the advertisements and not on foods, the good  
7 foods/bad foods debate which will only be inappropriate  
8 and unworkable. Thank you very much.

9 MR. KELLY: Thank you. Barbara and I want to  
10 frame the discussion we'll have in the last about 23  
11 minutes about the reach, scope, visibility and  
12 enforcement of the existing guidelines and basically  
13 proposals for change. I want to start first with a  
14 question for Elizabeth.

15 As you see in the definition under the CARU  
16 guidelines, the CARU guidelines apply to advertising  
17 directed to children under 12. The directed to children  
18 concept, how is that determined under the CARU  
19 guidelines?

20 MS. LASCOUTX: Well, it used to be a lot  
21 easier, obviously, when there was traditional kid  
22 programming in the morning and afternoon and weekend  
23 mornings, but we generally look to -- we still look at  
24 those day parts, but we also look at obviously media that  
25 are specifically designed for kids, like Nickelodeon,

1       except for Nick at Nite, and Disney, Radio Disney and  
2       websites that are specifically targeted to kids. But  
3       other than that, we have a kind of internal working rule  
4       that -- which we've borrowed from other industry codes,  
5       that if there is a 35 percent under 12 demographic in  
6       programming before 9:00 at night, we will look at it and  
7       consider it within our purview.

8                 Now, if it's a program that doesn't look like  
9       it has any appeal to kids and the ads, except for one,  
10      which is for a drink or a candy are for insurance and  
11      automobiles, we will assume that is not kid-targeted, but  
12      rather team-targeted.

13                MR. KELLY: Thank you. The next question is  
14      the -- and this is for -- not just for Elizabeth, but for  
15      everyone on the panel. When you look at the definitions  
16      that are there, it also applies to advertising directed  
17      to children under 12. That includes, in its  
18      listing from the CARU guidelines, print, broadcast,  
19      cable, et cetera. The first question is sort of the  
20      reasonableness of having that standard as a standard  
21      under 12. It's already been mentioned here about the  
22      issue of those younger teens.

23                And the second question is, what about the new  
24      forms of marketing that are out there? A lot of them, it  
25      has been mentioned today, licensing, product placements,

1 viral buzz marketing, advergaming, in-store promotions.  
2 So, I'd like to focus the panel discussion sort of  
3 looking at these limits that are in place on the reach of  
4 the CARU guides and a discussion about what would be the  
5 pros and cons of going beyond them.

6 Wally, why don't we start with you?

7 MR. SNYDER: I think we've always used the  
8 standard of 12 and under. I think it's been one that  
9 this country has sort of embedded in culture. We believe  
10 that that is a turning point. We know that that's not  
11 the perfect turning point. It seems to me that as far as  
12 the age restrictions, 12 and under are really workable,  
13 acceptable.

14 I do believe as I said in my remarks that all  
15 of these methods of marketing need to be reviewed. And  
16 the example we started with was advergaming with that  
17 task force now looking at that at CARU, and I know that  
18 the NARC Board will be certainly open to looking at  
19 recommendations for other areas that we should be looking  
20 at.

21 MR. KELLY: The Wall Street Journal talked  
22 about that the recommendation was coming in from GMA to  
23 look at product placement in TV shows and use of licensed  
24 characters. Do you have any sense of what those  
25 recommendations might exactly be and what changes they

1 might at least be contemplating for the guidelines?

2 We'll start with Wally and then anyone else can come.

3 MR. SNYDER: Well, I know, first of all, we're  
4 going to be receiving the letter today. I think they had  
5 been fairly characterized, very positive and I think we  
6 need to look at the details as we go forward.

7 MR. KELLY: Well, let's open it up to the other  
8 panelists both in terms --

9 MS. LASCOUTX: Can I --

10 MR. KELLY: Yeah, sure, go ahead, Elizabeth.

11 MS. LASCOUTX: I just wanted to speak to the 12  
12 and under.

13 MR. KELLY: Yes.

14 MS. LASCOUTX: When we were established, and we  
15 were established with an advisory board of developmental  
16 psychologists and experts in child development, and the  
17 whole rationale for setting up a separate CARU from the  
18 NAD, which looks at truth and accuracy in non-kid-  
19 directed advertising was that there was a recognition  
20 that truth and accuracy wasn't enough with kids and it  
21 was specifically based on their developing cognitive  
22 abilities. And the wisdom at the time, at least, was  
23 that, you know, 12 was kind of when you stopped being a  
24 kid and started being a teenager and you could  
25 understand. It didn't mean you were going to behave

1 well, but you could understand. So, it made sense as the  
2 kind of developmental divide.

3 The other thing is, of course, that it's also  
4 the age that's used to kind of demarcate children's  
5 programming if you look at the Nielsen. So, it was just  
6 sort of a perfect fit.

7 DR. WOOTAN: Can I add to that? I think one  
8 thing that we, as scientists or advertisers or public  
9 health whoever -- whichever perspective we happen to come  
10 from in this room or on this panel, don't really get to  
11 decide what a kid is, that that has been decided by  
12 others way above our pay grade, that children are  
13 children under 18, and that we have to look at those  
14 children as having different vulnerabilities.

15 I think one mistake that a number of people  
16 have made is looking at marketing to kids only on the  
17 basis of whether it's deceptive, misleading, whether kids  
18 can understand it. There's been a lot of focus on, do  
19 kids really understand persuasive intent, and I think  
20 that's a part of the equation. But more importantly is  
21 the question of does their marketing have a negative  
22 effect on the children's health or well-being? You know,  
23 deception is bad, but, you know, giving a child a disease  
24 is something totally different.

25 So, I think we really need to focus the whole

1 discussion differently around marketing. Yes, let's talk  
2 about persuasive intent and understanding and all that,  
3 fine. But as a more minor secondary point, the main  
4 point of consideration should be does the marketing have  
5 a negative effect on the child's diet, health, well-  
6 being, risk of disease, risk of disability, potential  
7 health care costs? And if we look at it in that way,  
8 sure, young children possess unique vulnerabilities in  
9 terms of their understanding of marketing, but older  
10 children possess vulnerabilities that might be even more  
11 important, that children -- older children have an  
12 opportunity to buy foods when their parents are not there  
13 to guide them and they have money. You know, I don't  
14 have to worry about my seven-year-old buying any goods,  
15 she never has money. She doesn't have any opportunity to  
16 buy food, but teenagers do and they buy a lot of food  
17 that their parents don't know about.

18 So, we need to look at junk food marketing and  
19 sales in schools, and while there's been momentum aimed  
20 at younger children because of the way, I think, that  
21 even my colleagues in the public health and advocacy  
22 community have framed this, they've framed it wrong and  
23 they've framed it too narrowly. It's the high school  
24 students who are more vulnerable and the middle school  
25 students to junk food marketing in schools, just as one



1 example.

2 MS. KELLY: Charlotte, in Europe, is there an  
3 older age that seems to be set in some of these self-  
4 regulatory programs?

5 MS. HEBEBRAND: On the self-regulatory, I'm not  
6 sure what the age cut-off is. I know on the legislative  
7 efforts, in Sweden, for example, it's kids under 12. In  
8 Greece, where there's only a toy ad ban, I believe it's  
9 directed at all minors. So, I think it varies quite a  
10 bit.

11 MR. KELLY: The issue of going beyond  
12 advertising and covering some of this new marketing that  
13 is occurring, I'd love to hear some comment or discussion  
14 about the pros and cons of expanding beyond looking just  
15 at advertising and going into marketing itself.

16 MS. MILLER: I think you have to expand it to  
17 more than just advertising. When I was looking yesterday  
18 at the study when they were talking about TV ads  
19 decreasing, if that, in fact is true, we're not talking  
20 then about marketing, and that's what I think is  
21 changing. You're talking about branded environments,  
22 you're talking about the advergames, you're talking about  
23 product placement, on and on and on and on, viral  
24 marketing as Kathy mentioned.

25 I mean, the whole field has changed, and I

1 think for us to actually look at the amount of types of  
2 advertising that kids are exposed to, that really means  
3 marketing. So, I think in terms of what kind of  
4 guidelines are going to be set, it has to be expanded to  
5 include new interactive technology, the way that  
6 television is changing and the whole nature of the  
7 branded environment.

8 DR. MONTGOMERY: Obviously, I agree with that.  
9 But I also want to point out that I think CARU does an  
10 admirable job and often under not easy circumstances in  
11 terms of resources and so forth. Elizabeth may remember,  
12 however, the issues of Internet advertising was an issue  
13 that my organization, the Center for Media Education,  
14 really made more prominent through the release of our  
15 report in 1996 called Web of Deception. And that, I  
16 think, generated a great deal of debate and controversy  
17 and discussion, healthy discussion I think ultimately,  
18 and also prompted the industry to take some actions.

19 The point I'm making is that self-regulation is  
20 generally reactive and it is often narrow and somewhat, I  
21 would say, minimalist. That is if there's a controversy  
22 that comes up, the latest one, as you hear, is  
23 advergaming. Oh, my god, there's advergaming, what are  
24 we going to do about that? Then, an incremental change  
25 is made in the list of little problem areas that the

1 industry has had to deal with, and that becomes the next  
2 thing that they make some corrections on. And I think  
3 that's good, I'm happy that the industry does that. But  
4 I do think we're at a moment with this incredibly  
5 changing media landscape and at a point where we're  
6 facing a health crisis with our young people where it's  
7 time to revisit these issues and not to get caught up --  
8 hopefully, not to get caught up in the polarized debates  
9 that characterize --

10 MR. KELLY: Wally, you want to talk about --

11 DR. MONTGOMERY: But to build some consensus.

12 MS. LASCOUTX: I would just like to respond  
13 very briefly.

14 MR. KELLY: Elizabeth, and then --

15 MS. LASCOUTX: Not to devolve into a debate  
16 here, but the industry and CARU were not reactive back in  
17 the mid-nineties. At the time that the CME petitioned  
18 the FTC to regulate the kid space on the Internet, CARU  
19 had an active task group of its advisory board and people  
20 who were not on the board who were, in fact, much more  
21 knowledgeable than we about this new medium, kind of  
22 looking at this new medium, figuring out what was  
23 different about it, identifying privacy as really the  
24 only really new thing that we didn't cover, and we were  
25 at the point of kind of scratching our heads and figuring

1 out what the approach was at that very same moment.

2 I mean, there were a lot of different groups  
3 that had just -- that had focused on it. And when we  
4 came out with our guide -- we came out with our first set  
5 of guidelines in 1996.

6 DR. WOOTAN: Dick, actually before Elizabeth  
7 moves on --

8 MR. KELLY: We have a lot of things to cover,  
9 so I would like to move on. If we have some time, we'll  
10 come back to this issue, but there's a very important  
11 area that we need to discuss and make sure we get in and  
12 then we can come back.

13 DR. SCHNEEMAN: Right. I want to shift the  
14 discussion of the panel to the suggestion that there  
15 should be some sort of nutritional profile that's  
16 incorporated into guidelines. So, I'd like the panel  
17 members to address some of the pros and cons of using  
18 industry-wide nutrient standards like those that have  
19 been proposed by CSPI. Are those standards reasonable?  
20 Are there other criteria that we should be considering?  
21 So maybe if we could focus on that topic for a while. I  
22 think it's something that we could have a perspective  
23 from each of the panel members. I can start -- Wally, I  
24 can't see you, but I know you're down there.

25 MR. SNYDER: I'm down here. Well, I think the

1 question you said, are the guidelines reasonable goes to  
2 one of the ultimate questions here, is what's the  
3 consensus that these are the right nutritional standards?  
4 And when you're dealing with the food product -- the  
5 product rather than the ad, you raise a lot of central  
6 questions. I mean, would the government set these  
7 standards? I don't think the government's going to do  
8 that. I don't think the government should do it.

9 So, how do we understand that these standards  
10 are going to be effective in terms of this obesity issue?  
11 I think a much better approach is to make sure that the  
12 ads directing you to the foods are appropriate and fair  
13 and non-deceptive. That is a workable area and I think  
14 it will have the greatest impact. I have great concerns  
15 about nutritional standards and what its ultimate effect  
16 would be on the public and on children.

17 DR. MONTGOMERY: I would say I think this is a  
18 conversation we need to have. I don't think we should  
19 side-step it. I don't think it's necessarily going to be  
20 easy, but we know that the food industry's created  
21 special food categories targeted at kids and teens in the  
22 late eighties and nineties responding to demographic  
23 changes where teens were making more decisions and  
24 spending more money in the family. Now, industry's  
25 actually responding as well by creating new products in

1 response to the concerns over health that could shift  
2 that balance.

3 So, I think a lot of companies within the food  
4 industry are already on board in terms of trying to make  
5 those changes. So, I think we need to be able to have  
6 that dialogue and try to figure out how best to do it.

7 MS. MILLER: I would echo what Kathy said. I  
8 think it would be very difficult to operationalize, but I  
9 think parents and kids need more information. They need  
10 to know what's in the food that they're eating and then  
11 how these products are then being marketed to them. So,  
12 I would say, actually, the idea of it is a really great  
13 idea and it's, I think, a question of how to  
14 operationalize. But if we could start that conversation  
15 and move it along, it would be very helpful.

16 DR. WOOTAN: I've already said what I think,  
17 but one thing is is that if we don't address the  
18 nutritional quality of the product, we miss the main  
19 problem with food marketing today. It's not so much that  
20 there's tons of deception, lots of misleading ads,  
21 although there's a little of that, it's mostly that  
22 overwhelming majority of ads and other marketing aimed at  
23 children are for foods that they should be eating less  
24 of. They're for foods of poor nutritional quality.

25 It is definitely possible to do this. People

1 talk about how it's impossible, but states have  
2 regulations with nutrition standards for food sales and  
3 marketing in schools. The Federal Government has some  
4 standards around school meals, that there are models to  
5 look to. Kraft has a model that can be looked to.  
6 PepsiCo has some nutrition standards for its marketing  
7 practice. So, I just don't see how we can have  
8 responsible food marketing aimed at children if we don't  
9 address nutrition because that is the core of the issue.

10 MS. HEBEBRAND: There is actually a very  
11 pertinent debate occurring on this topic right now and it  
12 may be instructive to follow that as it goes through the  
13 process. The Commission has put forward a proposal on  
14 health and nutrition claims. Again, this is more on the  
15 legislative side, certainly not on the self-regulatory  
16 side. But it may be instructive in any case.

17 The proposal does argue that for some foods,  
18 such claims maybe should not be allowed, certain foods  
19 that have certain nutritional profiles, and it's been a  
20 big, big discussion in Europe. The end is not yet clear,  
21 but I think it will be instructive for all of us maybe to  
22 look at the outcome of that.

23 MS. LASCOUTX: Well, to the last point that was  
24 just made, any claims that are made for any product,  
25 food, otherwise, targeted to kids or otherwise has to be

1 substantiated. So, there's no -- I mean, you can't make  
2 a health claim for a food that you can't substantiate it.

3 My own feeling is that the determinations about  
4 nutritional standards are best left to the companies that  
5 manufacture the foods or the government, but the  
6 government doesn't seem to be likely to do that. But  
7 we're not experts in nutrition. I don't know how one  
8 would go about evaluating the nutritional properties of  
9 every single food that was advertised to see if it were  
10 appropriate. And I think one of the suggestions of CSPI  
11 is that for a certain brand or restaurant advertising, it  
12 would have to be -- you'd have to evaluate the  
13 nutritional composition of every single product in the  
14 brand or menu component, and I just think the  
15 practicalities would be pretty much insurmountable.

