

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FOOD MARKETED TO CHILDREN

FORUM ON INTERAGENCY WORKING GROUP PROPOSAL

Tuesday, May 24, 2011

11:00 a.m.

Health & Human Services
Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAGE:

Welcoming Remarks	
By Dr. William H. Dietz	3
Summary of Proposed Nutritional Principles	
By Dr. Barbara Schneeman	7
Summary of Proposed Marketing Definitions	
By Michelle Rusk	16
Comments on Proposed Nutrition Principles	32
Comments on Proposed Marketing Definitions	69

P R O C E E D I N G S

- - - - -

1
2
3 DR. DIETZ: Good morning and welcome to the
4 forum on the interagency working group proposal on food
5 marketed to children. My name is Bill Dietz. I'm the
6 Director of the Division of Nutrition Activity --
7 Nutrition, Physical Activity, and Obesity at the Centers
8 for Disease Control and Prevention. And it's my pleasure
9 to welcome you. We very much look forward to your
10 comments.

11 I wanted to just review briefly for you a few
12 of the considerations that we employed when we were
13 developing these principles. We were charged by Congress
14 through the FTC to develop a working group that consisted
15 of members of the FTC, USDA, FDA, and CDC. And we were
16 directed to conduct a study and develop recommendations
17 for standards for the marketing of food when such
18 marketing targets children who are 17 years old or
19 younger or when such food represents a significant
20 component of the diets of children.

21 And in developing such standards, we were
22 directed to consider positive and negative contributions
23 of nutrients, ingredients, and food, including calories,
24 portion size, saturated fat, trans fat, sodium, added
25 sugars, and the presence of nutrients, fruits,

1 vegetables, and whole grains. And in addition, the scope
2 of the media to which such standards should apply.

3 And when we began to think about this, we
4 decided rather than identifying foods that should not be
5 marketed to children, our recommendations were designed
6 to encourage children through advertising and marketing
7 to choose foods that made a meaningful contribution to a
8 healthful diet and to minimize the consumption of foods
9 with significant amounts of nutrients that could have a
10 negative impact on health or weight, specifically sodium,
11 saturated fat, trans fat, and added sugars.

12 We were driven by -- principally by the
13 consideration of obesity, which, as you know, is highly
14 prevalent and a major health issue for the United States
15 today and particularly obesity in childhood. And the
16 attention to these other nutrients were not only based on
17 what they might contribute to obesity but also concerns
18 about the contribution particularly of sodium to elevated
19 blood pressure and ultimately hypertension.

20 We want to emphasize that these proposals,
21 these principles, are voluntary and because we were
22 uncertain about the challenge that this might pose to
23 industry, that we are soliciting comments on the
24 implementation phase. And as we specified in the
25 proposal, we are looking at a five-year time line but

1 would welcome comments on that.

2 The first session today is going to consist of
3 a summary of nutrition principles by Barbara Schneeman.
4 Barbara is the Director of the Office of Nutrition,
5 Labeling, and Dietary Supplements at the Center for Food
6 Safety and Applied Nutrition of the Food and Drug
7 Administration. And she'll be followed by Michelle Rusk,
8 who is going to review a summary of the proposed
9 marketing definitions. Michelle is an attorney at the
10 Division of Advertising Practices at the Federal Trade
11 Commission.

12 We're hopeful that we're going to have time for
13 a few questions, simply for clarification, following
14 these two presentations, but I want to mention that there
15 may be time for additional speakers because the number of
16 people who have signed up to speak is pretty limited.
17 And Mariel is not here, but the person who will be
18 sitting in this empty seat in the front corner to your
19 right will be the person to contact if you are suddenly
20 inspired to make some comments and hadn't heretofore
21 signed up.

22 So, with no further ado, let me introduce
23 Barbara.

24 Oh, yes, I'm sorry, there are some housekeeping
25 details. I apologize.

1 MS. THEVARAJAH: So, that was a lovely
2 introduction, and I don't want to take away from it by
3 our housekeeping details, but my name is Sadena
4 Thevarajah. I'm with the Office of External Affairs here
5 at HHS, and we'd like to welcome everyone here. You'll
6 be hearing from a variety of stakeholders and experts
7 today, but everyone really wants to know where the
8 bathrooms are. And, so, just to let you know, the
9 bathrooms are right behind you. If you exit through
10 those doors in the back, you should be able to find them
11 pretty easily. They're a little to the right.

12 Beyond that, please do not wander around the
13 building. You will need to be escorted anywhere else
14 within this building. If you would like to do anything
15 else in this building, please let one of the Federal
16 Government officials here know and we can have you
17 escorted to another part of the building.

