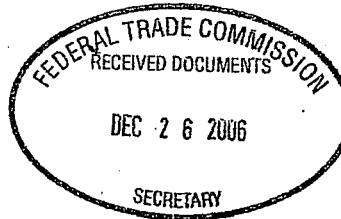


State of California—Health and Human Services Agency
Department of Health Services



Sandra Shewry
Director

ORIGINAL



ARNOLD SCHWARZENEGGER
Governor

December 15, 2006

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex R)
600 Pennsylvania Avenue, NW
Washington, DC 20580

**RE: Food Industry Marketing to Children Report: Paperwork Comment; FTC
File No. P064504**

We wish to support the Federal Trade Commission (FTC) in its efforts to collect information about marketing activities and expenditures targeted toward children and adolescents by major food and beverage manufacturers and quick service restaurant companies. The collection, analysis and reporting of this information are long overdue in the nation's efforts to prevent childhood obesity and help reduce chronic diseases.

California is severely affected by the obesity epidemic. The prevalence of obesity among young, low-income children ranks third highest among all states, and the rate of increase among adults is among the highest of any state. To address this epidemic, Governor Schwarzenegger created his Vision for a Healthy California last year. One objective is that "only healthy foods and beverages will be marketed to children ages 12 and under." The Governor initiated action with the business community when he convened the Summit on Health, Nutrition, and Obesity in September 2005. He secured significant commitments from industry leaders, including representatives from the food industry such as Kraft and McDonalds, to promote an environment that supports healthy eating and physical activity.

To implement the Governor's vision, the California Department of Health Services developed the California Obesity Prevention Plan: A Vision for Tomorrow, Strategic Actions for Today¹. The plan contains goals and action steps, among which are three specific to food and beverage marketing that the proposed FTC reporting system will inform: (1) Develop and implement a statewide media campaign that will focus on countering the promotion of unhealthy foods; (2) Advertise and promote healthy foods

¹ California Department of Health Services. *California Obesity Prevention Plan: A Vision for Tomorrow, Strategic Actions for Today*, Sacramento (CA): Department of Health Services; 2006.

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and beverages to children and youth, including, product tie-ins, and cartoon characters; and (3) Eliminate indirect advertising through fundraising programs, incentive programs using contests or coupons at institutions serving children and youth (including schools, preschools, after-school programs, and recreation facilities).

The 2005 Institute of Medicine (IOM) Report: *Food Marketing to Children and Youth: Threat or Opportunity?*² found that advertising and marketing of foods and beverages influences the diets and health of children and youth and that children and youth have become a primary focus of food and beverage marketing initiatives. In addition, the report stated that "food and beverage marketing practices geared to children and youth are out of balance with healthful diets and contribute to an environment that puts their health at risk."

Therefore, the California Department of Health Services eagerly awaits the release of the FTC's report on youth-focused food industry marketing practices. Making these practices transparent will guide our program planning, intervention and evaluation, as well as counter-advertising. It also will help level the playing field among industry competitors and, if necessary, guide the development of state or federal regulatory and enforcement actions for food marketing to children.

Please consider the following specific recommendations as you move forward:

- **Burden on industry:** We recommend that data be collected on-line and whenever possible use existing industry information consistent with conventional commercial measures. We believe that any new costs borne by industry are fair considering the growing burden placed upon the public and the U.S. health care system due to the consequences of obesity and poor nutrition that is associated with the inappropriate marketing of unhealthy foods. Overweight, obesity and their associated health problems have a significant economic impact on the U.S. economy. In California alone, the cost attributable to physical inactivity, obesity, and overweight in adults was estimated to increase from about \$21 billion to \$28 billion dollars between 2000 and 2005³. Inappropriate marketing to children is a public concern, and full disclosure is a reasonable and fair expectation for the privilege of marketing to children.
- **Reasonableness of costs:** The recent IOM report² revealed that food, beverage, and restaurant industries have annual sales of approximately \$900 billion, and they spend more than \$10 billion per year for food and beverage marketing to children and youth. With sales and marketing expenditures of this magnitude, any incremental cost of reporting existing data to the FTC is insignificant, and the

² Institute of Medicine Committee on Food Marketing and the Diets of Children and Youth. *Food Marketing to Children and Youth: Threat or Opportunity?*. National Academies Press. Washington, D.C. 2005.