16 DR. WOOTAN: We can help you with that.

17 DR. SCHNEEMAN: I'm curious if anyone on the  
18 panel would like to speculate whether if there were a  
19 nutrition standard, would it increase or decrease  
20 advertising to children or would we wind up in about the  
21 same place? Would it --

22 DR. WOOTAN: Well, if you look at Kraft as an  
23 example, it probably wouldn't decrease the amount of  
24 marketing to kids. It would shift the marketing from  
25 certain products to other products.



1 MS. LASCOUTX: But as has been pointed out many  
2 times, it's not just Kraft. I mean, a lot of the quick  
3 serve restaurants and the other food manufacturers are  
4 also making improvements to their products, involuntarily  
5 pulling back on the products that they're marketing to  
6 kids. So, I don't know that an across the board imposed  
7 from outside standard is even going to be necessary.

8 DR. SCHNEEMAN: I'd like to, once again, shift  
9 the discussion a bit to talk about the role and  
10 responsibility of parents. Maybe bring forward some of  
11 the concerns that parents are expressing, what are their  
12 opportunities to get those concerns out into the  
13 forefront so that they can be addressed. And maybe Patti  
14 and Kathryn, I'll have you start out with this and see if  
15 other panel members --

16 MS. MILLER: Sure. To echo what Margo said  
17 earlier, I think parents are being out-maneuvered. I  
18 mean, clearly -- I mean, kids are exposed to 40,000 ads  
19 on TV alone and most of them are for fast food and junk  
20 food and sugar cereal and that's not taking into account  
21 all the other forms of marketing we've been talking  
22 about.

23 In a recent Kaiser poll, half of parents said  
24 that their children's food habits and food choices are  
25 influenced a lot by the TV ads that they see, and more

1 than a fourth said that they were influenced somewhat.  
2 More than a third said that they had to deal with the nag  
3 factor of their kids, someone was saying yesterday in the  
4 aisle four of the grocery store having the temper tantrum  
5 because they can't get the sparkling package of sugar  
6 snacks that they want. So, parents have a really tough  
7 job, I think.

8 One of the things I'm concerned about is really  
9 getting information into the hands of parents. I mean, I  
10 can't imagine that many parents know about CARU and that  
11 it's out there for them, and so I'm glad to hear that you  
12 guys are thinking about more public education efforts so  
13 the parents, if they want to file a complaint about an  
14 ad, would know where to go, because I think most parents  
15 don't and I think most parents don't know what to do. I  
16 mean, again, this is so powerful. As we saw yesterday  
17 with Elmo, that parents are competing against some pretty  
18 incredible marketing powers and they're losing the  
19 battle.

20 This is not to say that I don't think parents  
21 have a responsibility because I think parents do and  
22 there are things that parents can do. They can take TVs  
23 out of the bedroom and set up rules for TV viewing and  
24 try and model healthy eating habits. I think those are  
25 all really good things. But I think parents need some

1 help so they can make informed choices about what their  
2 kids are eating and they're just being bombarded and  
3 their kids are being bombarded.

4 DR. MONTGOMERY: I would agree, obviously.  
5 Parents do need help. I think sometimes it's very  
6 complicated for us in this new media landscape to  
7 understand everything that's going on and even I, who  
8 study it, have to consult with my daughter sometimes to  
9 find out things that I didn't know about it. She's a  
10 very important source of information.

11 But I think as we did with COPPA, we were able  
12 to create a situation where parents got some help with  
13 their disclosures of privacy policy. So, if I go on a  
14 child's website, for example, I can click on the privacy  
15 policy and it appears in fairly understandable English so  
16 that I know what actually is happening on that website  
17 and can help make a decision about whether I want my  
18 child to venture there. And I think we need more  
19 information for parents and for kids. I mean, I think  
20 they all need -- we're helping to train these kids to be  
21 good consumers in our society as well and we need to do  
22 what we can to help them.

23 So, it's not just parents -- especially as they  
24 get older. It's parents and kids being able to get this  
25 information and for all of us to play a role in helping

1           them to be very effective consumers.

2                   MR. SNYDER: I think parents are desperate for  
3 more information and you heard what was being done by the  
4 companies yesterday, the different formulations and so  
5 forth, and yet, the research is that parents want more,  
6 they don't know enough. And I know there's a real  
7 opportunity here to really make sure that parents are  
8 informed.

9                   As to the segment of self-regulation, as I  
10 mentioned, we really want to open that up to parents so  
11 that they can comment so we know what we're doing and  
12 what the guidelines are.

13                   MS. MILLER: I think if parents, though, are  
14 going to get the help they need, I think one thing that  
15 they need are policies that have to be in place.  
16 Because, again, I don't think that self-regulation is  
17 going to be enough to make sure that parents can feel  
18 like they can put their kids in front of the TV without  
19 just being exposed to excessive advertising. There have  
20 to be rules.

21                   DR. WOOTAN: But if you listen to industry and  
22 government officials talk about parental responsibility,  
23 you know, parents are supposed to work with their school  
24 board to get soda and junk food and junk food marketing  
25 out of schools, we're supposed to get fast food companies

1 to provide nutrition information on the menu, we're  
2 supposed to work with CARU and work with multi-billion,  
3 multi-national corporations to get them to change their  
4 marketing practices and the kind of products that they  
5 make, all the while while we take care of our family,  
6 take care of our home and work full-time. I mean, let's  
7 talk about parental responsibility but let's put it in  
8 perspective of, you know, what parents are facing, the  
9 resources and the expertise that they have.

10 I mean, I've been lobbying D.C. Public Schools  
11 to try to improve the nutritional quality of school  
12 foods. I have a Ph.D. in nutrition, I'm a leading  
13 advocate on food marketing to kids, school foods. It is  
14 tough to do and I can do it during the work day. You  
15 know, the average mom or dad trying to do this, this is  
16 crazy what we're asking them to do.

17 MR. KELLY: Elizabeth, one last comment and  
18 then we're going to go to the questions from the  
19 audience.

20 MS. LASCOUTX: You can go to the audience  
21 questions.

22 MR. KELLY: All right. We have lots and lots  
23 of questions and, Margo, you're the winner just so you  
24 know. You have gotten the most questions of any of the  
25 specific panelists.

1 DR. WOOTAN: It's probably that I'm more  
2 unpopular than popular.

3 MR. KELLY: No, it's an interesting mix of  
4 questions. But why don't we start. There's one question  
5 that was raised about the issue that you set up this  
6 proposal for guidelines directed to children and the  
7 question was, well, do you think those same kind of  
8 provisions ought to be directed to advertising directed  
9 to older folks, perhaps to me or to parents, because  
10 there's a lot of advertising that's directed to older  
11 folks that also is for the same kinds of products?

12 DR. WOOTAN: No. Our guidelines for  
13 responsible food marketing are aimed at children, that we  
14 take, as a society, many steps to protect children, that  
15 we see that in the same vein. You know, if we want  
16 children to sit in car seats and wear helmets, they also  
17 should be protected from heart disease and diabetes and  
18 other diseases that kill and cause disability. So, these  
19 are clearly guidelines for children.

20 MR. KELLY: There's another question about what  
21 are the specific reasons not to advertise diet sodas to  
22 kids?

23 DR. WOOTAN: Our guidelines do not exclude diet  
24 soda. They only exclude the marketing of soft drinks --  
25 well, actually, that contain added caloric sweeteners.

1 So, that's just incorrect.

2 MR. KELLY: There was a specific question --

3 DR. WOOTAN: Unless it's caffeinated.

4 MR. KELLY: There was a specific question about  
5 what percentage of manufactured food would you think  
6 would qualify under the CSPI proposal.

7 DR. WOOTAN: You know, I haven't done any kind  
8 of percentage, but one hope is that if companies were to  
9 really adhere to responsible marketing practices, that  
10 there would be a real explosion in healthier, better for  
11 you products that could be marketed to kids. You know,  
12 clearly there are huge categories of foods like fruits  
13 and vegetables and many whole grains that could be  
14 marketed. But there are also like Kids Cuisine frozen  
15 dinners, there are options, there are a number of  
16 cereals, there's lowfat milk, there's juices, seltzer,  
17 flavored waters, a number of different kinds of crackers,  
18 granola bars, a bunch of different kinds of chips and  
19 nuts. There's, you know, a range of products that could  
20 be marketed under our guidelines.

21 MR. KELLY: We got a vote from one of the -- it  
22 looks like here. It's a suggestion, I think, for all of  
23 us. How about the old-fashioned solution for parents,  
24 just say no to your kids.

25 MS. MILLER: You know, again, I think that just

1 really -- I want to echo, of course, we all have a  
2 responsibility in this issue, but I think when that kind  
3 of frame comes up, it really is putting the onus on  
4 parents and I think taking the responsibility off of all  
5 the different constituencies that have to play a role in  
6 this, including the industry. I think parents, again,  
7 it's like David versus Goliath and what are parents  
8 supposed to do in this onslaught of advertising. So, I  
9 just don't think it's a fair frame to put that burden on  
10 parents. Clearly, they have a role to play, but there  
11 need to be policies in place to give parents that added  
12 help. So, you know, there have to be limits, I think, on  
13 the amount of this kind of advertising.

14 MR. KELLY: And there's been no question that  
15 over the day-and-a-half, we've had a lot of discussions  
16 of ways that all of us can reach out to parents to help  
17 them in this effort. Barbara?

18 DR. SCHNEEMAN: This is a question that I don't  
19 think we've really touched on in the panel discussion so  
20 far and it's a question about how self-regulation  
21 integrates the evidence that there are environmental,  
22 contextual and personal characteristics that affect the  
23 way ethnic minorities are marketed to and respond to  
24 marketing. And so, I think it would be important to have  
25 some comments about the role of self-regulation with



1       respect to the issues we heard yesterday on ethnic  
2       minorities.

3               DR. MONTGOMERY: Elizabeth, if you don't want  
4       to respond, I'll say something. I'm sorry. I would just  
5       say I think it's important. We ought to take that up. I  
6       mean, I think it is important. I don't think we probably  
7       have said enough about it and we tend to talk, all of us  
8       probably, myself included, as if the child audience, the  
9       child consumer population was homogeneous and that's not  
10      the case. So, I think it's a very important issue that  
11      also should be part of the -- what I see as a  
12      conversation that we are beginning now.

13              MS. MILLER: Forty percent of youth today are  
14      youth of color and that number is dramatically growing,  
15      and then when you also think about, as was mentioned  
16      yesterday, African American and Latino kids are spending  
17      more time with media. So, when you think about the ways  
18      they're specifically being targeted, that's an area for  
19      great concern.

20              MS. LASCOUTX: I agree, and I think it's an  
21      important area for us to look at further. I mean, we  
22      have not -- that's not part of our expertise and perhaps  
23      that's one of the areas that we should be expanding our  
24      advisory board. We have, recently, or a year ago, added  
25      bilingual staff so that we can, in fact, at least monitor

1 the Spanish language media and we're doing that. But as  
2 we are looking to broaden our advisory board, that might  
3 be a very good idea.

4 MR. KELLY: There's a question from those  
5 watching us. Panel, please comment on the usage or  
6 relevance of the food label as a regulatory tool for  
7 companies to use as a ranking mechanism for their  
8 products.

9 DR. WOOTAN: I would address that because  
10 actually, you know, people say it's impossible to set  
11 these kinds of limits or nutrition standards for  
12 marketing or for the sale of foods in schools. But if  
13 you look at the kinds of standards that individual school  
14 districts, states, legislators, regulatory agencies,  
15 individual health groups come up with, they're amazingly  
16 similar. I think actually if you look at the nutrition  
17 guidelines for marketing that Kraft and CSPI have,  
18 they're a lot more the same than they are different,  
19 because when you look at the science, you come to a  
20 similar conclusion. It's not that we copied off each  
21 other, it's that we all looked at the same science base  
22 and you come up with similar numbers and many of those  
23 numbers come from FDA.

24 So, our cut-offs for fat, for saturated fat  
25 come from the label. All of our cut-offs for sodium come

1 from definitions from the FDA. We use definitions for  
2 claims, as well as cut-offs for disclosure and  
3 disqualifying levels of nutrients. Portion sizes, ours  
4 are based on FDA standard portion sizes. Added sugars,  
5 since the FDA has failed to provide a daily value for  
6 added sugars, though hopefully some day they will, that  
7 we use the recommendation from the Institute of  
8 Medicine's DRI Report, which is very well grounded in  
9 science and accepted by consensus. So, I think if you --  
10 and the problem nutrients that we look at are based also  
11 on what's recommended by the dietary guidelines and our  
12 cut-off for what a whole grain is is based on FDA.

13 So, if you look at our nutrition standards for  
14 food marketing to kids, they are largely based on  
15 consensus numbers, many of them from the FDA.

16 MR. SNYDER: Can I just comment, also? I mean,  
17 the conceptual scheme for regulation and self-regulation  
18 in this country has always recognized the importance of  
19 labels, and labels, as providing more complex information  
20 to parents and consumers. There were good examples of  
21 that yesterday on the labels that were shown in those  
22 presentations. I think the question was really the role.  
23 I think labels are very important. They're a source of  
24 information for consumers and parents. Advertising plays  
25 a bit of a different role there, but it can never be

1 inconsistent. And I think that both are very important.

2 DR. SCHNEEMAN: This question asks if the panel  
3 could discuss what or give some perspective on what is  
4 the industry's standard definition of deceptive  
5 advertising to children. How would industry define that?

6 MS. LASCOUTX: Well, obviously, if it's false,  
7 it's deceptive and so that my colleagues at the NAD have  
8 a much easier time because all they have to do -- not all  
9 they have to do, but they have to look at the  
10 truthfulness or accuracy of expressed or implied claims.  
11 With kids, we also have to add kind of misleading to what  
12 is deceptive and I think the Commissioner was talking  
13 about that earlier, that, you know, something that is  
14 factually true can be misleading to children.

15 So, it's really -- that's why we have these  
16 very specific guidelines that go beyond truth and  
17 accuracy. So, you know, anything that will imply that a  
18 product will confer certain prowess on you can deceive or  
19 mislead a child. So, the definition of deceptive for  
20 children is far broader than that for older kids.

21 DR. SCHNEEMAN: Wally, did you want to comment  
22 on that question, also?

23 MR. SNYDER: No, I think that's what I would  
24 say.

25 MR. KELLY: We have a question for Margo. What

1 would be the CSPI's position if a major fast food chain,  
2 quick serve, was using a popular kids movie or character  
3 in brand advertising where no specific foods or menu  
4 items are mentioned? Really the point of the question  
5 is, should fast food chains never use licensed kid  
6 properties in any promotions?

7 DR. WOOTAN: Our recommendation about  
8 advertising that doesn't show a product, which just  
9 promotes a brand, is that that brand should include a  
10 large number of healthy options, at least half of the  
11 options should be healthful.

12 So, if McDonald's was to use a branded  
13 character and showed a Happy Meal that had chicken  
14 nuggets, apple dippers and apple juice, that would comply  
15 or be consistent with our guidelines because it would  
16 show a healthful meal, a balanced meal. If they just did  
17 generic branded advertising for McDonald's with a  
18 character, that would not comply because the overwhelming  
19 majority of choices at McDonald's are still of poor  
20 nutritional quality. It's nice that they've added salad,  
21 yogurt, a chicken sandwich, some apple dippers, but  
22 still, if you look at McDonald's menu, overwhelming the  
23 choices are poor nutritional quality and the children's  
24 entrees still are just hamburger, cheeseburger and deep  
25 fried chicken nuggets that have plenty of trans and

1 saturated fat.

2 DR. SCHNEEMAN: Okay, a question I think again  
3 addressed to several people on the panel, can a campaign  
4 that promotes healthy food succeed without reducing or  
5 restricting campaigns that promote junk food? So, sort  
6 of looking at the balance between these two.