18 There will be three sessions and one 15-minute
19 break from what I understand. And during that break or
20 at the end of that break, we ask that you promptly return
21 to your seats so that we can keep everything going. And
22 I think that's all. Please make sure your wristband is
23 presentable at all times. That's the final piece of
24 advice that I would give you. And I hope you enjoy your
25 day. Thank you, Dr. Dietz.

1 DR. DIETZ: Thank you.

2 Barbara?

3 DR. SCHNEEMAN: Great. Thank you. And I would
4 just comment that it seems at times it's been a long
5 road, but it's been great working with this interagency
6 working group on this very challenging project. So, my
7 task is to review for you the nutrition principles that
8 are included in the preliminary proposed guide to
9 industry on self-regulatory activity. So, I'm just going
10 to go through what was in the draft reports so everyone
11 is reminded of what those principles were.

12 Again, the resources that the interagency
13 working group relied upon were the representatives from
14 CDC, the Centers for Disease Control, the Food and Drug
15 Administration, U.S. Department of Agriculture, as well
16 as the Federal Trade Commission. And while there's an
17 inneragency working group that had the task of working
18 directly with FTC on this project, we, of course, all
19 tapped into the resources and the human resources that
20 are available within each of our agencies to think
21 through some of the strategies for developing these
22 nutrition principles.

23 We relied, to the extent possible, on current
24 regulations for health claims and nutrient content
25 claims, and on this slide, you have the references to

1 where those are codified in the Code of Federal
2 Regulations; however, I would note that these are not --
3 these principles are not designed to replace any dietary
4 guidance or any other regulation. They're simply -- we
5 looked at those as resources to try and develop these
6 principles. And, of course, the 2010 Dietary Guidelines
7 for Americans, many of you are aware that during most of
8 the time that the interagency working group worked we
9 would have had the 2005, but we went through, once the
10 2010 guidelines were released, we went through to make
11 sure we had consistency with the 2010 dietary guidelines.

12 And then, of course, we also looked at relevant
13 reports from the National Academy of Sciences,
14 particularly the Institute of Medicine, and I've
15 highlighted a few that were particularly useful, the
16 Dietary Reference Intakes, the Nutrition Standards for
17 Foods in Schools, and, more recently, then, the
18 Strategies to Reduce Sodium Intake in the United States.

19 The interagency working group agreed that
20 rather than thinking about all foods, the intent here is
21 to really focus on those food product categories that are
22 most heavily marketed to children. These categories were
23 developed by the FTC based on their review of food
24 marketing expenditures, and I included a reference to
25 2008 FTC Food Marketing Report.

1 We identified 10 categories, and I went ahead
2 and I kept in the product classification code, the PCC,
3 but not the full description. Obviously, the full
4 description is in the report itself. But the 10
5 categories, then, are breakfast cereals; snack foods;
6 candy; dairy products; baked goods; carbonated beverages;
7 fruit juice and noncarbonated beverages, excluding all
8 varieties of coffee; prepared foods and meals; frozen and
9 chilled desserts; and restaurant food. And, so, these
10 are the ones that we would like to see the nutrition
11 principles applied to.

12 We also recognized that while many of the
13 criteria fit very well for individual foods, we also
14 needed to think about how do we make an adjustment for
15 main dishes and meals, since many of those products could
16 also be marketed to children. We used the Federal
17 definition of main dishes and meals, which are defined as
18 containing at least two or three 40-gram portions
19 respectively and include foods from two or more of four
20 food groups. And, so, a main dish being at the smaller
21 end; the meals being at the larger end. And, so, any
22 proposed adjustment for a main dish or a meal product is
23 based either on the 100-gram basis or it's based on the
24 label serving of the product.

25 So, Principle A is the principle that probably

1 most resonates with what Dr. Dietz said, that foods
2 marketed to children should make a meaningful
3 contribution to a healthful diet. And, so, the principle
4 itself states that and then recognizes that individual
5 food should contain contributions from at least one of
6 the food groups that we'll talk about; main dishes should
7 contain contributions from at least two; and meals should
8 contain contributions from at least three of the food
9 groups.

10 So, again, the importance here is recognizing
11 that foods that are being marketed to children really
12 should make a contribution so that children can, in fact,
13 within their calorie needs, meet the kind of food group
14 recommendations that we find in the USDA Food Guide.

