



Nonprofit Publisher
of Consumer Reports

ELECTRONICLY FILED

December 18, 2006

Federal Trade Commission/Office of the Secretary
Room H-135 (Annex R)
600 Pennsylvania Ave., N.W.
Washington, D.C. 20508

Re: Food Industry Marketing to Children Report;
FTC File No. P064504

Dear Sir or Madam:

I write on behalf of Consumers Union, nonprofit publisher of *Consumer Reports* and www.consumerreports.org, in strong support of the Federal Trade Commission's proposed collection of information from major food and beverage manufacturers and quick service restaurant companies in order to obtain information concerning their marketing activities and expenditures targeted toward children and adolescents.

Such information is essential to fulfilling the FTC's consumer protection mandate, as well as for the FTC to provide key information for Congress to meet the directive of the Institute of Medicine (IOM) that, by December 2007, Congress report on the status of marketing of food and beverages to children in the United States. As the IOM emphatically noted in its 2005 report, "Food Marketing to Children and Youth," correcting poor dietary patterns that have been encouraged and reinforced by prevailing market practices directed at children and adolescents is "a public health priority of the highest order." (p. 16) Research, data gathering, and analysis on such marketing as proposed by the FTC is foundational to making this correction, as the IOM has pointed out.

Since our founding in 1936, Consumers Union has researched and reported on advertising tactics and trends, particularly where they affect the public health. As well, Consumers Union has consistently advocated for statutes and regulations to ensure truth in advertising, to curb false advertising, and to challenge unfair marketing targeted at children. We have published several reports on commercial targeting of children including "Selling America's Kids: Commercial Pressures on Kids of the '90s" (1990) and "Captive Kids" (1995) (concerning advertising in schools). Most recently, we published "Out of Balance: Marketing of Soda, Candy, Snacks and Fast Foods Drowns Out Healthful Messages." (Sept. 2005, co-authored with the California Pan-Ethnic

Network, copies in English and Spanish sent to you under separate cover) which reported on measured media for food and beverage companies and restaurants, contrasted to the paltry advertising expenditures for the “5-A-Day” program promoting consumption of fruit and vegetables.

We strongly support your framing of the information request to include “measured” and “unmeasured” media techniques used to market to children and adolescents. Ever evolving digital video recorder technologies such as TiVo that allow for ad skipping on television, have pushed food, beverage, and quick service marketers into new realms, such as increasing reliance on product placement, and it is key that policymakers and the public learn much more about the growing proportion of advertising dollars going to non-traditional methods. In our research for “Out of Balance”, we relied primarily upon Advertising Age’s 2005 annual report on the “100 Leading Advertisers.” This data is made available to the public for measured media for some companies and some brands, with approximations for unmeasured media as well. Estimates are that measured media constitutes only about 25-30% of total marketing expenditures. For the FTC to acquire the full picture on marketing to youth, gathering the data on unmeasured marketing (the fastest growing type of advertising) is required as well.

We also suggest a few refinements to your request. Footnote 6 of your Agency Information Collection Activities Comment request gives some examples of unmeasured media, and we support collecting each of them. In addition, we urge that you include and break out expenditures for **school-related marketing**. This category includes numerous techniques including sponsored educational and curriculum materials, sponsored sports competitions, ad placements on vending machines, and sponsored school signs and scoreboards. A recent national survey reports the prevalence of such advertising for food and beverages of poor nutritional quality in schools of all levels. *See*, “A National Survey of the Types and Extent of the Marketing of Foods of Minimal Nutritional Value in Schools,” Alex Molnar, David R. Garcia, Faith Boninger, and Bruce Merrill, Commercialism in Education Review Unit, Arizona State University, Sept. 2006, available at http://eps1.asu.edu/ceru/CERU_2006_Research_Writing.htm. A California observational study of 20 high schools in California made similar findings. “Food and Beverage Marketing on California High School Campuses Survey: Findings and Recommendations”, Samuels & Associates, March 2006. As schools teach nutritional education, the marketing of food and beverages of poor nutritional content is a glaring contradiction. We urge you to gather data on these expenditures.

In addition, we encourage you to request **brand-specific** information from food, beverage and quick service restaurant companies. Only brand-specific information will allow the FTC to assess whether the particular products advertised to young people are of low or no nutritional quality. A given company may have many food and beverage lines, and within each line products will vary in nutritional quality. The most meaningful data vis a vis the obesity epidemic, naturally, is that related to food and beverages of low or no nutritional value.

Moreover, given the high incidence of obesity-related disease in communities of color, we urge that the FTC collect marketing data by brand also broken down by **race and ethnicity**. This could perhaps be accomplished by seeking from food, beverage and quick service restaurant companies advertisements in a language other than English and by examining placement data to ascertain how much is spent advertising food or beverages of low nutritional quality in media markets aimed at people of color. While there are a few research papers on this topic which find that the types of food and beverages advertised to African-Americans and Latinos are often less healthful than those marketed to general audiences, we are not aware of any focused on children and adolescents and far more inquiry is warranted.

In closing, the Federal Trade Commission is the key federal agency charged with consumer protection responsibility and has played an important role over its life to informing policy debates involving the public health. FTC reports on the alcohol industry, for example, based upon information from alcohol advertisers have been an important tool in understanding advertising issues, especially regarding audiences under age 21; tracking trends over time; and assessing how well the industry does in regulating its own practices. Similarly, the food, beverage, and quick service restaurant industries operate under a self-regulatory model. Ascertaining their marketing practices and expenditures aimed at influencing children and adolescents is a matter of great public importance, and we applaud your efforts to gather data upon which sound policymaking can be based in order to protect the health of future generations.

Sincerely,

Elizabeth M. Imholz
Special Projects Director
Consumers Union of U.S., Inc.