7 MS. MILLER: I think public education campaigns  
8 are very, very important, but I believe, as Vicky Rideout  
9 said yesterday, they have to have the reach and exposure  
10 in order to actually have a chance against the competing  
11 messages that are out there. I mean, if you have one PSA  
12 promoting carrots and then you have 100 ads for various  
13 sugar cereals, you know, it's hard for that message, I  
14 think, to resonate. So, that's why I think public  
15 education campaigns need to have the resources committed  
16 to them because I don't know that they can be successful  
17 in this barrage of other advertising.

18 So, my sense is we need more public education  
19 messages, but we also need a reduction in some of this  
20 really unhealthy advertising for foods that are not good  
21 for kids.

22 DR. WOOTAN: But it seems like that question is  
23 grounded in the idea, and I hear a lot of industry  
24 critics of addressing junk food marketing to kids,  
25 thinking about addressing this issue as a ban on all

1 marketing to kids, and that's what -- we're not  
2 recommending that, by any means, though I know some  
3 advocates are. That responsible marketing can allow for  
4 the commercial marketing of healthful foods. We're  
5 thrilled, Marva, to see SpongeBob and Dora and other of  
6 your very popular characters, which our children love, on  
7 spinach and oranges and carrots, that we can use  
8 marketing to promote healthy eating.

9 It's not that marketing is good or bad.  
10 There's no inherent evil in marketing. The problem with  
11 marketing aimed at kids is that it encourages children to  
12 eat an unhealthy diet. The balance of messages is way  
13 skewed toward unhealthy foods that our children should be  
14 eating much less of, not be encouraged to eat more of.

15 MR. SNYDER: I wonder if you could push the  
16 fans up this way.

17 MR. KELLY: We're going to be ending in just a  
18 second, but here's some fans for you to take with you.

19 **(Laughter.)**

20 MR. SNYDER: What I wanted to add was, I think  
21 in America we really are used to this informational  
22 complexion. You're going to hear more about the Ad  
23 Council and what it's done, you heard about it yesterday.  
24 Very effective campaigns are coming out from the Ad  
25 Council and they're well-funded and they really have got

1 a tremendous media base to them. At the same time, the  
2 products that Margo's been referring to are getting  
3 attention by companies and are being advertised, and at  
4 the same time, all food products are being advertised,  
5 but it has to be done appropriately and fairly and I  
6 think that's really the standard we have to make sure is  
7 working.

8 DR. SCHNEEMAN: As anticipated, we have far  
9 more questions than we have time, but I think it's good  
10 that we have these questions and it helps give a sense of  
11 some of the issues that are being raised as a result of  
12 the panel discussion. I did want to give Charlotte one  
13 last opportunity. You might feel you're in the middle of  
14 a U.S. food fight here, but if there are some  
15 perspectives you have from the EU and what you see  
16 happening there, I did want to give you an opportunity to  
17 comment on some of these issues.

18 MS. HEBEBRAND: I think it is difficult to  
19 weigh on this self-regulation versus legislative action.  
20 I mean, I would just point out the obvious, I guess, that  
21 legislative actions take a long time on this side of the  
22 Atlantic, but certainly also in Europe. For any kind of  
23 proposal to go through the European Union, we're talking  
24 at least two, three years.

25 So, I think the focus on the issue -- and



1 certainly this conference, I think, has done that very  
2 well. In a way, that's the idea behind that platform  
3 that the European Commission has launched. I think self-  
4 regulation can certainly work. It should be given a try,  
5 it should be increased. But I think the important issue  
6 is to keep the focus on it and to make sure that you can  
7 actually monitor what self-regulation achieves. This is  
8 something we hope to do in Europe. I think it remains to  
9 be seen whether it's ultimately successful. But I think  
10 in the big picture, self-regulation certainly is  
11 something that perhaps could be done more quickly. It's  
12 not to say that it's the best way to do it, but I would  
13 just point out that obvious fact.

14 MR. KELLY: This brings an end to our  
15 discussion. I think we, literally and figuratively, have  
16 been on the hot seat.

17 **(Applause.)**

18 MR. PAHL: Thank you. If I could ask everybody  
19 to remain in their seats for a moment, we're going to go  
20 directly to the open forum part of our agenda.

21 Another thing, as well, I'd point out to  
22 everyone is they're working very hard on getting the air  
23 conditioning back up and running and I would ask everyone  
24 to be as patient as you can be.

25 **(Whereupon, there was a brief pause in the**

1 **proceedings.)**

2 MR. PAHL: Could the people at the head table  
3 move and take seats so that we can begin with the next  
4 part of our program? Thank you very much.

5 We have one person who has expressed an  
6 interest in speaking during our open forum, and that's  
7 John Warden from the Kids Fitness Challenge, who will be  
8 at the microphone located at the other end of the  
9 platform.

10 MR. WARDEN: Thank you very much. I know how  
11 hot it is in here, so I'll be very brief. The Kids  
12 Fitness Challenge tries to take a positive approach to  
13 the issue of child obesity. We focus on nutrition,  
14 physical activity and positive mental health. Something  
15 that hasn't been talked about too much in this discussion  
16 is the need of depression and anxiety and the role it  
17 plays in overeating and inactivity.

18 Our program has special events in communities  
19 throughout the country where we engage parents, teachers,  
20 kids and community leaders and special events that  
21 promote healthy eating, active lifestyles and enables  
22 schools to raise money to promote nutrition education and  
23 physical activity and after-school programs in their  
24 schools. We've funded, for example, full-time P.E.  
25 teachers in elementary schools through the Los Angeles

1 Unified School District.

2 We are going to be doing a big pilot program  
3 and we'd like to thank Bill Dietz at the CDC and the  
4 folks at the President's Council on Fitness. We are  
5 going to launch a school lunch pilot program featuring  
6 fresh fruits and vegetables, healthy snacking in vending  
7 machines and pilot program physical activity programs for  
8 kids in elementary, middle school and high school and  
9 we're going to study the results of the physiology change  
10 of the kids, as well as the effect on test scores,  
11 physical fitness scores, attendance and discipline.  
12 We're very excited about this program and our program is  
13 going to be completely funded by corporate support.

14 We take the position that we would like the  
15 marketers and advertisers at this council to take a more  
16 positive approach, to be bolder and more ambitious in  
17 your plans to develop healthy items for kids and parents.  
18 As a father and a consumer, I know that there's not  
19 enough choice for my son or my family and that the demand  
20 is there. All you need to do is look at the rising  
21 market share of stores like Trader Joe's, Whole Foods and  
22 Rolled Oats and see how their products are flying off the  
23 shelves to know that there is market share to be gained.

24 We urge you to be more bold, take a positive  
25 approach and try to help us solve the rising rates of

1 obesity. Thank you.

2 **(Applause.)**

3 MR. PAHL: Thank you, John. We'll now take a  
4 15-minute break and we'll begin with our next panel at  
5 11:10. Thank you.

6 **(Whereupon, a brief break was taken.)**

7 MS. FAIR: Thank you for taking your seats,  
8 please. Thank you very much. Actually, the air  
9 conditioning works fine. We were using this as good a  
10 justification as any to advertise our new OJO campaign at  
11 the FTC, which is fighting fraud, including health fraud  
12 aimed at the Hispanic community. So, we have also been  
13 told that the compressor has been fixed, it turned on  
14 about five minutes ago. I think we're down two-tenths of  
15 a degree in just five minutes, so we hope this is a step  
16 in the right direction.

17 The final panel of the day, before we receive  
18 closing remarks, is going to cover the obvious topic, the  
19 next steps that should be taken. What should the  
20 government and the private sector do to help make  
21 children's diets healthier and encourage responsible  
22 marketing?

23 Our moderators for this panel, we're pleased to  
24 have Dr. Michael O'Grady, who is HHS's Assistant  
25 Secretary for Planning and Evaluation, and Mary Engle,

1 Associate Director for Advertising Practices with the  
2 FTC's Bureau of Consumer Protection.

3 **PANEL 5: WHAT SHOULD THE GOVERNMENT AND THE**  
4 **PRIVATE SECTOR DO TO HELP MAKE CHILDREN'S DIETS**  
5 **HEALTHIER AND ENCOURAGE RESPONSIBLE MARKETING**

6 DR. O'GRADY: Thank you very much and thank you  
7 very much for coming. I wanted to talk for a little bit  
8 before the panel gets started, especially given the other  
9 panels we've heard both this morning and yesterday to  
10 set a little bit of the perspective, especially from the  
11 way we view it at HHS.

12 As I think we heard very forcefully and  
13 eloquently from our Surgeon General this morning, our  
14 perspective is that this is a public health crisis and  
15 you've seen our various speakers that have been here over  
16 the last couple of days and the organization overall, the  
17 Centers for Disease Control, NIH, FDA and the Office of  
18 the Secretary. That we view this as something that is  
19 really a public health concern that we need to move  
20 forcefully in. You saw the statistics, you heard the  
21 motivation coming from the Surgeon General.

22 What we're looking for in a number of different  
23 things is really the evidence-based prevention that we  
24 can move in here and how does marketing fit into that  
25 kind of a context. So, what we're really doing is we're

1 moving on a multiple -- let's call it a multi-variate  
2 approach whereas this is one of those variables involved.  
3 And so, we're really moving across -- we're bringing our  
4 best talent to bear here, you've heard a number of them  
5 over the last couple of days, and we really are trying to  
6 figure out how to do things. We're trying to figure out  
7 how to empower parents, not blame them, and we're very,  
8 very interested in the disparities and what the  
9 implications are to those overall.

10 So, you've heard these different panels, we're  
11 coming up on the last panel now. I think all of us here  
12 have been to different conferences. Sometimes, boy, it  
13 was a good conference, what comes out of it? Two years  
14 later, there's another conference. We'd like this to be  
15 different. We'd like to really think about solutions.  
16 We'd really like to think about next steps that are going  
17 to be doable and effective in this area. We want to  
18 think about what works and there's a number of different  
19 things -- and my job working with the Secretary cuts  
20 across the entire breadth of HHS from welfare to work to  
21 Medicare, all across.

22 And there's a number of things you can see in  
23 common between policies that move forward, become  
24 mobilized and are effective. They tend to be practical,  
25 they tend to be achievable and they tend to be flexible,

1 and it struck me, especially that last one, that when  
2 we've talked about a market like this, when we talked  
3 about not only how it's changed within television but  
4 we've moved across into the Internet, that the idea of  
5 how flexible, how in effect self-correcting you would  
6 need to be in this particular policy to be able to -- you  
7 know, because this market is going to move clearly,  
8 quickly, agilely, probably much more agilely than the  
9 government can ever move, if other policy areas are any  
10 indication.

11 So, how do you do that? If we're in a  
12 situation where we're simply regulating or legislating  
13 after the fact, it will always be catch-up ball. When we  
14 think about what are the really practical solutions, how  
15 people can work together, where those lines need to be  
16 drawn and how you build this infrastructure to solve this  
17 problem, I really want to make that emphasis as we talk  
18 about things to the panel about how you make something  
19 that really can work.

20 For our last panel, we have brought a group of  
21 stakeholders together to give us their thoughts and where  
22 we go from here, and that is clearly the theme here.  
23 We're asking the panelists to help us think about  
24 concrete next steps, public, private sector, how they can  
25 work together to help make sure that children's diets are

1 healthier and encourage responsible marketing. We are  
2 hoping that our panelists will be able to react to things  
3 they have heard over the last day or so and to bring  
4 their individual expertise to bear and their perspective  
5 on this broader question.

6 We will hear from the GMA on the proposed  
7 changes to the current self-regulatory framework they are  
8 announcing today and we will hear reactions to this and  
9 how we can continue to move forward together.

10 There is a lot to be done and I look forward to  
11 the discussion, and now, I'll turn it over to Mary Engle,  
12 my able colleague from the Federal Trade Commission.

13 MS. ENGLE: Now, it's my pleasure to introduce  
14 Vivica Kraak of the Institute of Medicine who will make a  
15 10-minute presentation on three IOM studies regarding  
16 childhood obesity. Vivica is a Senior Program Officer in  
17 the Food and Nutrition Board of the Institute of  
18 Medicine. She staffed the IOM study that produced the  
19 report called Preventing Childhood Obesity: Health in  
20 the Balance. This workshop is partially a response to  
21 some of the recommendations in that report.

22 MS. KRAAK: Thank you. On behalf of the  
23 Institute of Medicine, I'd like to thank the HHS and FTC  
24 for inviting me to share the perspective of the IOM and  
25 the various studies that we're involved in right now that



1 are related to the topic of this workshop and also  
2 commend both institutions for responding so quickly to  
3 one of the key recommendations embodied in the Preventing  
4 Childhood Obesity: Health in the Balance report. So,  
5 the Committee on Preventing Childhood Obesity is very  
6 excited about this event, particularly to bring together  
7 various perspectives in a very constructive environment.

8 The Institute of Medicine is a non-profit  
9 independent institution that has the mission to advise  
10 the nation to improve health. What I'd like to talk  
11 about just in the 10 minutes I have is a brief background  
12 of the IOM study background, the process and the key  
13 conclusions from the Preventing Childhood Obesity Report.  
14 The three recommendations I'd like to specifically  
15 highlight are those related to the food, beverage and  
16 restaurant industries, as well as advertising and  
17 marketing guidelines to children and a third that focused  
18 on advertising guidelines in schools.

19 There are a number of other recommendations,  
20 and I don't want to diminish the importance of those,  
21 I'll just gloss over them, but you're able to get a copy  
22 of the report or the executive summary if you contact us.  
23 And then I'll wrap up with a brief overview of the food  
24 marketing and the diets of children and youth study  
25 that's in process right now. We hope to release that in

1 early November to the public and a Progress in Preventing  
2 Childhood Obesity Report.

3 The Preventing Childhood Obesity: Health in  
4 the Balance study was a Congressional request in 2002,  
5 and we had a number of sponsors. Within DHHS, we had  
6 CDC, several NIH Institutes, the Office of Disease  
7 Prevention and Health Promotion, as well as the Robert  
8 Wood Johnson Foundation. It was a two-year study and the  
9 task for the Committee was to develop a prevention focus  
10 action plan to prevent the number of children in the  
11 United States, and youth, who were not yet obese. What  
12 we did is convene a 19-member multi-disciplinary expert  
13 committee at the IOM which met six times over the course  
14 of the two years to address the scope of work and also  
15 review the relevant scientific evidence to develop  
16 findings, conclusions and recommendations for the report.

17 Before the report was released, there was a  
18 rigorous blinded peer review process. There were 19  
19 committee members, but we had 21 reviewers, and that just  
20 strengthens the report. So, we made sure that each  
21 recommendation and all the evidence that's reviewed is  
22 strongly, soundly supported and defensible before the  
23 report goes to the public.

24 The key conclusions of that Obesity Prevention  
25 Report were that childhood obesity is a serious

1 nationwide health problem with multi-factorial causes and  
2 it requires a population base prevention approach as well  
3 as a comprehensive response. The goal is energy balance  
4 for children and youth to promote both healthful eating  
5 behaviors, as well as regular physical activity for them  
6 to achieve a healthy weight, while also protecting their  
7 health and normal growth and development.

8 The third key message is that preventing  
9 childhood obesity is a collective responsibility. There  
10 are multiple stakeholders and sectors that must be  
11 involved in changing society at different levels.

12 So, what is needed is leadership at all  
13 different levels. We need to build an evaluation into  
14 existing obesity prevention intervention and any new ones  
15 that we initiate. There needs to be a commitment for  
16 adequate resources to make that happen. Efforts need to  
17 be coordinated at all levels and what we need to move  
18 toward is a societal norm where we have behaviors, both  
19 eating behaviors and physical activity behaviors that  
20 contribute to obesity, which are currently the social  
21 norm and we need to move in a direction where healthful  
22 eating behaviors and physical activity become the new  
23 societal norm.

