

## **SIZING UP FOOD MARKETING AND CHILDHOOD OBESITY**

**Remarks by Chairman Jon Leibowitz  
As Prepared for Delivery  
December 15, 2009**

Good morning. What a thrill to see such a turnout and, especially, to be able to welcome HHS Secretary Kathleen Sebelius as our keynote speaker. Today, we will discuss solutions to one of the most serious threats to the well-being of our children: childhood obesity.

As all of you know, childhood obesity is more than a social stigma; it has become an epidemic of alarming proportions. Obesity rates among children 6 to 11 have doubled since 1980 and since that time, have more than tripled for teens 12 to 19. About one in five young people is now obese – a condition that puts them at risk for heart disease, diabetes, osteoarthritis, and cancer. Indeed, physicians no longer use the term “adult onset diabetes” because so many children are getting it.

This epidemic is affecting not only the quality of our children’s lives, but also their life span. Sadly, this may be the first generation of American children with a shorter life expectancy than their parents.

As many of you know, it has been more than four years since we held our first conference on food marketing and childhood obesity. The immediate response of the food and beverage industry to that workshop in 2005 was heartening. Several companies pledged to make changes to what – and how – they advertised to children. Others have followed since.

And we’ve seen some successes. Soda consumption in our schools is down. President Clinton’s Alliance for a Healthier Generation reports that calories from beverages shipped to schools has declined 41 percent.

But the changes have come in small increments; obesity rates and obesity-related problems continue to grow; we simply have to do better. Today we are calling on the food industry to tackle this threat and boldly reinvent the children’s food marketplace.

Whether or not industry is part of the problem, it must be part of the solution: put simply, it is time for you to “supersize” your efforts.

We had all hoped that the progress by now would be more substantial and more apparent. Instead, the Rudd Center at Yale University reported this fall that cereals marketed to children contain 85 percent more sugar, 65 percent less fiber, and 60 percent more sodium than adult cereals.<sup>1</sup> These numbers are disturbing. Hopefully, General Mills will not be the only company to respond, as it did last week, by cutting the sugar content in many of its kids’ brands.

Children’s diets are still far from balanced. Potato chips and french fries account for nearly half of all vegetables consumed by children.<sup>2</sup> And despite the progress made in schools,

the majority of teens are drinking one or more sugary sodas every single day – the equivalent of 39 pounds of sugar each year from soda and other sugar-sweetened beverages!<sup>3</sup>

We all realize that marketing is just one of many influences on children’s diets. As a parent, I can also appreciate that getting children to eat better is no easy task. The experts at our first workshop used metaphors like “reversing the course of an ocean liner” and “stemming the tide of a tsunami.” That is why we need industry’s help.

As you know, the FTC looked at the children’s food marketplace in 2006, just as industry, under the auspices of the Better Business Bureau, was beginning to take its first self-regulatory steps. Our comprehensive report of food marketing techniques and expenditures set the benchmark for measuring industry’s efforts.

Our Report also included a number of specific recommendations to address shortcomings in those efforts. Four, in particular, frame our discussions today.

First, the FTC called on *all* food and beverage companies to adhere to meaningful nutrition-based standards for foods marketed to children. To their credit, sixteen have already signed Council of Better Business Bureaus pledges. Others have taken action on their own. But many companies that market heavily to children and teens have yet to join or make a commitment.

Why, for instance, hasn’t YUM! Brands, with its KFC, Taco Bell, and Pizza Hut chains, stepped up? Or Chuck E. Cheese and IHOP? Or the marketers of Air Heads and Baby Bottle Pops?

Second, companies must close the nutrition loopholes – we all know they’re strategic ones – that allow foods of questionable nutritional value to be marketed to children simply because they have somewhat less sugar, fat, or salt than prior versions. Are slightly lower fat potato chips or slightly less sugary cookies really the foods we should be encouraging our kids to eat?

And every food marketer should play by the same set of rules. Otherwise, those who lead may suffer harm from those who game the system to their competitive advantage. We need some self-regulatory standardization.

Third, these pledges should cover *all forms of marketing to children*. Not just traditional advertising, but also product packaging, in-store promotions, viral marketing, and other techniques that are heavily used to reach children. If you are willing to limit your advertising, why not limit packaging, promotions, and other marketing in the same way?

And fourth, it is time for the entertainment industry to play a constructive role: it needs to filter the foods that are advertised on children’s programming, particularly on children’s cable networks. At a Senate Appropriations Committee hearing last fall, Nickelodeon made this commitment to Senator Tom Harkin:

“Sir, if uniform standards are adopted, and they apply to all of the industries we deal with, absolutely, we will use them as a filter for all of our marketing and advertising relationships.”<sup>4</sup>

As you will hear this afternoon, we will have such a uniform framework in place by this summer. We expect Nickelodeon to honor that commitment, and we expect others to do so as well.

We are now conducting a follow up to our first study, and we will examine whether the food and media industries have acted on our recommendations. We will soon be sending out 44 subpoenas to the largest food companies to collect marketing data for 2009. We will also assess whether the nutritional quality of children’s food has improved since 2006.

We continue to believe that the food industry and children’s media are trying to effect positive change. Based on their response to date, we are hopeful that self regulation can work and that their efforts won’t fall short. But we cannot simply congratulate companies for meeting their pledges and be done with it. We need to be sure that the pledges themselves are adequate to drive real change in the marketplace and in children’s diets.

The FTC is sensitive to the First Amendment principles that govern here. It has been one of the reasons we continue to encourage an industry-driven approach. But the stakes could not be higher. If action does not come from the private sector, there are many who will call for Congress to act. And there are many in Congress who will want to do so.