15 Now, in -- just to go back, I noted that the
16 interagency working group actually is considering two
17 options for implementing this particular principle. This
18 is not two ways that you can use, but two options that
19 we're putting forward. So, based on the comments and
20 other information received, we can decide which option is
21 the most logical one to go with for this particular
22 principle.

23 So, one option is that individual food should
24 contain at least 50 percent by weight of one or a
25 combination of more than one of the following: fruit,

1 vegetables, whole grain, fat-free or low-fat milk
2 products, fish, extra lean meat or poultry, eggs, nuts,
3 and seeds, or beans. And likewise with main dishes and
4 meals, that they also would be basing it on a 50 percent
5 by weight from for main dishes for a combination of at
6 least two of the food groups and for meals containing at
7 least 50 percent by weight from a combination of at least
8 three of the food groups. So, this is using a fairly
9 simple approach of looking at 50 percent by weight.

10 Option two is based -- uses the concept of
11 making a meaningful contribution in relationship to the
12 amount that is recommended to consume for each food group
13 from the USDA Food Guide. And, so, this is looking at
14 that an individual food would contain one of the
15 following or a proportionate combination or more of one
16 of the following per RACC, main dishes or meals should
17 contain that proportionate amount per 100 grams, with
18 main dishes meaning that two or more and meals fulfilling
19 at least three of -- and then it specifies an actual
20 amount of fruit or fruit juice, vegetable or vegetable
21 juice, equivalent of 100 percent whole grain, certain
22 types of low-fat or fat-free dairy products, the meat
23 equivalent of fish, extra lean meat, or poultry, cups of
24 cooked dried beans, ounces of nuts or seeds, and egg and
25 egg equivalent.

1 And, so, the amount was calculated by taking
2 the total recommended amount within a 2,000-calorie diet.
3 The assumption that that eating -- the eating of that
4 recommended amount would be over four eating occasions,
5 three meals and snacks, and so this is a quarter of the
6 amount that's recommended, that a food marketed to
7 children should have at least that amount.

8 Now, the second principle was recognizing that
9 certain nutrients should be limited in the foods that are
10 being marketed to children. And this is to minimize the
11 content of nutrients that could have a negative impact on
12 health or body weight, and it does give an exemption for
13 nutrients that are naturally occurring in food
14 contributions listed under Principle A. And the limits
15 are then set for saturated fat, trans fat, sugar, and
16 sodium.

17 And this then just lists the limits that were
18 set for each one. I'll just give you a little
19 background. It's completely outlined in the report what
20 the interagency working group considered. For saturated
21 fat, the limits are based on the definition of low in
22 saturated fat, as one would find in Federal regulations.
23 So, the product would be -- could meet that definition of
24 low in saturated fat.

25 For trans fat, as many of you know, we don't

1 have a daily reference value for trans fat. The
2 recommendations from the Institute of Medicine and that
3 were used in developing labeling for trans fat is that
4 intake of trans fat should be as low as possible and
5 within Federal regulations, zero grams of trans fat is
6 defined as less than .5 grams per RACC or per reference
7 amount customarily consumed. So, we used the concept,
8 then, that these foods should meet that definition of
9 zero grams of trans fat.

10 For added sugars, the -- again, we don't have a
11 dietary reference value for added sugars, but we can look
12 to the recommendations that are in the Dietary
13 Guidelines. And in the 2010 Dietary Guidelines, there is
14 a key recommendation to limit calories from solid fats
15 and added sugars, or as referred to, SoFAS. Within the
16 guidelines, they point to the fact that within a 2,000-
17 calorie-per-day diet, there are -- you could have up to
18 258 calories per day contributed by SoFAS, the solid fats
19 and added sugars.

20 If you took that whole 258 calories as added
21 sugars, that would be the equivalent of 64 -- 64.5 grams
22 of added sugars. Using the concept that FDA has used
23 that 20 percent or more of an amount would be high, we
24 estimate that 13 grams of added sugar per RACC for an
25 individual food, or in this case, per serving of main

1 dish and meal, would be a limit that seems reasonable to
2 put on foods. So, again, that was a calculation, and
3 that's all outlined in the report itself.

4 I will note here that this is a place where
5 we're also recommending that we use the concept of the
6 small RACC, a small RACC being 30 grams or less, that if
7 a food has a small RACC, reference amount customarily
8 consumed, then the calculation of sugars should be based
9 on 50 grams, so it comes out then eight grams per RACC,
10 if the food is a small-RACC food.

11 With the sodium, the eventual goal for sodium
12 is that foods would meet the standard of how we currently
13 define low in sodium, which is 140 milligrams per RACC,
14 per referenced amount customarily consumed, and 300
15 milligrams per serving for meals or main dishes.