24 And a good comparative reference point for you  
25 is that the Surgeon General's report on smoking and

1 tobacco was released a year after I was born, which is a  
2 little bit over 40 years ago, and at that time, the  
3 smoking prevalence in adults was as high as 30 percent,  
4 and we've been working on that issue for over 40 years  
5 and look how far we've come. But we've still had to work  
6 on that. So, when yesterday a point came up, how far  
7 into the future do we need to be strategically planning  
8 about obesity, in our committee, our chair had said to me  
9 very insightfully one day, this is going to be on our  
10 public health agenda for the next 40 to 50 years. So,  
11 all of us need to be prepared to work on this issue for  
12 that length of time, and to use an example that Marva  
13 gave yesterday, this is not a sprint, this is going to be  
14 a marathon. But we need to think about this as a mega-  
15 marathon it's going to be 40 or 50 years.

16 The key stakeholders involved are parents,  
17 families, schools, communities, health care, industry,  
18 media and the government, and the action plan that was  
19 developed, which is a blueprint for the country for  
20 obesity prevention developed a series of recommendations  
21 for government to make obesity prevention a national  
22 public health priority. There was a series of  
23 recommendations for creating a healthy marketplace, one  
24 for a healthy media environment, healthy communities, a  
25 healthy school environment and a healthy home

1 environment.

2 For the purposes of today, I'm just going to  
3 focus on three recommendations in the marketplace and the  
4 school environment. What the Committee concluded is that  
5 young consumers and their parents will need to change  
6 their food and beverage preferences and engage in regular  
7 physical activity and fewer sedentary pursuits in order  
8 to achieve energy balance. The food, beverage,  
9 restaurant, entertainment, recreation and leisure  
10 industries, so industries very broadly can be  
11 instrumental in changing consumer behaviors, and there  
12 are many opportunities to influence consumers' purchase  
13 decisions at different points. We're looking at product  
14 development, packaging, labeling, promotion, distribution  
15 through multiple channels and pricing strategies.

16 So, the first recommendation for creating a  
17 healthy marketplace is focused on industry should make  
18 obesity prevention in children and youth a priority by  
19 developing and promoting products, opportunities and  
20 information that will encourage healthful eating  
21 behaviors and regular physical activity. Now, we're just  
22 dealing in this workshop with the energy input side of  
23 the equation, but that's what I'm going to focus on.

24 So, for food and beverage industries, the  
25 Committee recommended that we should develop product and

1 packaging innovations that consider energy density,  
2 nutrient density and standard serving sizes to help  
3 consumers make healthful choices. For the full-service  
4 and quick serve restaurant sectors, they should expand  
5 healthier food options and provide the calorie content  
6 and general nutrition information at point of purchase.  
7 And although it didn't end up in the formal  
8 recommendation, there was some carefully worded text in  
9 the report that the Committee encouraged the restaurant  
10 sector to enhance or adapt the food guide pyramid or  
11 develop a new food guidance system and relevant education  
12 materials that would convey how portion sizes should be  
13 distributed throughout the day for children of different  
14 age groups at restaurants.

15 The second recommendation about creating a  
16 healthy marketplace focused on industry should develop  
17 and strictly adhere to marketing and advertising  
18 guidelines that minimize the risk of obesity in children  
19 and youth, which you've seen a few times over the course  
20 of the last day-and-a-half. And in order to achieve  
21 this, the IOM Committee recommended that the DHHS  
22 Secretary should convene a national conference, which is  
23 what we're at today, to develop guidelines for or to  
24 begin the dialogue to develop guidelines for the  
25 advertising and marketing of foods, beverages and

1 sedentary entertainment directed at children and youth  
2 with attention product placement, promotion and content.  
3 Industry should implement the advertising and marketing  
4 guidelines that are developed at this conference and the  
5 FTC should have the authority and resources to monitor  
6 compliance with the food and beverage and the sedentary  
7 entertainment advertising practices.

8 And the third recommendation in the report is  
9 that schools and school districts are urged to develop  
10 and implement and enforce school policies to create  
11 schools that are advertising-free to the greatest extent  
12 possible.

13 There's one other recommendation that focuses  
14 on creating a multimedia and public relations campaign to  
15 promote obesity prevention of children, youth, families,  
16 as well as society at large, and that relates to one of  
17 the panels we had yesterday, but I didn't include that in  
18 what I'm going to show you today.

19 I'm going to just wrap up with two other  
20 studies that are in progress. I can't talk much about  
21 them, so you're not going to get any sneak previews other  
22 than when they are anticipated to be released, but it's  
23 been 25 years since there's been a comprehensive review  
24 of the literature in the United States on the influence  
25 of marketing on children's diet and health. And so, at a

1 Congressional request, the CDC asked the Institute of  
2 Medicine last year to review the effects of food and  
3 beverage marketing on the diets and health of children  
4 and youth in the United States, including the  
5 characteristics of effective marketing of foods to  
6 children and youth to promote healthy food choices.  
7 And also to provide in that report recommendations for  
8 public/private stakeholders to foster healthy food and  
9 beverage choices.

10 We anticipate that report will be released in  
11 early November. So, stay tuned.

12 And there's a third study that was initiated  
13 just a few months ago, which is supported by the Robert  
14 Wood Johnson Foundation. The purpose of that study is to  
15 implement the obesity prevention report recommendations  
16 as well as to go out and organize three regional symposia  
17 to really go out into the communities and understand  
18 better what we need in terms of evaluation. So, we have  
19 a newly convened committee. It's a 13-member committee  
20 that is charged with developing an evaluation approach to  
21 assess whether or not we truly are making progress in  
22 obesity prevention actions for various sectors.

23 We were in Wichita, Kansas, for our first  
24 regional meeting three weeks ago where we convened about  
25 110 different stakeholders who discussed how you create a



1 healthier school environment. We're in the midst of  
2 organizing a regional meeting in Atlanta in early October  
3 that will bring together people around the IOM  
4 recommendations for communities and government. And of  
5 particular interest, we're in the process of organizing a  
6 meeting in early December in Irvine, California, for  
7 industry.

8 So, if you are interested in being involved and  
9 being considered for that meeting, please contact me  
10 after this meeting.

11 And then the product is that we hope to release  
12 the report about the evaluation approach in 2006. Thank  
13 you.

14 MS. ENGLE: And now, I'd like to introduce the  
15 panelists for this last panel of our workshop. Mark  
16 Berling of the Kraft Food Company. Mark is Executive  
17 Vice President, Global Corporate Affairs at Kraft.

18 Dan Jaffe. Dan is Executive Vice President of  
19 the Association of National Advertisers.

20 Dr. Penny Kris-Etherton of the American Heart  
21 Association's Nutrition Committee. Dr. Kris-Etherton is  
22 Distinguished Professor of Nutrition at Penn State  
23 University.

24 Brock Leach with PepsiCo. Brock is Senior Vice  
25 President, New Growth Platforms and Chief Innovation

1 Officer at PepsiCo.

2 Dr. Susan Linn, a psychologist, is Associate  
3 Director of the Media Center of the Judge Baker  
4 Children's Center, as well as Co-Founder of the Campaign  
5 for a Commercial-Free Childhood. And I couldn't help but  
6 note a very interesting part in Dr. Linn's bio is that  
7 she is an award-winning ventriloquist and children's  
8 entertainer who has pioneered the use of puppets in child  
9 therapy.

10 Manly Molpus is President and Chief Executive  
11 Officer of the Grocery Manufacturers of America.

12 And, finally, Dr. Donald Lee Shifrin is a  
13 Fellow of the American Academy of Pediatrics and  
14 currently serves on its National Task Force on Obesity.  
15 A practicing pediatrician, Dr. Shifrin is Clinical  
16 Professor of Pediatrics at the University of Washington  
17 School of Medicine in Seattle.

18 Our first panelist -- we're not going to be  
19 quite in alphabetical order, close to it, but I'd like to  
20 have Dan Jaffe.

21 MR. JAFFE: Thank you very much. Also, I want  
22 to thank the FTC, HHS. I think this has been a very  
23 important and successful workshop. I don't know why I  
24 was given the honor of speaking first, but what I'd like  
25 to try to do in the next minute or two is try to cover --

1 try and put together what's been happening for the last  
2 two days, because instead of coming up with new  
3 recommendations, I think that what has been proposed here  
4 and what has been put forward here will make a  
5 substantial difference in beating these issues and I  
6 think it's useful to see what we -- at least as I  
7 understand it, what has happened in the last couple of  
8 days.

9 First, I think it should be clear to anybody  
10 who has been listening to the companies that have spoken  
11 at this conference that the marketplace is working. Most  
12 importantly, the marketplace is working because they are  
13 responding to consumers who are demanding products that  
14 are healthful, nutritious and low in calories. They are  
15 competing in the marketplace. It makes a difference to  
16 their bottom line and that suggests that this type of  
17 development is going to continue.

18 What's important is that the companies that  
19 spoke are representative. If we go down any aisle in the  
20 supermarket, if you go to any restaurant in this country,  
21 you will see there are new options that have come into  
22 play just in the last year or two to provide people more  
23 nutritious and low-calorie foods. So, I think that the  
24 marketplace will work and we should not stand in the way  
25 of the marketplace and suggestions to try to ban or

1 restrict advertising would be counter-productive, and  
2 certainly those types of efforts that would try to say  
3 that you could have only certain foods advertised are  
4 almost certainly unconstitutional, because it's not bad  
5 foods. There is no bad food, there is bad diets.

6 Also, this is not a do-good, feel-good  
7 activity, as I said. This has become an integral part of  
8 the whole process.

9 Now, second, we have a strong interlocking  
10 system of industry self-regulation, but more importantly,  
11 not only is CARU operating effectively with 97 percent  
12 compliance decade after decade by companies, but it is  
13 moving forward to meet the new challenges. And so, there  
14 are proposals already underway before the National  
15 Advertising Review Council, of which our association is  
16 one of the members and others. But there are going to be  
17 proposals, as you'll hear from Manly Molpus, to go  
18 forward. This is a living, breathing, effective  
19 organization and it does have teeth. I can certainly  
20 tell you that I have heard companies scream when the CARU  
21 comes around and cracks down on their ads. They  
22 certainly think that it is not just a watchdog that  
23 barks, but a watchdog that bites.

24 Third, and I think this is very important and I  
25 don't know how much attention it has really gotten so

1 far, we do believe there has been a gap in our handling  
2 of these issues with kids. It's the whole question of  
3 media literacy. Dick O'Brien yesterday talked about  
4 launching this program. This has been accepted by the  
5 Executive Committee of the Ad Council, our public service  
6 arm. We're going to make a big program to try to help  
7 kids navigate more effectively and with greater  
8 understanding through the media and advertising  
9 environment.

10 And, fourth, the Ad Council has a whole series  
11 of programs. You've heard about the Small Steps Program,  
12 which has over \$106 million worth of public service ads  
13 in just the first 10 months. So, they've just launched  
14 this coalition to try to help everybody else's marketing  
15 views and they have shortly to launch a program  
16 specifically dedicated to children in regard to  
17 nutrition.

18 And, fifth, I believe is a very important  
19 component, one that has not been discussed for government  
20 to play. ANA supports efforts by government to provide  
21 funding for research, partnerships and education on  
22 nutrition and physical activity. We think it's an  
23 outrage, frankly, that in only one state in this country  
24 is physical education required in the lower schools.  
25 Senator Frist's Impact Legislation S-1325 provides this

1 type of comprehensive approach and we strongly endorse  
2 this proposal and we believe that the industry will get  
3 behind it because we think that this is only going to  
4 work if everybody in industry and government are working  
5 in the same direction.

6 I believe people feel passionately about this  
7 issue, want to help and will help. We are committed to  
8 this issue. We will see that we will do whatever is  
9 needed to be done to make our self-regulatory system  
10 effective, our communication system effective, and if  
11 people from any side have suggestions, we will listen to  
12 them. That doesn't mean we will necessarily agree with  
13 everything that is put forward, but we are open to hear.  
14 I would be able to go and discuss some of these things in  
15 more detail, but I see a fairly long line of people  
16 behind me and so I will step down at this point. Thank  
17 you.

18 MS. ENGLE: Dr. Kris-Etherton.

19 DR. KRIS-ETHERTON: Well, I'd like to start by  
20 thanking representatives from the FTC and Department of  
21 Health and Human Services for the opportunity to  
22 represent the American Heart Association Nutrition  
23 Committee at this very important conference that is being  
24 held to address the topic, Perspectives on Marketing,  
25 Self-Regulation and Childhood Obesity.

1 American Heart Association has a long-standing  
2 commitment to fighting heart disease and stroke.  
3 Cardiovascular disease still remains a leading cause of  
4 death in the United States. Yearly economic toll is  
5 staggering. Just last year, the direct and indirect  
6 costs associated with cardiovascular disease were about  
7 \$400 billion. The astonishing conundrum that confronts  
8 us is that we can prevent most heart diseases with  
9 healthy lifestyle practices, including good dietary  
10 practices, regular physical activity, not smoking  
11 cigarettes and regular medical check-ups.

12 There are many American Heart Association  
13 programs and activities that are aimed at controlling  
14 risk factors for cardiovascular disease. One new  
15 initiative is targeting childhood obesity, and I think  
16 that it's one model that illustrates a next step that  
17 could be taken by other organizations, the government and  
18 private sector to help make children's diets healthier  
19 and including responsible marketing.

20 So, the program I'm going to describe is the  
21 Clinton Foundation and the American Heart Association  
22 Alliance to Create a Healthier Generation. Governor Mike  
23 Huckabee from Arkansas also is a member of the Alliance.  
24 This is a 10-year relationship that's championing the  
25 fight against the nation's fastest-growing children's

1 epidemic, obesity.

2           There are two goals of the Clinton Foundation-  
3 HA Alliance, and they are, one, by 2010, halt the  
4 increasing prevalence of childhood obesity in the United  
5 States. Two, by 2015, reduce the prevalence of childhood  
6 obesity by 10 percent.

7           Well, how will the goals of the Alliance be  
8 reached? The Alliance hopes to foster an environment  
9 that helps all kids pursue a healthy lifestyle. To do so  
10 is going to speak to a variety of audiences, consumers,  
11 industry, health care providers, schools and the media,  
12 and focus on several key areas that have a major impact  
13 on lifestyles and behaviors of children. So, I'd like to  
14 just quickly go through the activities that are planned  
15 for these different targets.

16           In terms of consumers, the consumer group  
17 that's targeted is kids and the Alliance is going to  
18 launch a for kids by kids movement to mobilize kids,  
19 especially those ages 9 to 13 to take charge of their own  
20 health and lead healthier lives. Tools will also be  
21 developed for parents to help families incorporate heart-  
22 healthy habits in their daily routines. And the Alliance  
23 is looking at how we can get kids to drive the market  
24 toward better health.

25           In terms of industry, a target that's going to



1 be addressed right away, the Alliance is going to work  
2 with restaurants, manufacturers of consumer packaged  
3 foods, food service companies and the fitness industry to  
4 make changes that encourage healthier eating and more  
5 physical activity. And the first focus in terms of the  
6 industry target is on children's meals at fast food  
7 establishments and restaurants.

8 And then, in terms of the media, a target  
9 that's going to be hit on right away, the Alliance is  
10 going to collaborate with media outlets on a public  
11 education campaign to encourage healthy lifestyles and  
12 increase understanding of the benefits of good nutrition  
13 and physical activity. The campaign will focus on for  
14 kids by kids messages to children and disseminate  
15 information to parents and educators.