As many today will note, the cost of inaction to our children’s health – not to mention the economic costs of obesity – are significant. A report this year estimated almost 10 percent of all medical spending is due to obesity<sup>5</sup> and, if trends continue, by the year 2018 that figure will rise to 21 percent.<sup>6</sup>

Public opinion about childhood obesity and about the role government should play has also shifted. For the first time – but my guess is not the last – an annual poll of parents’ top 10 health concerns ranked childhood obesity as number one. Ahead of smoking. Ahead of drug abuse.<sup>7</sup>

Perhaps the strongest indicator of the shift in public sentiment comes from Congress, which is now calling on the FTC and other agencies to take a more active role – both in tracking industry progress and in developing nutrition standards for children’s food marketing. And from the President, who has called childhood obesity “a growing epidemic.”<sup>8</sup>

We should keep this new landscape in mind.

We will start the morning with a look at new research on food marketing to children. We know that marketing to children is more integrated and immersive than ever before. Children who used to spend 30 seconds watching a TV ad for their favorite cereal are now spending much longer on branded online game sites.

The Rudd Center reports that every month, on average, 767,000 young people each spend a total of 66.4 minutes engaged in General Mills' Millsberry.com alone.<sup>9</sup> While online, avatars in virtual worlds popular with teens are quenching their virtual thirst with virtual cans of soda – one brand “sold” 110,000 cans of pop last year on one site alone.<sup>10</sup>

We look forward to learning what impact all of this marketing is having – other than an increase in virtual weight.

Next we will have what promises to be both a scholarly and lively discussion of the First Amendment ramifications of restricting advertising to children, hosted by David Vladeck, our Bureau of Consumer Protection Director and resident expert on commercial speech.

In the afternoon we hope to have a constructive dialogue about the progress that the food and entertainment industry has made in reshaping the marketplace and improving the nutritional profile of foods directed to children.

Finally, we will be previewing the much anticipated nutritional standards being developed at Congress's behest by the Interagency Working Group on Food Marketed to Children, unofficially known by the acronym “SNAC PAC.” We will open up that last panel for a town hall discussion and we hope to hear candid feedback as the Group works toward its July 2010 deadline for a report to Congress.

We have a packed agenda, so we should get started.

### **Introduction of Kathleen Sebelius**

It is now my delight and great honor to welcome the Secretary of Health and Human Services, Kathleen Sebelius, as our keynote speaker.

Secretary Sebelius is in charge of one of the largest federal government departments, overseeing 80,000 employees in a myriad of agencies, including the Food and Drug Administration, the Centers for Disease Control and Prevention, and the National Institutes of Health. She is the lead cabinet official on comprehensive health care reform and shoulders the burden of responding to the H1N1 epidemic.

Despite these and many other responsibilities, Secretary Sebelius has managed to put the weight of her office behind the battle against childhood obesity.

We have already been fortunate to work extensively with Secretary Sebelius and her staff on many issues, for example, fighting against collusive “pay-for-delay” settlements in the drug industry, where the brand name pharmaceutical company pays its generic competitor to stay out of the market. Once health care legislation passes, we look forward to working with HHS to provide critical disclosures to consumers so that they can better compare competing health insurance plans.

And we are pleased to continue a partnership that our two agencies formed in 2005 at our joint workshop on childhood obesity. We know that Secretary Sebelius cares deeply about the subject. Under her leadership, HHS has worked with local school districts to find out how they are getting kids to eat healthier and be more active, and she is spreading the word about successful programs and best practices. The FTC is proud to be working alongside HHS and Secretary Sebelius to combat the scourge of childhood obesity.

### Endnotes

1. RUDD CTR. FOR FOOD POLICY & OBESITY, CEREAL F.A.C.T.S.: EVALUATING THE NUTRITION QUALITY AND MARKETING OF CHILDREN'S CEREAL VI (2009) ("Cereal F.A.C.T.S. 2009").
2. See Barbara A. Lorson, et al., *Correlates of Fruit and Vegetable Intakes in US Children*, 109 J. Am. Dietetic Ass'n 474 (2009) (study of dietary habits of more than 6,500 children ages 2 to 18, based on NHANES data).
3. Press Release, UCLA Ctr. for Health Policy Research, *Bubbling Over: New Research Shows Direct Link Between Soda and Obesity* (Sept. 17, 2009).
4. *Watch What You Eat: Food Marketing to Kids: J. Hearing Before the Subcomm. on Labor, Health and Human Serv., Educ., and Related Agencies & Subcomm. on Fin. Serv. and Gen. Gov't of the S. Comm. On Appropriations*, 110th Cong. (2008) (statement of Marva Smalls, Executive Vice President and Chief of Staff, Nickelodeon/MTV Networks Kids and Family Group).
5. Eric A. Finklestein, et al., *Annual Medical Spending Attributable To Obesity: Payer-And Service-Specific Estimates* 28 HEALTH AFFAIRS w822 (2009).
6. United Health Foundation, et al., *The Future Costs of Obesity: National and State Estimates of the Impact of Obesity on Direct Health Care Expenses* 2 (2009), available at <http://www.americashealthrankings.org/2009/report/Cost%20Obesity%20Report-final.pdf>.
7. C.S. Mott Children's Hospital, *National Poll on Children's Health* (2009), available at <http://www.med.umich.edu/mott/npch/pdf/81009fullreport.pdf>.
8. Proclamation, National Diabetes Month, 2009 (Oct. 30, 2009), available at <http://www.whitehouse.gov/the-press-office/presidential-proclamation-national-diabetes-month>.
9. Cereal F.A.C.T.S. 2009, *supra* note 1, at 39.
10. Berkeley Media Studies Group, et al., *Framing Brief: Sugar Water Gets a Facelift: What Marketing Does for Soda* (2009).