³ California Department of Health Services. *The Economic Costs of Physical Inactivity, Obesity, and Overweight in California Adults: Health Care, Workers' Compensation, and Lost Productivity*. Sacramento, CA, April 2005.

value is more than offset by the savings to public agencies which otherwise would need to pay for such data and the public good to which it will be put by public health and other stakeholders.

- **Accountability:** Food and beverage industry leaders have made many high profile promises about the voluntary measures they plan to take to stop unhealthy marketing practices to children and youth, but there is no reporting system to determine the degree to which these promises are being kept or whether the overall marketing balance is shifting. Even for the best-intentioned of companies, the playing field needs to be leveled by requiring all companies to disclose their marketing to children practices. Congress, government agencies, health professionals, and the public need complete, objective, and regularly reported information in order to plan effective interventions. We believe it is essential and support the efforts of FTC to collect accurate information for these purposes.
- **Stakeholder consensus:** Health professionals, many members of the food industry, government agencies, civic and service organizations, and experts within academia support collection of this data. The Keystone Forum on Away-From-Home Foods: Opportunities for Preventing Weight Gain and Obesity⁴ which was funded by the US Food and Drug Administration brought together representatives from these groups to develop joint recommendations for action. Their consensus recommendations call for improving government access to data on consumer behavior and attitudes and ensuring public availability of information by expanding existing data-gathering initiatives. It called for data analysis that can be "shared with the public, policymakers, health professionals, and other interested stakeholders." Similarly, the most recent IOM report, Progress in Preventing Childhood Obesity⁵, also called for mandatory reporting and full disclosure of food marketing practices to children and youth.
- **Action Agenda:** The aforementioned IOM report² recommended that the FTC, the U.S. Department of Health and Human Services, the U.S. Department of Agriculture, and the National Science Foundation work together to expand the federal research capacity. It recommended that they collect and make public food marketing strategies targeted at children and youth so as to better understand how marketing influences children's attitudes and behaviors and design stronger, multifaceted social-marketing campaigns to help reverse obesity trends. We support these recommendations and in addition recommend that users in other levels of government, including state and health departments, be included in these efforts.

⁴ The Key Stone Center. *The Keystone Forum on Away-From-Home Foods: Opportunities for Preventing Weight Gain and Obesity, Final Report*. Washington, DC, May 2006

⁵ Institute of Medicine (2006). *Progress in Preventing Childhood Obesity: How Do We Measure Up?* National Academy Press, Washington, DC.

⁶ TBA

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We support collection of all data proposed in FTC File No. P064504, and in addition recommend including the following information:

- All data listed in the Senate Appropriations Committee Report⁶: “an analysis of commercial advertising time on television, radio, and in print media; in-store marketing; direct payments for preferential shelf placement; events; promotions on packaging; all Internet activities; and product placements in television shows, movies, and video games.”
- Trends for unmeasured sales promotion included in the IOM Report² “such as marketing through product placement, character licensing, special events, in-school activities, and advergaming,” and promotions utilizing music, cell phones, sport and entertainment venues.
- Targeting data and advertising, public relations, promotional and educational strategies directed toward vulnerable communities most at-risk for health disparities, including low-income communities, consumer segments based on race/ethnicity, and targeting data by age.
- Collection of data by specific name brands and including the nutrition/caloric level of the food being advertised for comparison to nutrition/caloric needs of children.
- Price promotions and price points.
- Marketing portfolio for healthy foods compared against the marketing of all foods in market outlets including schools, community youth organizations, vending machines, retail food stores including convenience stores, and restaurants, including quick service (fast food).
- Qualitative/formative research data for consumer segments of children and youth.
- Scanner and other sales data for foods and beverages marketed to children, including cross promotions.

We recommend that these data sets be made readily available to the public and that data collection continue even after the production of the report.

We applaud the FTC's leadership and thank you for the opportunity to provide comment on this important step in improving the health of America's children and youth.

Sincerely,

Mark Horton, MD, MSPH
State Public Health Officer
California Department of Health Services