16 And two other groups that are going to be  
17 targeted down the road are health care providers. The  
18 Alliance is going to work with professional associations  
19 and other health care organizations to create tools and  
20 continuing education opportunities that can help  
21 providers better recognize, prevent and treat obesity in  
22 children. And then another target is schools. The  
23 Alliance is going to develop innovative approaches to  
24 encourage more healthy food options in schools and  
25 increased physical activity during and after school, in

1 collaboration with school leaders and community groups.  
2 Tools will be developed for educators to include in  
3 classroom activities.

4 So, you can see that this is a broad-based  
5 comprehensive program that is being driven, in large  
6 part, by children. It's being set up to have far-  
7 reaching effects and a very big impact. And this is what  
8 has to happen. We must all come together, government,  
9 industry, professional organizations, using a multi-  
10 pronged approach to see a big impact.

11 So, in summary, the conference we've attended  
12 has shown that we're tackling a very complex topic,  
13 childhood obesity. It's clear that we need to combat it  
14 from many angles. Public health groups need to work with  
15 industry to develop healthier products and consistent  
16 health messages to create a big healthy food marketplace.  
17 Likewise, public health and government groups need to be  
18 working with children, parents, other family members,  
19 teenagers, coaches, et cetera, to improve health literacy  
20 and increase interest and demand for healthy products and  
21 other behaviors. The industry can help improve  
22 children's behavior and children can play an active role  
23 in guiding industry's behavior.

24 In summary, the best model for moving forward  
25 is one where public health, government, industry,

1        caretakers and children -- children who are very  
2        important members of this effort -- all work together to  
3        move our nation towards better health. Thank you very  
4        much.

5                    MS. ENGLE: Dr. Linn.

6                    DR. LINN: Thank you. Well, I want to thank  
7        the FTC and HHS for inviting me here today.

8                    **(Laughter.)**

9                    DR. LINN: Actually, it's a real honor to be  
10       here today and I really do want to thank the FTC and HHS  
11       for inviting me here to speak. And what I want to talk  
12       about today, I want to talk about rights and freedoms,  
13       the rights of children to grow up and the freedom for  
14       parents to raise them without being undermined by  
15       corporate interests.

16                    The Surgeon General spoke earlier today about  
17       our social, moral and ethical responsibility to ensure  
18       public health. With that in mind, I'd like to say that  
19       there is no social, moral or ethical justification for  
20       marketing junk food to children. And given the projected  
21       costs of obesity to American taxpayers, there appears to  
22       be no economic justification either.

23                    Speaking for myself and my colleagues across  
24       the country, I want to ask the FTC not to abandon  
25       children to the financial interests of the food industry.

1 I was saddened to hear Commissioner Leary say that he  
2 didn't want the FTC to be a nanny agency. We heard in  
3 the earlier panel how overwhelmed parents are. When  
4 parents are overwhelmed, children need nannies, they need  
5 help.

6 The question that we should have been asking at  
7 this workshop is what's best for children, not how can we  
8 improve self-regulation. Self-regulation has failed.  
9 When CARU -- the head of CARU endorsed what amounts to  
10 General Mills' latest campaign to sell sugar cereals,  
11 that's evidence of failure. When Coca-Cola claims that  
12 they don't market to children under 12, yet their product  
13 placement is rampant on American Idol, which is  
14 consistently in the Nielsen ratings a top-rated program  
15 for children 2 to 11, and when -- if you go to  
16 Toysrus.com, you can find toys, Coca-Cola toys for  
17 children as young as four. That's evidence of failure.

18 When the advertising industry, which spent  
19 about \$100 million marketing to children in 1983 is now  
20 spending \$15 billion and a significant portion of that on  
21 food advertising, that's evidence of failure. When  
22 McDonald's pays rap artists to shout out Big Mac in their  
23 songs and there's no action from CARU, that's evidence of  
24 failure.

25 We're going to hear proposals from the Grocery

1 Manufacturers Association for tweaking self-regulation,  
2 but let us remember as we listen that the GMA is on  
3 record for opposing just about every state bill that  
4 would restrict the sale of junk food or soda in schools  
5 and that the comments they submitted for this workshop  
6 today deny the link between marketing and childhood  
7 obesity. These proposals may sound good, but they won't  
8 address the fundamental issue.

9 By relying only on voluntary self-regulation,  
10 we have turned our children over to an industry that  
11 generates profits by selling them junk food. As  
12 documented in comments by the Center for Informed Food  
13 Choices, companies like General Mills and PepsiCo  
14 routinely violate the existing GMA guidelines. Without  
15 the threat of real consequences from an outside agency  
16 whose first allegiance is to children and families, the  
17 incentives for business as usual, no matter what is said  
18 here today, are just too great.

19 My colleagues and I are not naive about the  
20 current political situation. Although we know that this  
21 administration is loathe to regulate corporations, we  
22 offer the following truth. That it is the government of  
23 the people, by the people and for the people who should  
24 be the guardians of public health, not corporations, not  
25 the food industry whose allegiance is first and foremost

1 to their stockholders. Thank you.

2 MS. ENGLE: Manly Molpus.

3 MR. MOLPUS: Thank you very much, Mary, and  
4 thank you for this opportunity to be here. I was just  
5 asking Susan Linn if she would like to read my remarks  
6 and I'll just mouth them up here.

7 DR. LINN: I'd be happy to.

8 **(Laughter.)**

9 MR. MOLPUS: Here it is. But we're delighted  
10 to be here and real congratulations to HHS and FTC for  
11 putting together such a constructive two days of dialogue  
12 with a wide array of views, of which you're about to hear  
13 some of those. But I can tell you that for the companies  
14 that make the products that Americans eat and drink every  
15 day, there is no issue more important than obesity. As  
16 you've heard from GMA members here at this workshop,  
17 there is truly an extraordinary industry-wide effort  
18 underway today to meet this challenge.

19 Let me give you just a few examples of what our  
20 industry is doing. This fall, GMA will sponsor a  
21 nationwide education campaign with Weekly Reader to  
22 promote the new food guide pyramid to students, teachers  
23 and families. We'll distribute a My Pyramid Education  
24 Kit that will reach more than four million students. The  
25 American Council for Fitness and Nutrition, a non-profit

1 organization established by food and beverage companies,  
2 is now in the process of going from city to city across  
3 America to showcase programs that are effectively  
4 addressing obesity at the community level and helping  
5 Americans, especially kids, live healthy lifestyles.

6 And just yesterday, we released the results of  
7 a survey of our members. We learned that companies  
8 participating in the survey have introduced 4,500 new or  
9 reformulated products with improved nutrition, including  
10 reduced saturated and trans fats, reduced calories, less  
11 sugar and less sodium. These companies are also using  
12 multimedia, including advertising, product labeling,  
13 websites, brochures and education initiatives in schools  
14 and communities to provide consumers with health and  
15 nutrition information.

16 GMA members want to provide, and it's in our  
17 interest to provide, a wide array of food and beverage  
18 choices and we want to market these products responsibly  
19 and we're committed to do so. But I am here today to  
20 talk to you specifically about the important issue of  
21 self-regulation in children's advertising. The self-  
22 regulatory system, in our judgment, in place today works  
23 and it works extremely well. But because it is good  
24 doesn't mean that we can't and shouldn't try to make it  
25 better, and I'm encouraged that CARU is already working

1 to do just that.

2 GMA member companies who are supporters of CARU  
3 have spent a good bit of time working very intensely to  
4 develop a series of recommendations to strengthen the  
5 self-regulation of advertising to children. Our goal is  
6 to help CARU even be more responsive to parents'  
7 concerns, which we recognize, and to reflect changes in  
8 the marketing and media environment that we've talked  
9 about here about the last two days. The GMA members that  
10 support CARU are committed to providing the financial  
11 support required to implement these steps. So, I ask you  
12 not to prejudge our effort. Let's look at the  
13 recommendations, let's implement the recommendations,  
14 let's watch the results.

15 Here are the seven recommendations. First,  
16 public access. We believe consumers, especially parents,  
17 should have immediate and direct access to CARU to  
18 express concerns about specific ads and about children's  
19 advertising in general. We recommend establishing a  
20 toll-free consumer response line and website, publicizing  
21 the existence of both and responding to consumers  
22 directly.

23 Two, transparency. We believe a summary of  
24 CARU's regulatory activities should be available to the  
25 public on the CARU website and should include the kind of



1 information that is now provided in written reports to  
2 subscribers. The website ought to provide the public  
3 with easy access to an overview of the scope of CARU's  
4 regulatory activities.

5 Three, expanded expertise. We support  
6 expanding CARU's external advisory boards to provide more  
7 expertise on matters related to health, wellness and  
8 nutrition, including educators, nutritionists, fitness  
9 experts, behavioral experts and experts on FTC and FDA  
10 policy.

11 Four, pre-review. We support enhancing the  
12 existing mechanism for pre-review of advertising with the  
13 goal of preventing advertising that is not consistent  
14 with CARU's guidelines from reaching the marketplace.  
15 This voluntary mechanism could be enhanced by an expanded  
16 staff and use of the advisory board.

17 Five, expanded scope. We believe CARU's  
18 guidelines should address advertising contained in  
19 commercial computer game, video games and other  
20 interactive websites, commonly referred to as advergames.  
21 We would also recommend that paid product placement on  
22 children's TV programming be prohibited and that CARU  
23 guidelines be expanded to ensure that third party  
24 licensed characters in advertising are used  
25 appropriately.

1           Sixth, collaboration. We believe that robust  
2 self-regulation requires effective support from both  
3 industry and government. To that end, we would encourage  
4 the FTC to look for ways to strengthen its relationship  
5 with CARU.

6           Seven, resources. To ensure adequate  
7 enforcement capacity, to improve its effectiveness and  
8 improve consumer access, we believe that CARU staff must  
9 be substantially increased. And as I said earlier, our  
10 members are prepared to provide the resources to  
11 implement these steps.

12           The measures I've detailed are more than words,  
13 we are committed to working with all stakeholders to make  
14 these recommendations a reality. In addition to changes  
15 to CARU, we believe that government can play a role in  
16 helping support private sector initiatives to promote  
17 healthy lifestyles. In that regard, we have two  
18 recommendations. First, we think that HHS could develop  
19 an awards program that recognizes companies for promoting  
20 healthy lifestyles, perhaps modeled on the Baldrige  
21 Awards, which have been very successful, and available to  
22 all industries. This would be an excellent way to  
23 showcase and incent best practices in the obesity issue  
24 and what the private sector can do.

25           Second, the government should maintain its

1 support for healthy lifestyle communication programs,  
2 like the HHS-Ad Council Small Steps campaign and the  
3 CDC's VERB Program. In fact, GMA has urged Congress to  
4 fund these important initiatives and we invite our fellow  
5 stakeholders to join us in that effort.

6 At the beginning of this workshop, Chairman  
7 Majoras challenged us all not to just share ideas but to  
8 take action. Over the last two days, we've learned much.  
9 But the important work now lies ahead and it's time to  
10 turn our ideas into actions and GMA members are prepared  
11 to do just that. Thank you.

12 MS. ENGLE: Mark Berlind.

13 MR. BERLIND: This has been a very important  
14 workshop and really we think presents an opportunity for  
15 significant progress on the important issues that it  
16 raises. There's been a lot of good discussion, all the  
17 issues that I think are the important ones have been put  
18 on the table and been discussed, and there's a lot of  
19 information out there for all of us to consider.

20 We really think at Kraft that this is the kind  
21 of workshop and the beginning of the kind of dialogue,  
22 exactly the kind of dialogue that the IOM Report that  
23 Vivica mentioned recommended, and we'd emphasize that a  
24 dialogue is an ongoing thing. We don't see -- and we  
25 hope that this workshop is not a one-time event where

1 people get together for two days and that's it. As Manly  
2 just said, there's lots of work to be done, and as  
3 Assistant Secretary O'Grady said earlier, the real test  
4 is going to be what are the actions and the specific  
5 concrete reforms that emerge from this process? But  
6 we're very encouraged by what we've seen over the past  
7 couple of days.

8 Chairman Majoras did frame the issue very well  
9 yesterday. In her opening remarks, she said, on the one  
10 hand, bans of advertising of products are not appropriate  
11 and are not likely to be pursued on the one hand, but on  
12 the other hand, the status quo is unacceptable and change  
13 has to occur, and we at Kraft and as part of the food  
14 industry definitely want to be part of that change.

15 Our company believes that in order for self-  
16 regulation to be credible and effective, our consumers  
17 need to have confidence in us and that it's important for  
18 companies to take their own steps, their own meaningful  
19 steps to move the ball forward in the absence even of  
20 industry action or self-regulatory action, and we have  
21 tried to do some things and I think you've heard in the  
22 past couple days that many companies are doing things,  
23 each in accordance with their own business model and in  
24 accordance to what they think is the right thing to do.  
25 But we think that the steps that each company takes

1 contributes to the whole and it contributes to an overall  
2 climate where consumers will have confidence that the  
3 industry is, indeed, being self-regulated in an  
4 appropriate way and that its actions are responsible.

5 The industry is also taking steps together  
6 jointly, which Manly just described for the group, and we  
7 think there's a lot of important suggestions there and  
8 they deserve serious consideration, even by folks who are  
9 initially skeptical perhaps of what the industry would  
10 put forward, and we would also say that we are very  
11 encouraged and very happy that so many companies have  
12 specifically signed up for these proposals in a very  
13 short period of time and that there's a lot of momentum  
14 behind this process. This is not something I think that  
15 you would have seen six, eight or 12 months ago, a group  
16 of companies coming together relatively rapidly to try to  
17 move the ball forward. So, we think that's important.

18 I did want to say something about the whole  
19 discussion and the debate over the numbers and how many  
20 ads are being seen and whether it's a lot, whether it's a  
21 little, has it changed. The data is very important to  
22 many of you and it's important that we all proceed based  
23 on the facts, but I just wanted to make the point that to  
24 Kraft, at least, those are not the numbers that we focus  
25 on the most because irrespective of whether 5,000 ads or

1 4,000 ads or 10,000 ads are being seen per year, we're a  
2 consumer focus company, we listen to our consumers and we  
3 have heard loud and clear from them that they see an  
4 issue with the advertising that is going on of food  
5 products to kids, especially younger kids now. So,  
6 irrespective of what the data shows, we think that this  
7 is an issue that needs to be addressed, which is why  
8 we're so happy about the progress made at this workshop.

9 By the same token, as Dr. Dietz pointed out in  
10 his presentation yesterday, obesity and weight gain is a  
11 serious problem in this country. We can quibble about  
12 how many deaths, how much illness, how much weight gain  
13 and all the rest, but our consumers are telling us that  
14 they think it's a serious problem, so we feel the need to  
15 act. So, the most important data to us is what we hear  
16 back from our own consumers.

17 I think that there's a lot of common ground  
18 that has emerged from this workshop, perhaps more than  
19 some people might realize. To take just one example to  
20 illustrate that, I think if you look at the very  
21 challenging but very concise and specific principles that  
22 Senator Harkin articulated yesterday on the one hand and  
23 the proposals that Manly just put forward on the other  
24 hand, there is a fair amount of similarity and congruence  
25 and I think hope for everybody reaching a place where

1           there can really be a significant consensus on this  
2           issue.

3                         Senator Harkin, for example, called for  
4           stakeholder input; the GMA proposals call for augmenting  
5           external advisory boards for CARU. Senator Harkin called  
6           for compliance and an independent monitor; the GMA  
7           proposals called for building enforcement capacity,  
8           improving transparency and having a closer relationship  
9           between CARU and the FTC and the HHS. And we think that  
10          it would be very valuable if the FTC and the HHS could  
11          take a look at how we're doing and perhaps issue a  
12          report. I don't know how it would work, but maybe a year  
13          from now, let's take a look at how well these proposals  
14          are being implemented and let's have that closer  
15          relationship.