16 We recognize that given the products that are
17 in the market now this is really quite a challenge to
18 meet in terms of foods that can be marketed to children.
19 And, so, the interagency working group agreed to set an
20 interim goal that is 50 percent greater than what the
21 eventual target would be, and so that's no more than 210
22 milligrams per serving for individual foods and no more
23 than 450 milligrams per serving for main dishes and
24 meals. And in setting an interim goal, the IWG suggested
25 that it would -- ideally we should be meeting that by

1 2016 and meeting the eventual goal of low in saturated
2 fat by 2021.

3 So, just some final comments that I put as
4 slides, again to remind you of using the concept of a
5 small RACC, I mentioned that with sugars. I mentioned
6 that naturally occurring nutrients, if a food is making a
7 meaningful contribution, it's one of the designated food
8 groups, then the naturally occurring levels of something
9 like saturated fat would not have to be counted against
10 the target. I would also note that you will see that we
11 didn't set criteria for total fat and for cholesterol.
12 Within the Dietary Guidelines 2010, there was primarily a
13 focus on the type of fat rather than the total of fat, so
14 the IWG felt that the emphasis on saturated fat and trans
15 fat was more consistent with those recommendations in
16 Dietary Guidelines.

17 And with cholesterol, we noted that the Dietary
18 Guidelines for Americans did indicate that if saturated
19 fat is kept low, then cholesterol has perhaps less of an
20 impact on risk for cardiovascular disease and that more
21 emphasis should be given to the saturated fat and trans
22 fat.

23 So, with that, that is the summary of the
24 nutrition principles that we have drafted at this point.
25 Thank you.

1 MS. RUSK: Okay, I'm Michelle Rusk, and I'm
2 with the Federal Trade Commission. So, the proposed
3 nutrition principles that Barbara described are the part
4 of our proposal that's intended to guide food companies
5 in determining which foods ideally they would be
6 marketing to children, which foods we would like to see
7 the food companies sort of nudging children toward.

8 And the other piece of the proposal is defining
9 what constitutes marketing to children. So, it's both
10 what categories of marketing activities would be covered
11 under our proposal and then what criteria would be used
12 to determine when those activities are targeted to
13 children.

14 The working group is proposing to use a
15 template that has already been developed for the FTC's
16 2008 report on food marketing to children and
17 adolescents. We think that the template for marketing
18 definitions from our report makes sense because it has
19 already been vetted to some extent. As part of that
20 report process, many of the large food companies that
21 submitted data for that report, I think a lot of you are
22 here in the room, are now familiar with those categories
23 and our definitions, and we think it seems to capture the
24 full scope of marketing activities to children.

25 The detailed list of categories and criteria

1 are in the appendix to the 2008 FTC report, which is on
2 our website. We have a summary in our proposal, and I
3 will try to go through them quickly this morning. I
4 think the first important point to make is that the
5 working group's proposal would cover both children ages
6 two to 11 and adolescents age 12 to 17.

7 Obesity rates are alarmingly high, as we all
8 know, in both age groups, and the food marketing directed
9 to both children and adolescents is also substantial.
10 And I think as Bill mentioned, Congress made it clear to
11 us in its bipartisan directive that the working group
12 needed to consider marketing to both children and teens.

13 The second point is that our proposal extends
14 beyond just television advertising and other traditional
15 media, so we're actually covering 20 different categories
16 of marketing activities. And then the reason, I think we
17 felt that was important, is that food marketing to
18 children is no longer just about TV. Marketing campaigns
19 are highly integrated, very sophisticated. They
20 typically weave together many different marketing
21 techniques into one campaign, with the result that
22 marketing messages are really ubiquitous.

23 And the working group felt that if we really
24 limited the categories covered to TV and other
25 traditional media that that would only cover about half

1 of what the industry spends to market to children, maybe
2 even less than that if you look at actual exposure to
3 children of food marketing.

4 So, I guess the bottom-line message here is
5 that the proposal for marketing definitions really would
6 represent a substantial expansion of current self-
7 regulatory programs, both in terms of the age of children
8 covered and also the range of marketing activities
9 included. In terms of criteria, we're proposing a mix of
10 criteria to determine whether a covered activity is
11 targeted to children. We're looking at both objective
12 factors, where those are available, like audience share,
13 but also subjective indicators about appeal to children
14 and, also, obviously company intent. So, if it's in a
15 company's marketing plan that this is a campaign to
16 children, then that automatically establishes that it
17 would be covered.