16                        Senator Harkin's principle number three was to  
17          look at the cumulative effects of advertising and that's  
18          not specifically mentioned in any of the GMA proposals  
19          that Manly mentioned, but we specifically have put  
20          forward the principle of broadening the involvement and  
21          advice to CARU on matters of children's health. So, that  
22          is a very important principle that perhaps a lot of  
23          people could agree on.

24                        Senator Harkin's fourth principle was that  
25          self-regulation should cover all advertising vehicles.

1 You just heard Manly specifically say that we want to  
2 make sure that the CARU regulations and rules on things  
3 like adver gaming and licensed characters and paid product  
4 placement are strengthened and specifically added into  
5 the mix.

6 Picking up on what Commissioner Leary said  
7 today, we need some advice, I think, from the FTC about  
8 how to move forward as an industry, how to craft these  
9 standards appropriately, how to get into the details in a  
10 way that addresses those concerns. But we are encouraged  
11 by the progress that has been made here today.

12 So, I would just close by saying that beyond  
13 the whole issue of self-regulation and how to strengthen  
14 it, which I know the focus is here, we think the most  
15 important thing that the industry can do and that Kraft  
16 can do as a food company is to continue to come up with  
17 products that give consumers the better nutritional  
18 profiles that they increasingly want, but combines it  
19 with the great taste, the great convenience and the fun  
20 that they continue to demand. And to the extent that we  
21 can all work together from whatever side of the  
22 perspective, of the equation that we come from, to foster  
23 a climate where companies can be encouraged to do that,  
24 where the market can be encouraged to change those  
25 societal norms that I think Vivica mentioned earlier and



1 encourage everybody, whether it's consumers and  
2 companies, and give them the incentives to market those  
3 products successfully and to consume those products,  
4 that's what's going to ultimately make the biggest  
5 difference to address these issues. Thanks very much.

6 MS. ENGLE: Brock Leach.

7 MR. LEACH: You got to hear from me yesterday  
8 so I'm going to cut right to the chase on recommended  
9 next steps. The first is work diligently as an industry  
10 and with partners with CARU to build on their success in  
11 self-regulation but to strengthen it along the lines to  
12 what Manly spoke to earlier. I also listened very  
13 carefully to what Senator Harkin had to say about his  
14 four objectives, and like Mark, I don't know the details  
15 of what he has in mind, but I believe directionally, we  
16 can get to those objectives and we'll obviously have to  
17 work through on how close we are on the details. But I  
18 think that it's within grasp. So, I'm encouraged as  
19 well.

20 I would also just make a comment on self-  
21 regulation. As somebody who spent 23 years in the  
22 marketing trenches, when a CARU complaint crosses your  
23 desk as a brand manager, you don't respond to it as an  
24 interesting item, you respond to it as you would an FTC  
25 complaint, and a lot of departments, by the way, respond

1 to them as if they were FTC complaints, and you move  
2 quickly. That's why most of the stuff gets addressed and  
3 pulled before there's any further action because it's not  
4 worth it. We change it and get on with it. And we, of  
5 course, have been subject to plenty of CARU complaints.  
6 So, I know whereof I speak. But I would just tell you  
7 that it is, from a marketer's point of view, a mechanism  
8 that has strength.

9 But anyway, all of the self-regulation stuff,  
10 as I said yesterday, I think is the first 20 percent. I  
11 think the other 80 percent is going to be around product  
12 choices. Our goal here is to develop healthier product  
13 choices and market those and do that in an environment  
14 where people, in particular kids, are learning how to  
15 make balanced eating and exercise choices.

16 So, in that spirit, there are three other  
17 things I would recommend as next steps that involve both  
18 private and public collaboration. The first is, I said  
19 earlier, is consistent messaging. I think building on  
20 the work of Ad Council, the Coalition for Healthy  
21 Children and the extensive work CDC, in particular, has  
22 done in learning how to communicate to create a  
23 consistent set of messages that can be reinforced in many  
24 different ways, including commercial ways, I think would  
25 be very helpful, and I think it would really provide

1 additional support to parents and to people in schools.

2 The third recommended next step would be to  
3 coalesce around a national model action plan for healthy  
4 schools, something that goes beyond school vending. It,  
5 obviously, has to include school vending. But my  
6 concern, as somebody who's very familiar with the school  
7 vending debate, is that it is passing, in a lot of  
8 locales, as a solution. It's passing as a solution  
9 legislatively when in reality there's a lot more here,  
10 like how are we going to get nutrition and energy balance  
11 education into the schools, how are we going to get  
12 physical activity into the schools, how are we going to  
13 make sure the meal offerings are what they need to be,  
14 and how do we make sure the vending and marketing  
15 environment is right?

16 I think the Institute of Medicine Report and  
17 the recommendations in that were terrific in the sense  
18 that they got to what needs to be done. What I think we  
19 need to do now, though, is take the stakeholders, which  
20 include USDA and the states and the schools themselves,  
21 and in particular, the people on the ground in the  
22 schools, and figure out how is it that we bring all the  
23 resources to bear to help solve this problem, including  
24 the funding resources. Obviously, industry has a role to  
25 play in that. But I see it being kind of a fractured

1 effort right now and I think bringing the expertise  
2 together to approach that on a national level and to  
3 bring the best thinking to it would be a welcome thing.  
4 That would happen through the work the IOM is doing, that  
5 could happen through the AHA program that was outlined.  
6 I'm not sure of the best vehicle, but I think it needs to  
7 be a national dialogue with the right folks.

8           And, finally, I think a program to recognize  
9 and encourage positive industry action, as Manly  
10 outlined, could have the biggest effect of all because I  
11 think the industry already sees the opportunity here and  
12 I think putting in place some encouragement on what to  
13 do, whether it's for employees or whether it's for  
14 product development or whether it's community actions, I  
15 think all that could have a surprising impact. And so,  
16 all of that is consistent with focusing on creating  
17 healthier choices in an environment where people learn to  
18 make great choices. That's my commentary. Thanks.

19           MS. ENGLE: Dr. Shifrin.

20           DR. SHIFRIN: Thank you for your patience. I  
21 realize this is the last presentation. You've all been  
22 very patient. Hopefully, it will be worth it. I want to  
23 also thank the FTC and the HHS for convening this  
24 workshop. It's a pleasure to be here today representing  
25 the American Academy of Pediatrics, which is an

1 organization of 60,000 pediatricians and pediatric  
2 specialists dedicated to the health and well-being of  
3 children. As the Surgeon General stated today earlier,  
4 I'm sorry he left because we can compare grandparent  
5 stories, prevention is the hallmark of pediatric care.

6 The present trends indicate that families,  
7 traditional families, single-parent families, divorced  
8 families, step families, schools, communities,  
9 policymakers, physicians, the food industry and the media  
10 all drive behavior and influence the most significant  
11 ongoing chronic health threat to our children.

12 Therefore, all play a critical role in reversing the  
13 trend of obesity. Much like it's been stated that  
14 smoking was a pediatric disease, the same could be said  
15 that obesity is now a pediatric disease. Pediatricians  
16 are committed to helping kids learn to lead active  
17 healthy lives.

18 The Academy's Board of Directors assigned the  
19 highest priority to address the childhood obesity crisis  
20 by creating a national task force in 2003. The focus of  
21 the task force is on prevention, treatment, reimbursement  
22 and advocacy both at a local, state and national level.  
23 As a practicing pediatrician daily, I see parents, much  
24 like Sam's family that was described yesterday by Dr.  
25 Zucker, and care givers every day who are searching for

1 help with their overweight families. As I speak to you  
2 today for these two to three minutes, with a significant  
3 sense or urgency, I can assure you that these two minutes  
4 are statistically more time than many of my colleagues  
5 have with families to discuss nutritional and activity  
6 awareness, media time and literacy issues during an  
7 annual or every other year health maintenance  
8 appointment.

9 Contrast that with the amount of time that  
10 children spend seeing -- let's bandy about the number --  
11 40,000 or so commercial messages each year, the 20  
12 percent of two to seven-year-olds that have televisions  
13 in their bedrooms, the 68 percent of eight to 18-year-  
14 olds that have television in their bedrooms, it hardly  
15 seems like a level playing field for parents and  
16 pediatricians.

17 The Academy has always been one of the  
18 strongest advocates for children on Capitol Hill. We  
19 have a long-standing media education policy recommending  
20 amounts of media time that are healthful for the  
21 families, but we recognize that educating families about  
22 moderation, healthful choices, balance rather than  
23 restrictions, portion size and physical activity many  
24 times are lost in the tsunami of their children's media  
25 exposure to less healthful foods. Marketing has

1 empowered kids to demand, parents constantly need to  
2 negotiate.

3           There are many risk factors that contribute to  
4 childhood obesity and we're not denying that and there  
5 are many lines of defense beginning with parental  
6 responsibility, but that is not the only line of defense.  
7 All children need a good support system behind their  
8 success in achieving this long-term change. While many  
9 obstacles to recognition, prevention and treatment seem  
10 insurmountable, the Academy recommends early guidance in  
11 office space encounters, as well as increased physical  
12 activity, decreasing sedentary activities, including our  
13 recommendations for screen time for all families, and  
14 providing tools in continuing education for its members,  
15 as well as education and motivation for children and  
16 parents on this critical issue.

17           The following are highlights of the Academy's  
18 positions on advertising and marketing issues  
19 specifically as they relate to this problem. One, the  
20 American Academy of Pediatrics considers advertising  
21 directly to young children to be inherently deceptive and  
22 exploits children under the age of eight years.

23           Two, the Academy supports and advocates for  
24 social marketing intended to provide healthful food  
25 choices and increased physical activity. Industry should

1 develop and advertise healthful food and eating choices.  
2 Healthful foods that are nutrient-rich and palatable, yet  
3 low in excess energy from added sugars and fat need to be  
4 readily available to parents, school and child care food  
5 services and others responsible for feeding children and  
6 independent of socioeconomic status or community.  
7 Examples of healthful foods are whole grains, vegetables  
8 and fruits, lowfat dairy products and others as  
9 recommended by the new USDA guidelines.

10 Advertising and promotion of energy dense,  
11 nutrient-poor food products to children may need to be  
12 regulated or curtailed. For example, the increase in  
13 sugar-sweetened drinks has been linked to obesity.

14 The government certainly should fund more  
15 research to assess the effects of television and other  
16 media marketing on the behaviors of children. The  
17 Academy, as a member of the Children's Media Policy  
18 Coalition, wants children's advertising protections to be  
19 updated for digital television. As Ms. Miller dictated  
20 earlier, we are going to a digital universe. This  
21 includes a prohibition on interactive advertising to  
22 children in the digital world. I also would remind you  
23 it's not going to be digital television, it's going to be  
24 cell-a-vision. Okay, for those people who can't see  
25 this, this is a Forbes Magazine cover for May talking



1 about cell-a-vision. Forty percent of 12 to 14-year-olds  
2 have cell phones, unrestricted, unregulated content. \$10  
3 billion are being put in venture capital to put content  
4 into phones. Our friends at Disney are now marketing  
5 phones to eight to ten-year-olds. It's been said that  
6 nature abhors a vacuum. Obviously, technology abhors a  
7 vacuum.

8 The use of exclusive foreign contracts as a  
9 means of generating revenue for schools needs to be  
10 addressed such that revenue is not generated at the  
11 expense of our children's health. The AAP recognizes  
12 corporate sponsorship of school events, activities and  
13 programs as advertising and promoting product branding.  
14 Schools should develop curricula to teach children and  
15 adolescents media literacy, something we called for in  
16 our media education statement that was published in  
17 August of 1999. The Academy launched its own Media  
18 Matters Campaign in 1997 to help teach media literacy and  
19 we look forward to talk more to the Ad Council about  
20 their new media education campaign.

21 In closing, I appreciate the opportunity to  
22 participate in this meeting. The AAP supports the  
23 Institute of Medicine recommendations on marketing, media  
24 and advertising as stated in their Prevention of Obesity  
25 Report. As experts in the primary and specialty care of

1 children, we would welcome the opportunity to participate  
2 in an ongoing dialogue with the Federal Trade Commission  
3 and the food industry about possible implementation of  
4 those recommendations. And because everybody was quoting  
5 sources, I thought that I would give you a quote from one  
6 of only three honorary members of the American Academy of  
7 Pediatrics. His name is Mr. Rogers, I'm sure you all  
8 remember him and I'm going to direct this quote to all of  
9 the industry representatives and government officials  
10 here today.

11 Mr. Rogers said, "We live in a world in which  
12 we need to share responsibility. It's easy to say it's  
13 not my child, not my community, not my world and not my  
14 problem. There are those who see the need and respond.  
15 I consider those people my heroes." So, the Academy  
16 obviously is looking for heroes here today. Thank you.

17 DR. O'GRADY: Thank you very much. There's a  
18 number of things that I think we'd like to get going with  
19 the dialogue, but I did want to take a second to thank  
20 all the panelists for their very interesting  
21 presentations and the tweaks of different things,  
22 different ideas that they've put on the table. And I  
23 wanted to kick things off a little bit with just a couple  
24 of questions and answering a couple of questions that  
25 came up here.

1           To Mr. Molpus in terms of you, you brought up  
2           an idea of HHS putting together something that would be  
3           along the lines of awards for healthy lifestyles and I  
4           just want to let you know that we already have, and have  
5           for at least two years now, had a Secretary's Prevention  
6           National Awards and we're very interested in that sort of  
7           stuff and we'd love to talk to you more about what you  
8           had in mind with that. But we have found that in our  
9           prevention awards, it has been very successful in terms  
10          of the idea of your ability to go out, identify people  
11          who really are doing ground-breaking work in this area  
12          and sometimes in very unexpected areas, whether it's  
13          churches or small businesses and different -- you know,  
14          across the board in terms of very innovative work.

15                 And you also brought up the idea of  
16          communication campaigns, and I'd like to support that and  
17          I think we are if you look at kind of what we spend our  
18          money on and how we move in. Certainly, at the CDC and  
19          NIH, there's a number of different things to realize, and  
20          certainly if you've ever heard our -- either our current  
21          Secretary or our past Secretary, Tommy Thompson, talk  
22          about prevention, there's this notion, definitely, that  
23          we have to reach people before they show up at a doctor's  
24          office, before they show up at an emergency room. And  
25          that really means changing the way we do business and it

1 does mean moving out into social marketing, these sort of  
2 communication campaigns that we've talked about on a  
3 number of different areas.

4           Although we have vast expertise at HHS, NIH,  
5 CDC, if you need an epidemiologist or an endocrinologist,  
6 you know, we've got them, we've got the best. But I  
7 think as experts in our own fields, we recognize that  
8 this area of marketing and how you target audiences and  
9 whatnot, that it's something that we're freshmen, maybe  
10 at best sophomores, and I don't think I have to tell  
11 anyone who's ever seen a public service announcement  
12 compared to a really well put together marketing campaign  
13 that -- you know, we don't want to be still there with --  
14 and I apologize if anybody was involved with McGruff the  
15 Crime Dog or any of those sorts of things -- but we  
16 really need to up our sophistication.

17           I guess I'd like to make that promise to you  
18 that that's an area that we definitely identify as a  
19 priority and we're moving forcefully to do. At the same  
20 time, the ability of industry, if you're willing to share  
21 that kind of data and expertise, we recognize that we are  
22 not up the learning curve in this area and we would love  
23 to start that kind of dialogue of how do you identify  
24 particular populations at risk, how do you identify these  
25 sorts of most effective ways, and we'd be very, very

1 interested in working together in that area.

2 There was sort of a question in there, did  
3 you --

4 MR. MOLPUS: Well, let me respond briefly.  
5 First of all, we would be happy to provide any sort of  
6 expertise, and we have a tremendous amount with HHS and  
7 areas that you may have a little shortfall, at least give  
8 you some ideas of how our companies go about assessing  
9 these things and looking at our research and our  
10 marketing. I think, also, of course, HHS has a  
11 tremendous role to play via FDA and the various issues we  
12 can tackle there on labeling. I think we've discussed  
13 doing something different about caloric labeling, which  
14 we would agree needs, in some ways, more prominence for  
15 consumers. So, there's just a lot we can do together and  
16 we would have some ideas. We're aware of the initiative  
17 that started under Secretary Thompson and I think there  
18 are some ways to enhance that and make it a little bit  
19 different and a little bit more all industry oriented in  
20 a complete best practice sense, and we'd be happy to work  
21 with you on that.

22 DR. O'GRADY: Great. I had one brief question  
23 and then I'll kind of open things up to my colleague from  
24 the FTC here. In terms of the -- Dr. Kris-Etherton, in  
25 terms of the American Heart Association, the For Kids By

1 Kids Campaign and what you have in mind there, I guess  
2 there were a couple of things that in terms of the  
3 different discussions we've heard over the last day-and-  
4 a-half that sort of tweaked my interest and also my  
5 curiosity. The emphasis definitely seems to be for kids  
6 by kids. At the same time, I wonder if you could talk  
7 for a second about the interaction with parents because  
8 the world of parents has clearly been brought up in a  
9 number of different ways over the last day or so, and how  
10 you're drawing some of those distinctions that we've also  
11 heard about how you deal with the younger kids versus  
12 teens and what sort of tools, data, sort of what are the  
13 resources that you guys are thinking about that you can  
14 bring to bear to this problem?

15 DR. KRIS-ETHERTON: Well, things are still in  
16 the developmental stages, but initially, kids that are 9  
17 to 13 are going to be targeted and the very first town  
18 hall meetings are actually starting in September. It's  
19 hoped that kids will be the initiators and the spark that  
20 help drive parents' decisions about what foods to choose.  
21 Of course, you know, you have to also work with parents  
22 as well and that's something that's going to be down the  
23 road as well. But I think that one thing that's really  
24 important is the Alliance is looking to see how we can  
25 get kids to drive the market toward health. So, parents

1 are a really important part of that, as are teachers,  
2 schools, health care providers and the media, as well.  
3 So, it's going to be a great big effort as well and  
4 things are just getting put in place, but, of course,  
5 parents are going to be a part of it, too.

6 DR. O'GRADY: Thank you.

7 MS. ENGLE: I have a question for Manly Molpus  
8 with respect to the GMA's proposals for perhaps some  
9 recommendations they're making to CARU. One of them was  
10 to increase the scope of CARU's oversight to include  
11 online activities, advergaming and that type of thing and  
12 I was wondering about that. At the FTC, when we look at  
13 advertising, we include everything that's promotional in  
14 nature no matter where or how it appears. Did you give  
15 some consideration to expanding CARU's jurisdiction to  
16 speak generally in terms of advertising and not limit  
17 your additions to the online area?

18 MR. MOLPUS: Well, when we put this proposal  
19 together, we were thinking more in terms of responding to  
20 CARU and CARU's current scope, even though this is an  
21 expansion of scope, and I suspect we better walk before  
22 we run. But we'll leave this up to NARC and their board  
23 to determine how far they should go. This is a  
24 significant expansion of scope for our industry to come  
25 forward with, and if there are additional scope issues

1 that we ought to look at, we would encourage NARC to do  
2 that.

3 MS. ENGLE: And you think there would be  
4 support for industry funding of an expansion of scope if  
5 it looked like the initial steps, the walking was  
6 successful?

7 MR. MOLPUS: If we agree on expansions of  
8 scope, our companies have said we are in agreement to  
9 help provide resources. But at this point, we looked at  
10 what CARU has currently been doing, what was the next  
11 step and what we had heard most about was advergaming, and  
12 we thought in terms of priorities, that should be tackled  
13 first.

14 MS. ENGLE: One of the issues that we've heard  
15 a lot about over the last day-and-a-half is sort of --  
16 and I think maybe it was a question that was of the last  
17 panel -- was the idea of parental responsibility and that  
18 parents should just say no when their children are asking  
19 for products that their parents don't want them to have.  
20 At the same time, we heard about the tsunami of marketing  
21 for products that are less healthful that parents have to  
22 say no to. So, I was wondering, in terms of industry's  
23 willingness on a self-regulatory basis to decrease the  
24 tsunami so that parents are not -- you know, right now,  
25 there is a situation where if you look at the array of



1 products, of foods that are marketed to children, you  
2 could see that there is an imbalance in terms of those  
3 that have more positive nutritional profiles.

4 Since we're here to talk about self-regulation  
5 and what industries can do on their own initiative and  
6 certainly, you know, that doesn't involve the First  
7 Amendment concerns that government regulation would, what  
8 would industry be willing to do? I mean, Kraft is  
9 certainly taking some steps with respect to nutritional  
10 profile of foods they advertise to younger children.  
11 Would there be more support perhaps from other industry  
12 members or GMA as an advocate to its members to do that  
13 kind of thing?

14 MR. MOLPUS: Brock and Mark may want to respond  
15 to this, but I can tell you that what you're seeing today  
16 is the benefits of fundamental free enterprise and  
17 competition and innovation at work, and I think for a  
18 while you are going to see a diverse array of company  
19 strategies and programs to address this issue that fit  
20 with company strategies. You've got some that we've  
21 heard about today. There are many others out there that  
22 have different approaches and I think this is the very  
23 best approach we could possibly get right now because  
24 you've got this huge engine running of consumer focus,  
25 consumer responsiveness and competitiveness that's going

1 to drive a tremendous amount of change, already has, and  
2 will continue to drive a tremendous amount of change  
3 throughout the industry.

4 MR. JAFFE: Mary, could I respond to that for a  
5 second?

6 MS. ENGLE: Um-hum.

7 MR. JAFFE: I think that the idea that you just  
8 have to say no, that parents are in a situation where  
9 they have to say no to all of these products is wrong.  
10 Many of these products are fine, it's just that they  
11 shouldn't be your diet. And what we're hearing is that  
12 in the marketplace, there is a major incentive for  
13 companies to come up with new products. You've heard  
14 from the companies that have spoken at this conference  
15 and you just heard from Manly that there's been 4,000 new  
16 products that have been reformulated. You're going to  
17 see much more of this in the marketplace because  
18 companies are making money with this.

19 You can see right on the table all the various  
20 companies that are selling, you know, waters that were  
21 not branded in the past. All the quick service  
22 restaurants, virtually every one of them is selling their  
23 salads, their apples. One of the quick service  
24 restaurants is the largest seller of apples in this  
25 country.

1           We're going to have a much different mix in the  
2 marketplace because the marketplace is demanding it,  
3 because the public is demanding it, because parents are  
4 demanding it and they want to be doing what's right for  
5 their kids. So, the idea that we have to come up with  
6 descriptive rules to say, only these types of things can  
7 be advertised, I don't believe is the right way to go.

8           DR. SHIFRIN: Can I inject something here? I  
9 deal every day with families who are fractured. Fathers  
10 have children one day and they pick them up Wednesday  
11 night at 6:30 for dinner. These fathers are not known  
12 for their nutritional creativeness, okay? They have  
13 three things on their mind, pizza, what was it,  
14 quick service restaurants -- I want to be politically  
15 correct -- or delivery, okay? That's the three options  
16 they have. Now, what I'm saying is that the marketplace  
17 isn't going to move that.

18           What we need to do is move into some social  
19 marketing to give them more options. It's not enough to  
20 say just say no to those people because they don't have  
21 the time or inclination. They want to spend time with  
22 their children. They don't want to spend much time in  
23 the kitchen. This goes on with weekends, it goes on with  
24 visitations, it goes on in the minority communities all  
25 the time. So, the marketplace putting out new foods is

1 exciting, but in the marathon that we're going to be  
2 looking at, it's only one part of the equation, and we  
3 have to think of very creative solutions for families  
4 that really need those creative solutions, not the choir  
5 that may be talking to the Kraft Food Company about their  
6 products, because I guarantee you you're not getting a  
7 lot of calls from single fathers. If you are, I'd like  
8 to know that.

9 DR. LINN: I'd like to respond to that as well.  
10 I also work with very, very poor -- I work with very,  
11 very poor children. Poor children watch more television,  
12 they are advertised to more than other children. They  
13 are bombarded with advertisements for junk food, and I  
14 don't see that giving positive nutritional messages in  
15 the barrage of junk food is going to make much of a  
16 difference to these kids. They're just bombarded with  
17 it. So, I don't understand how one public service  
18 campaign or a couple of public service campaigns or 10  
19 public service campaigns about eating healthy food is  
20 going to do anything unless you guys stop marketing  
21 unhealthy food to kids. I mean, it's just not going to  
22 make much difference.

23 I mean, it's very nice that SpongeBob  
24 SquarePants is selling spinach, but, you know, the  
25 Nickelodeon movie came out with all of this extra

1       SpongeBob SquarePants movie food, and the kids I work  
2       with, that's what they all wanted. I mean, they all saw  
3       the movie, they all want the food. We hear about how  
4       Elmo can sell broccoli. Well, Elmo's also selling fruit-  
5       flavored snacks to kids, some fruit-flavored snack boxes.  
6       I think that's confusing for children. Elmo says to eat  
7       spinach, he's also telling me to eat, you know, junk  
8       food.

9                 That really needs to change, and if you're  
10       really serious about combating childhood obesity, I would  
11       really like to see you say, we're not going to do this  
12       anymore, you know. I'd like to see Coca-Cola get rid of  
13       their toys for young children or to see companies stop  
14       partnering -- there's not a children's movie that comes  
15       out that isn't partnering with some, you know, junk food.  
16       McDonald's is selling salads exactly the same time that  
17       they were advertising their salads and how wonderful it  
18       was they were selling salads, they were getting rap  
19       singers to insert Big Mac into their songs. I mean, how  
20       is that really helping childhood obesity?

21                 And if you're going to have awards for public  
22       service campaigns, I hope that you take into  
23       consideration all of a companies policies, not just this  
24       one campaign.

25                 DR. SHIFRIN: I just want to -- I don't want to

1 pile on here, but in deference to the marketplace, I  
2 always thought that there was nothing so bad that it  
3 couldn't be used as a good example, but some of the foods  
4 that have been built lately for adults that trickle down  
5 to teenagers are blatantly not healthy at all, whether  
6 they're part of a diet or not. I suppose that if you  
7 have one hour to go to nuclear obliteration, they would  
8 be fine.

9 But, you know, I think that you guys have the  
10 most sophisticated marketing research in the world and  
11 what I'd like you to do is put some of that to work and  
12 say, we can help families who are looking for creative  
13 solutions. I've got the number one single dad meal here  
14 ready for you, just order number one. I do it on the  
15 airplane. They got three meals to choose from, one, two  
16 or three. That's all I got. And you guys can do that by  
17 creating, you know, marketing to certain -- you know, you  
18 guys are experts at demographic niches. Let's put it  
19 this way, kids don't grow up in neighborhoods anymore,  
20 they grow up in demographic niches anyway.

21 So, the answer is that you're going to have to  
22 put families in those niches because all families are not  
23 -- one size does not fit all and we're looking at you to  
24 be the heroes here, not just in product, but in social  
25 marketing.

1                   MR. BERLIND: Market and product research I  
2 think is exactly the point. I mean, we and other  
3 companies have tremendous incentives to find ways to come  
4 up with nutritious products that appeal to kids, and we  
5 think that the more successful that we can be at doing  
6 that and developing them and creating incentives within  
7 our own company to drive in that direction, that we will  
8 win in the marketplace and other companies will want to  
9 follow that or do it on their own or lead that, and  
10 that's the real answer here. So, there's a lot of common  
11 interest in pursuing that goal.

12                   I would say, Mary, in answer to your question,  
13 you know, we certainly think parents have responsibility,  
14 but we think we, as a food company, have  
15 responsibilities, too, and the government has  
16 responsibilities and there's a lot of shared  
17 responsibility going around. So, what we prefer to talk  
18 about and emphasize is things that relate to what we do  
19 as a food manufacturer and as a food marketer. So,  
20 there's plenty of responsibility to go around, but no,  
21 it's not just all the parents and we're focused on our  
22 own.

23                   By definition, self-regulation and improving it  
24 requires, if not consensus, broad industry support, which  
25 as I said is what's so encouraging about the proposals

1 that Manly put forward today because they have a lot of  
2 support and that's a great way to step forward. I think  
3 our belief is that as it becomes clearer and clearer over  
4 time that what the great market potential is for  
5 nutrition, fun, good-tasting products that appeal to  
6 kids, then you're going to just see more and more  
7 movement in that direction by -- across the industry.

8 MS. ENGLE: I think that's right and I think  
9 we've all been thinking that what we need here is more  
10 tasty, fun and still nutritious foods, because as someone  
11 was saying yesterday, if it's in the cupboard, it's not  
12 doing anything for anybody's health. And so, we're  
13 looking for ways to promote competition among companies  
14 to advance these more nutritious, yet still delicious and  
15 fun foods that kids will eat and kids will ask their  
16 parents for.

17 We've also heard some discussion over this  
18 workshop about the need for a positive nutritional  
19 message to get out there and we've heard about the work  
20 that the Ad Council is doing and that has a large budget  
21 compared to -- over \$100 million compared to what most,  
22 say, government-funded educational budgets would have,  
23 and we've also heard discussion about the need for  
24 consistency across platforms reach out to the population  
25 at large and how powerful television is because of its



1 reach. That's really unparalleled.

2 Is the Ad Council type of advertising campaign  
3 something that the individual companies would consider  
4 getting behind and supporting financially, for example,  
5 to really extend the reach?

6 MR. LEACH: Well, I think they do in the sense  
7 of contributing production dollars and so forth to the  
8 campaigns. I would say that the messaging, though, and  
9 getting it consistent is more important even in  
10 reinforcing it in other commercial messages as well, so  
11 that you have it not only coming about in the public  
12 service campaigns, but you have it reflected in the same  
13 kind of consistent messaging through the other stuff that  
14 goes on.

15 I just wanted to make one other comment back to  
16 your previous question, if I could. Marketing follows  
17 product and so, I think, for example, nutrition standards  
18 for purposes of helping companies get focused on  
19 products, as what we're doing internally, is very useful  
20 because it helps us motivate our own organization, et  
21 cetera. That's a much more productive application of  
22 nutrition standards, I think, than trying to use it to  
23 restrict advertising, because advertising is a peripheral  
24 marketing tactic on the edges of what we're really trying  
25 to get done here. What we're really trying to get done

1 here is we're trying to find healthier products that are  
2 really attractive.

3 So, I think the debate needs to start at the  
4 other end of the pipe, which is how do we make sure  
5 that's happening, first and foremost, because the  
6 marketing will follow, and that marketing can reinforce  
7 not only the benefits of the product, but it can  
8 reinforce the healthy lifestyles in the process, and  
9 that's what we're certainly aiming to demonstrate.

10 MS. ENGLE: Dr. Kris-Etherton, did you want to  
11 respond to that?

12 DR. KRIS-ETHERTON: Well, just to say that, you  
13 know, I think parents also need to understand that  
14 obesity is a problem and there are a lot of parents and a  
15 lot of ethnic groups that don't really know that it's --

16 DR. O'GRADY: You need to speak into the mic.

17 DR. KRIS-ETHERTON: Okay. Parents, I think,  
18 are key. They need to understand that obesity is a real  
19 problem, and then along those lines, in Mike's first  
20 question, American Heart is going to be developing  
21 materials for parents letting them know about the health  
22 hazards of obesity so that maybe that can help drive more  
23 healthy food products and advertising as well.