18 But before I get into those criteria a little
19 bit, I just want to go quickly through the list of
20 covered activities. Television, print, and radio, I
21 think, are self-explanatory, and probably most of these
22 are self-explanatory to the marketers in the room.
23 Company websites are those that are created and
24 controlled by a food company and includes things like
25 virtual worlds, adver-gaming, online sweepstakes and

1 contests, but basically it's referring to company-owned
2 websites.

3 Other internet advertising would cover things
4 like the banner ads, popup ads, ads in chat rooms or
5 blogs or social networking sites. The movie/video game
6 category refers to ads that you would see in a movie
7 theater before the movie or placed at the opening of a
8 video or a video game. So, it's not the same as product
9 placement, where you have the logo or the signage or the
10 image of the food or other references actually embedded
11 in the movie or in the game content or referenced in
12 music. That would be an example of product placement.

13 Other digital advertising refers to things like
14 advertising through PDAs or cell phones, texting, instant
15 messaging, mobile downloads, podcasts. Packaging and
16 labeling and other in-store promotion, again, I think
17 those are self-explanatory categories. They aren't
18 categories that are currently covered by industry self-
19 regulatory pledges. It would include things like in-
20 store displays and free sampling in the stores.

21 Promotion and sponsorship of entertainment
22 events also covered. Character licensing, toy co-
23 branding, cross-promotion -- oh, did I skip -- yeah, I
24 skipped -- I'm sorry, I skipped premiums. Specialty
25 items and premiums when -- I think the most obvious

1 example would be the toys in the kids meal as a premium,
2 but also things like sweepstake prizes.

3 And then character licensing, toy co-branding,
4 cross-promotion, to some extent that would go hand in
5 hand with some of the premiums because a lot of those
6 premiums are licensed characters and cross-promotions
7 with popular kids movies. When we talk about toy co-
8 branding, what we're referring to is toys that you would
9 buy in a retail toy store, so maybe a doll that's dressed
10 up in a fast food chain employee outfit or a counting
11 book based on a popular candy or cookie. Those would be
12 examples of toy co-branding.

13 Sports team and athletes sponsorship are also
14 covered. Word-of-mouth marketing would be when a company
15 provides samples or other incentives to a non-employee to
16 encourage them to go out and discuss it with their
17 friends or promote the product with their friends.

18 And then viral marketing is a little bit
19 different. It would be when the company is providing the
20 content of the message and asking someone to pass it
21 along to others. So, an example of that would be
22 something like a send-a-friend e-mail message.

23 Celebrity endorsements, I think, are self-
24 explanatory. Sponsorship of charity events, other
25 philanthropic programs. And in-school marketing, our

1 definition of in-school marketing, I know a lot of the
2 food companies have now made significant pledges towards
3 what they will and won't do in schools. I think our
4 marketing definition is probably somewhat broader in
5 scope than that of some of the food company pledges. We
6 are including things like signage on vending machines and
7 in and around cafeterias. We're including branded
8 equipment and curriculum materials and charitable
9 fundraising in the school.

10 And then I don't have this on my slide, but
11 there is another category for anything that's not
12 included in the first 19. So, basically any promotional
13 marketing, advertising technique that is directed to
14 children would be covered by our proposal.

15 I'm just going to spend a couple minutes giving
16 you some examples of some of the criteria that we would
17 apply to determine when those 20 categories would be
18 considered targeted to children or teens. And as I said,
19 we have tried to use objective measures like audience
20 share, where that's available, so for TV, radio, and
21 print, we're proposing a threshold of at least 30 percent
22 of the audience age two to 11 for child-targeted, at
23 least 20 percent for teen-targeted. The rationale for
24 those thresholds are that those represent double the
25 proportion of that age group in the general population.

1 So, when you get to double the general population, you're
2 fairly confident that this is targeted programming.

3 For movies, videos, and video games, again,
4 we're using those same thresholds, but we're also adding
5 in an alternative determinant, which is tied to the
6 industry rating codes, so E-rated or below video games,
7 G-rated movies, would be considered child-targeted. E-
8 10-rated video games, PG-rated movies, would be
9 considered teen-targeted. Again, this is an either/or,
10 so, you know, a PG-rated movie could potentially be
11 considered child-targeted depending on the audience.

12 Same thresholds again for sponsorship of
13 entertainment events, sports teams, philanthropic
14 programs, and then an additional alternative criteria
15 that if the company actively seeks participation of
16 children or teens, that would be another way to bring it
17 into the child-targeted definition.