24 DR. SHIFRIN: Just looking at behavior changes  
25 in pre-contemplative and then contemplative stages, when

1 I see parents who are there for a totally different  
2 reason, a sprained ankle, knees hurt because the  
3 youngster is overweight and he's doing P.E. and we talk  
4 about the fact that this youngster's gained 30 pounds in  
5 one year, the parents are actually shocked because they  
6 don't notice it a lot of the time. The awareness factor  
7 is fairly small. So, when you talk to them in a primary  
8 care way, even that awareness sometimes even in a 10-  
9 minute visit is enough to start them contemplating a  
10 change. But it's -- again, it's a marathon. It's like a  
11 cruise ship, you're not going to turn it around in two  
12 minutes. It's going to take 30, 40 miles to get the  
13 cruise ship to turn around.

14 So, don't think that you're going to turn  
15 around on a dime on it, and that's why when we start this  
16 in the office, we like to see other things going on  
17 outside the office that's going to reinforce that message  
18 that they've got to start at least doing inventory about  
19 what that youngster is eating and what kinds of  
20 activities the youngster is or isn't doing.

21 And lastly, in terms of the digital problem,  
22 very soon -- and we realize -- the Academy realizes we're  
23 not going to get the TV out of every bedroom -- the TVs  
24 out of every child's bedroom in America. However, those  
25 televisions will be connected to digital boxes which will

1 recognize that television as being watched by a youngster  
2 that is either eight to ten years of age. And so, if we  
3 are going to create PSAs for that age group, we're going  
4 to want them channeled into those boxes because that's  
5 what's going to happen in the digital world. Everybody's  
6 going to know who's watching the television and what age  
7 they are. So, we look forward to working to craft  
8 messages that can be delivered consistently, that are  
9 going to influence youngsters to really start making this  
10 sea change.

11 DR. LINN: I also think that parents need not  
12 just education about obesity, but they need education  
13 actually from before their children are born, when  
14 they're pregnant. They need education about the link  
15 between media characters and junk food. They need to  
16 understand that the products that they buy their babies  
17 that are branded with Sesame Street characters or  
18 Nickelodeon characters or Disney characters, that their  
19 babies are going to love those characters, and when they  
20 love those characters, they're going to want all the  
21 stuff that those characters advertise. That buying all  
22 that stuff for babies is the beginning. You're heading  
23 for tantrums in the grocery store. That's the link. I  
24 mean, how is a two-year-old who's developed all these  
25 warm, wonderful feelings about Elmo, how is that two-

1 year-old going to understand that he or she can't have  
2 Elmo fruit snacks?

3 I mean, so the media literacy stuff that  
4 everybody sort of talks about, and I know you guys really  
5 love media literacy, but that it needs to be from even  
6 before children are born, that parents really need to  
7 understand that link, because they don't get it. And  
8 when they're in the middle of the tantrum, they don't  
9 understand why it's happening, they don't make the link  
10 between the fact that they have Disney wallpaper and  
11 their two-year-old is having a meltdown about not being  
12 able to get a Disney candy or something like that. They  
13 need to understand that.

14 DR. O'GRADY: One thing in terms of thinking  
15 about some of the comments that different people -- and I  
16 do want to thank the panelists that did make positive  
17 proposals, for the thought that they put into them and  
18 the way that they went forward here.

19 One of the issues that came up had to do with  
20 this idea of a dialogue and a continued dialogue and how  
21 you continue to move this process forward, and I guess I  
22 was just -- especially, I think, two different commenters  
23 made that suggestion and I was just hoping that they  
24 might take a second to expand on what they had in mind.

25 MR. BERLIND: I think I was one of them and,

1       you know, it could take many forms. I mean, hopefully,  
2       there's ways of having dialogues that do not require the  
3       convening of a major event like this which -- with all  
4       the planning and all the space that occur between that.  
5       But, to me, it's everything from the informal  
6       conversations that take place, whether it's within  
7       industry level or between members of the public health  
8       community and industry, it's working with folks here in  
9       Washington, both in a group basis and an individual  
10      basis, and perhaps all leading to some next event. I  
11      look to you all for your thoughts about what a sort of  
12      follow-up event to this one could be.

13                But if we get it -- if it's established at some  
14      point in the not terribly distant future, it's something  
15      we could all work towards to move the ball forward. I  
16      mean, I can't tell you -- I think Manly and Brock will  
17      certainly agree with this, it's the fact of having this  
18      workshop that sort of galvanized the folks within GMA and  
19      our companies to say, all right, well, there's going to  
20      be a workshop, let's see what we can do to put some  
21      proposals together, and I don't know that that would have  
22      necessarily happened without the fact of this event. So,  
23      I don't know what the appropriate spacing is, but this is  
24      the kind of process that needs to continue.

25                DR. SHIFRIN: I think I was the other one that

1 talked about a dialogue, at least someone who would admit  
2 to it. I think that as pediatricians there's a number of  
3 frustrations we have about any topic, bicycle helmets,  
4 car seat restraints, just name one, it will just fall out  
5 of the sky. This one is a big one, autism, attention  
6 deficit disorders. But we need advocacy partners here  
7 because we can't do it ourselves. Many physicians have  
8 thrown up their hands. My partners constantly tell me  
9 all day, it's not going to work. I talk to them until  
10 I'm blue in the face, they come back, they've gained  
11 another 15 or 20 pounds and this time the family's  
12 separated and they're living in two different spots and  
13 the kids have different foods in different houses, what  
14 can I do? I'm stuck. I don't have any ammunition at  
15 all, my gun's empty.

16 So, what we need to do is continue the dialogue  
17 from the partnership, from a health standpoint, a public  
18 health standpoint as the Surgeon General said, and the  
19 private sector, the industry, and also government. It's  
20 also a three-legged stool that we need to keep together  
21 and I'm -- I certainly speak, I think, for our Board of  
22 Directors in saying we'll probably go anywhere and meet  
23 anyone at any time to help out.

24 MR. MOLPUS: I'll just add a word. I think  
25 Mark is exactly right. Usually you get a question when

1       you announce some new initiative. Well, why now, why not  
2       a year ago or why not six months from now? I think the  
3       catalyst for our agreement, our open-mindedness about  
4       extending self-regulation to our industry truly came from  
5       preparing for this meeting and not wanting to come here  
6       and just talk about the status quo or defend what was  
7       there, but to think about what steps we could take to  
8       make something better.

9               I think, Dick, the success of all of this work  
10       on obesity goes so much and it's so fundamental to a  
11       sustained effort, and it's what the lady from IOM said  
12       earlier, it's going to be a long haul and it needs a  
13       sustained effort, and sharing groups and forums, whether  
14       it's as formal as this or something less formal, is  
15       helpful because it makes us all stand back and have to  
16       think very carefully and very sensitively about where we  
17       are on this issue and we all learn from the different  
18       views that are here.

19              DR. O'GRADY: Thank you. And I have to just  
20       reinforce certainly, you know, we'll sit down with the  
21       FTC and we'll talk about kind of logical next steps and  
22       we'll have that dialogue and figure out what makes sense  
23       as the next step. But I would say that one of these  
24       themes that I heard across the last day-and-a-half, as  
25       well as on this panel as well, that I'd like to



1 emphasize, is it's quite clear there is no one particular  
2 dimension here that is going to solve this problem for  
3 us. So, it really is -- and certainly we see this across  
4 lots of different policy areas. You really have to hit  
5 it across four or five major things.

6 So, with the government doing social marketing  
7 and moving into that area more strongly and trying to be  
8 smarter and more effective, will that solve everything?  
9 Of course not. But that's got to be one of the tools  
10 that you bring to bear. Are there different ways to be  
11 able to do these things, different ways to be able to  
12 help and empower parents? Sure. Will that do it alone?  
13 Of course not. It's got to all be in conjunction, three,  
14 four different fronts being opened at the same time. You  
15 know, to try and explain what goes on with childhood  
16 obesity, it's clear there is not one explanatory  
17 variable, there are tens if not hundreds, and we have to  
18 figure out how to address those and move forward and make  
19 some progress.

20 MS. ENGLE: Well, that sounds like a summing  
21 up.

22 DR. O'GRADY: I didn't mean it to be.

23 MS. ENGLE: And I know we've passed the hour  
24 that the panel was supposed to end. So, I just want to  
25 thank the participants on this panel for the very

1 thoughtful remarks and for their willingness to come here  
2 and discuss what they have today, and also for all  
3 recognizing -- I think everybody has agreed that this  
4 conference is not just about reporting on the status quo,  
5 but to move forward and to really driving further changes  
6 in the future to help tackle this problem. So, thank  
7 you.

8 **(Applause.)**

9 DR. O'GRADY: Given the lateness of the hour, I  
10 think we're going to go right to closing remarks, if  
11 that's all right with everyone.

12 I think I was introduced before. I'm Michael  
13 O'Grady, I'm the Assistant Secretary for Planning and  
14 Evaluation at HHS. And I want to take just a couple of  
15 minutes, I know everybody is hungry and everybody is  
16 ready to move on. I want to take a sec to thank the FTC  
17 and I really want to thank you very much for coming and  
18 sharing your thoughts and concerns on this topic.

19 Based on the information shared during the  
20 workshop, we can all agree that childhood obesity is an  
21 alarming trend and a serious public health problem that  
22 will have far-reaching consequences for individuals,  
23 families, communities and the country. As we've also  
24 heard over the last two days, and quite forcefully by our  
25 Surgeon General, the problem is complex, multi-

1 dimensional, having social, cultural and environmental  
2 factors, and while we all understand the goal of  
3 achieving the right balance between calories and  
4 exercise, we know that influencing behavior is difficult,  
5 change especially in developing healthier lifestyles.

6           Correcting this problem will require a long-  
7 term commitment, as we've heard from a number of  
8 speakers. The problem of childhood obesity didn't happen  
9 overnight and there is no quick fix. HHS has made a  
10 long-term commitment and is diligently working to address  
11 this problem. Hopefully, you are all familiar with our  
12 Steps to a Healthier U.S. Campaign, the Dietary  
13 Guidelines and efforts to help inform consumers by  
14 improving the food label. There are also a number of new  
15 launched activities, including HHS as a funder of the IOM  
16 Report that you heard about earlier, HHS through the  
17 Centers for Disease Control is studying the effects of  
18 food marketing on children's diet and health, identifying  
19 characteristics of food marketing to promote healthier  
20 choices, and as we have been here, HHS, through our  
21 colleagues at the National Institutes of Health, have  
22 been holding a workshop on what communication science can  
23 tell us about promoting optimal dietary behavior.

24           For our efforts to be successful, solutions  
25 will have to be multi-sectorial, reaching across many

1 domains, including children, their parents, schools and  
2 the medical community, media and the food industry. To  
3 address this problem, everyone has a role to play.  
4 During the past two days, we have heard about efforts  
5 begun across all these domains and about work that is  
6 also needed, including that we have heard from the  
7 consumer and public health community about more needing  
8 to be done both by government and the private sector. We  
9 have heard about initiatives from restaurants and food  
10 companies about their introduction of marketing of  
11 healthier foods. We have heard about proposed efforts to  
12 coordinate messages across public and private campaigns  
13 to increase the resonance of health messaging.

14 We have heard from companies interested in  
15 tightening current self-regulatory guidelines in  
16 marketing to children and from those who think current  
17 self-regulation lacks the teeth it needed to make a real  
18 change. We've talked about research on this issue, but  
19 we need more. We need to learn what works, what doesn't  
20 and how these different variables can work together.

21 Getting together at this meeting has allowed us  
22 to identify the new partners in addressing this issue.  
23 This effort should not end here. It should be ongoing  
24 and reflect the changes and practices, the health needs  
25 of Americans and the knowledge that we gain from

1 evaluation of our collective activities. This meeting  
2 has given us a great deal to think about as far as the  
3 next steps, and I can speak for the Department in saying  
4 that we view the dialogue over the last two days as the  
5 beginning, just the beginning, as we look forward to  
6 working with all of you to move forward on addressing  
7 this very serious public health problem.

8 Thank you.

9 **(Applause.)**

10 DR. O'GRADY: And now my colleague, Lydia  
11 Parnes from FTC.

12 MS. PARNES: Thank you. I guess I get the last  
13 word this morning and I will tell you all, I usually eat  
14 lunch at 12:00, so I'm hungry and I'll be really quick.

15 Let me start by thanking Michael O'Grady and  
16 his staff at HHS who were our partners in putting  
17 together this workshop. Frankly, we couldn't have gotten  
18 or asked for better partners in this effort.

19 One of my favorite movies, Field of Dreams, in  
20 that movie an Iowa farmer is told that if he builds a  
21 baseball diamond in his cornfield, they will come. Well,  
22 the FTC and HHS built a workshop to discuss childhood  
23 obesity and you came. You came because you knew this was  
24 an important issue. Why? Because childhood obesity  
25 affects the very health of our children and we need to

1 act quickly and effectively to address this very  
2 important issue.

3 The panelists who came shared their expertise  
4 and experience. The audience posed questions and made  
5 comments that called on our panelists to apply their  
6 expertise and experience, and with all of that, we all  
7 learned.

8 And based on what we've learned, I think there  
9 are several things that are worth pursuing. First, we  
10 should share our research on how to reach children with  
11 nutritional messages. Second, we should all work  
12 together to develop consistent educational messages and  
13 get those messages out to parents. Parents care about  
14 their children and we need to help them do the right  
15 thing.

16 Third, food companies should continue and  
17 expand on their efforts to make and market healthier food  
18 options for children. Fourth, we should consider and  
19 debate changes to self-regulatory standards, including an  
20 assessment of the ideas that we just heard from GMA on  
21 self-regulation. And fifth, we should support industry's  
22 good work thus far and encourage them to do more.

23 One of our panelists from yesterday asked if we  
24 had a goal, a goal, he said, to reduce if not eliminate  
25 the problem of obesity. What a great and difficult

1 challenge for all of us. To meet this challenge, HHS and  
2 the FTC will do all that they can to facilitate creative,  
3 innovative and effective industry efforts.

4 As Chairman Majoras emphasized yesterday, our  
5 task now is to seize the momentum that the workshop has  
6 given us to confront the great challenge of childhood  
7 obesity. I know that we're all up to this challenge, I  
8 look forward to working with all of you as we continue  
9 this dialogue, and I want to thank you and I hope you all  
10 have a good lunch.

11 (Applause.)

12 (Whereupon, at 12:56 p.m., the workshop was  
13 concluded.)

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## 1           C E R T I F I C A T I O N   O F   R E P O R T E R

2  
3       WORKSHOP TITLE: PERSPECTIVES ON MARKETING, SELF-  
4                           REGULATION & CHILDHOOD OBESITY5       DATE: JULY 15, 2005  
67           I HEREBY CERTIFY that the transcript contained  
8       herein is a full and accurate transcript of the notes  
9       taken by me at the hearing on the above cause before the  
10      FEDERAL TRADE COMMISSION and DEPARTMENT OF HEALTH & HUMAN  
11      SERVICES to the best of my knowledge and belief.  
1213   DATED: JULY 21, 2005  
1415   \_\_\_\_\_  
16   KAREN GUY  
1718           C E R T I F I C A T I O N   O F   P R O O F R E A D E R  
1920           I HEREBY CERTIFY that I proofread the transcript for  
21      accuracy in spelling, hyphenation, punctuation and  
22      format.  
2324   \_\_\_\_\_  
25   WANDA J. RAVER