18 On website and other internet advertising, our
19 threshold is slightly different, it's 20 percent for both
20 age groups. And the rationale for that is that it is
21 double the proportion of that age group in the population
22 of active internet users. So, again, we're using that
23 same concept of double the audience, but this time it's
24 based on active internet users.

25 The same with other digital advertising, word

1 of mouth and viral marketing, with an alternative
2 criteria again that if companies knowingly seek
3 participation of children or teens, that would be
4 considered targeting.

5 And then for all of those categories, there are
6 additional criteria that might cause us to consider
7 something child-targeted. We said, as I mentioned at the
8 beginning, that we would look at company intent. If it's
9 in the marketing plan that it's targeting children, it's
10 targeting children.

11 And for everything but TV, print, and radio
12 where we feel like we have a very good objective audience
13 share measure to determine what is kids programming, for
14 all of the other covered activities, we also would be
15 looking at subjective indicators of appeal to children
16 and to teens. So, use of animated characters,
17 celebrities that are popular with children, language in
18 the marketing that uses the words child, kid, teen; the
19 age of the models or characters in the marketing; and
20 other child-oriented themes.

21 So, those are the categories and the criteria.
22 We do have a number of questions in our proposal, both on
23 the nutrition principles and on the marketing
24 definitions. We really do want your input in addition to
25 any oral comments today. We're encouraging people to

1 submit written comment.

2 There are a couple of key issues on the
3 marketing definitions that I want to call your attention
4 to. I think the main one is that the working group
5 recognizes that it may make sense to narrow the scope of
6 teen marketing covered by the proposal. We appreciate
7 that applying the same broad restrictions on marketing
8 doesn't take into account developmental differences
9 between children and older adolescents, and in
10 particular, how they understand marketing and how they
11 respond to marketing.

12 We also appreciate the difficulty of sweeping
13 in the adult audience when you're looking at media with a
14 significant teen audience. So, it is a question that we
15 are thinking about. We're contemplating potentially
16 narrowing the scope of marketing covered for the older
17 age group; perhaps it would be limited to in-school
18 marketing and social media, which are very popular with
19 that age group. But we really are looking for input.

20 Also, any input on the mix of indicators we're
21 using for when something is teen or children-targeted and
22 whether our percentage thresholds are over, under-
23 inclusive, are there better measures than audience share.
24 So, we will be taking those comments, taking your input
25 today, and I want to thank everybody for coming.

1 We had a great turnout, and I'm afraid we had
2 to turn a few people away. If you have colleagues that
3 weren't permitted into the room, we do -- will be putting
4 up a transcript of the forum and the slides from today on
5 our website probably within a week or so.

6 Our comment period for written comments has
7 been extended now to July 14th, and this is the URL where
8 you can submit comments online. We will be looking at
9 your comments very carefully. We want to hear about the
10 marketing impact, the impact on your company, the
11 challenges that you face in trying to implement this.
12 So, we will be taking those into consideration as we
13 develop our final recommendations for our report to
14 Congress.

15 And I think with that we have about five
16 minutes, so I'm going to turn it back to Bill to see if
17 there are any questions for clarification on either of
18 these presentations.

19 DR. DIETZ: If you have a question, please go
20 to this mic and introduce yourself and your organization.

21 DR. WOOTAN: Hi, I'm Margo Wootan with the
22 Center for Science in the Public Interest. Barbara, I
23 have a question for you. In trying to distinguish
24 between main dishes and individual items, is the main
25 thing to look at if they have two 40-gram portions of two

1 food groups? Because it -- I was looking at like
2 macaroni and cheese or soups or stews or some other
3 canned products and trying to figure out which one should
4 meet the standards for individual foods and which ones
5 should meet the standards for main dishes.

6 DR. SCHNEEMAN: So, first of all, the -- we did
7 use the definition -- I'm, of course, most familiar with
8 the FDA definition for main dishes, and that's the CFR
9 site that was on the slide, 21 CFR 101.13, and for the
10 USDA I guess it's 9 CFR 317.313(m) and 381.417(m)? It's
11 in the -- it's definitely in the proposal, but main
12 dishes are defined as containing at least two or three
13 40-gram food portions respectively. So, a main dish
14 would be the two, and the meals would be the three. And
15 then when we look at the meaningful amount, that's when
16 you look at how many food groups should be delivered
17 within a -- and the option one does it on the basis of
18 the 50 percent, whereas the option two does it based on -
19 - I have to -- I never like to cite these things without
20 having the notes right in front of me -- if you would go
21 to principle A, so next slide.

22 So, this is the one that uses the thinking
23 about the recommended amount that's in the food guide and
24 then dividing that across the eating occasions, that main
25 dishes and meals should contain one or more of the

1 following or a proportion combination per 100-gram with
2 main dishes fulfilling at least two of the following and
3 meals fulfilling at least three of the following.

4 DR. WOOTAN: So, just practically, so a soup,
5 if it had like 40 grams of noodles and 40 grams of
6 vegetables, then it would be a main dish, and if not, it
7 would be an individual item?

8 DR. SCHNEEMAN: You know, any particular thing,
9 I'm not going to just sit here and say yes, it's a main
10 dish or a meal. I think we always look at those
11 individually when they're in front of us. But, yeah,
12 you're getting -- if you start adding up the number of
13 40-gram increments, then you at some point flip into a
14 main dish and a meal.

15 DR. WOOTAN: Okay. Great. Thank you.

16 MR. FABER: Good morning, Scott Faber with the
17 Grocery Manufacturers Association. I just had two
18 questions. One is the 2009 Omnibus Appropriations Bill
19 directed the IWG to complete a study and then to provide
20 recommendations. And my first question is, can you
21 comment on why a study was not completed? And the second
22 question is the time lines of 2016 and '21 seem to
23 presume that the marketing guidelines will drive
24 ultimately reformulation. Is that -- am I right to
25 assume that?

1 DR. DIETZ: To the last point, yes.

2 MR. FABER: So, the point of having extended
3 time lines is to raise the bar and then in turn drive
4 changes in recipes and ultimately by 2016 and 2021, is
5 that correct?

6 DR. DIETZ: Yes.

7 MS. RUSK: I think it's two-fold, Scott. I
8 think it's that we want to see marketing of the healthier
9 options in companies' portfolios, but we're also
10 obviously hoping that the way companies will respond to
11 this proposal is not just to quit marketing to children
12 but to actually put in the effort to reformulate to lower
13 the sugar content or increase the whole-grain content of
14 their foods and then market those better options to
15 children. So, I think it's sort of two issues.

16 And on your first question of study, I mean, I
17 think that's sort of a vague term. I think we feel like
18 we have studied as we came to this in terms of looking at
19 all of the various approaches that others have taken to
20 marketing to children. We looked at many of the
21 standards that were out there. We looked at how our
22 proposal would impact foods in the marketplace, doing
23 food runs and analysis of those foods.

24 We're relying on studies done by others on the
25 nutrition, obviously the dietary guidance is based on a

1 considerable body of work. We're looking at IOM research
2 on marketing, so we were studying all of the pieces of
3 this puzzle, and to that extent I think we fulfilled that
4 directive.

5 MR. FABER: Thank you.

6 DR. LEVY: Dan Levy from the American Academy
7 of Pediatrics. And I caught a cold from one of my
8 patients, so excuse me.

9 I was very concerned on principle A about the
10 inclusion of juice. We've worked very hard with the WIC
11 program to eliminate juice from the distribution, and I
12 don't see that as nutritionally equivalent to fruit.
13 Perhaps you could explain.

14 DR. SCHNEEMAN: My comment would be those are
15 certainly the kind of comments that we encourage you to
16 submit. And anything that you have to support that
17 comment that the interagency working group should be
18 considering, I think where we're starting is we're
19 looking at what's in food guides at this point, what's in
20 the Dietary Guidelines at this point, but any comment
21 that you have or any data you have to support it would be
22 welcome and important to add to the record.

23 DR. LEVY: I have the data, and I don't mean to
24 be anecdotal, but I guess I will be, just in that working
25 with obese children, particularly the little kids where

1 we can make the most impact, just eliminating juice often
2 solves a lot of the problem. It's really remarkable that
3 if we go principally to water and low-fat milk, much of
4 the problem is resolved over time. So, we'll leave it at
5 that for now. Thank you.

6 DR. DIETZ: Any other questions or comments?

7 **(No response.)**

8 DR. DIETZ: All right, let me turn this over to
9 Michelle.

10 MS. RUSK: Okay, I think we'll go on right
11 ahead into our second session, and then we promised to
12 give you a break after that. And I see a couple people
13 standing. There are one or two seats, and if you're a
14 speaker, you have a seat with your name on it, so you can
15 find a seat at the front. I don't know if anybody else
16 in the back -- I see two seats in the group.

17 And I did want to remind you that we have
18 allotted a little bit of extra time hopefully so if there
19 is anyone in the audience who would like an opportunity
20 to speak, if time allows, we do need you to contact one
21 of our staff up front and give them your name and
22 affiliation so we can make a list and give you an
23 opportunity, if time presents at the end of each session.
24 So, we'll get that person up here in the front seat
25 during this panel, and you can just give her your name

1 and affiliation.

2 And with that, I'm going to turn it over to Dr.
3 Post from USDA Center for Nutrition Policy and Promotion.
4 And we will start taking comments on the nutrition
5 principles. I believe we have a specific order of
6 speakers, alphabetically, and we are providing you with
7 three minutes, and we have a very high-tech PowerPoint
8 that will give you a yellow clock. I know nobody likes
9 traffic lights, but we are going to use them to time the
10 statements, so we will have a green, yellow, and red, and
11 you have about 30 seconds when you see that yellow slide
12 come up and we go to red, but we promise not to cut you
13 off mid-sentence.

14 DR. POST: All right. Well, thank you for your
15 interest in this important issue certainly and also in
16 helping making the process effective by giving us your
17 comments. We look forward to your written comments, as
18 you heard. So, we're going to go through the process of
19 three minutes or so, and there's no trap door, I don't
20 think, but I'll probably warn you when you've reached the
21 limit. And I think there might be a question or two if
22 we need clarification, so that's sort of the process
23 we're using.

24 The first -- the first commenter, Kristy
25 Anderson, the Robert Wood Johnson Foundation. Is that

1 fine?

2 MS. ANDERSON: That's fine.

3 DR. POST: Yep. Yeah, go ahead, go ahead.

4 Oh, no, no, right here.

5 MS. ANDERSON: Thank you for the opportunity to
6 testify. My name is Kristy Anderson, and I speak on
7 behalf of the Robert Wood Johnson Foundation Center to
8 Prevent Childhood Obesity. It's a long name. The Center
9 strongly supports the proposed voluntary guidelines for
10 food marketing to children and applauds the efforts of
11 the agencies of the interagency work group.

12 The Center was established by the Foundation as
13 a national organization dedicated to reversing the
14 childhood obesity epidemic by 2015. One of the
15 Foundation's and subsequently the Center's tenets toward
16 combating the childhood obesity epidemic is to reduce
17 youths' exposure to marketing of unhealthy foods through
18 regulation, policy, and effective industry self-
19 regulation.

20 Unhealthy products are heavily marketed to
21 children and research shows that exposure to food
22 marketing messages increases a child's obesity risk.
23 Some studies suggest that marketing restrictions are
24 among the most powerful and cost-effective interventions
25 available. Other research shows the gravity of the

1 situation and how food marketing to children is
2 ubiquitous, leading to the need for strong guidelines.

3 For instance, the Rudd Center for Food Policy
4 and Obesity at Yale University released a report which
5 found that the least healthy cereals are the ones most
6 aggressively and frequently marketed to children of all
7 ages. Much of this marketing comes in ways that bypasses
8 parents, making it nearly impossible for moms and dads to
9 be effective gatekeepers.

10 Research from Bridging the Gap shows that food
11 ads made up more than one-quarter of television ads
12 viewed by adolescents. The most commonly viewed products
13 in these ads were fast food, sweets, and beverage
14 products, most of which are easily attainable by this age
15 group. The number of television food ads viewed was even
16 higher for African-American adolescents than white
17 adolescents. And as you know, African-American children
18 are particularly at risk for overweight and obesity.

19 Finally, Healthy Eating Research has produced
20 several reports that illustrate the problem of food
21 marketing to children. In a 2010 study funded by Healthy
22 Eating Research and conducted by the Center for Science
23 in the Public Interest, companies were assessed whether
24 they had adopted a policy on marketing to children and,
25 if they had, whether those policies were adequate in

1 adhering to nutrition-based standards.

2 Of the 128 companies studied, only 32 percent,
3 less than one-third, even had a policy. Of those
4 companies that did have a policy, none of these policies
5 reached the strongest and most ideal criteria.

6 These statistics are just the tip of the
7 iceberg. We urge the interagency work group to proceed
8 expeditiously with finalizing the guidelines and urge the
9 food and beverage companies that market to children to
10 adopt these evidence-based standards quickly. We cannot
11 afford to wait for another generation of children to grow
12 up in an environment where they are bombarded with
13 unhealthy choices at every step of the way.

14 Strong food marketing guidelines are an
15 important part of the comprehensive strategy needed to
16 help all children lead healthy, fulfilling lives. We
17 look forward to providing more detailed comments in
18 response to your request. Thank you.

19 DR. POST: Thank you. I don't know if you had
20 any comments for clarification?

21 Okay, great, thank you.

22 All right, the next comments are from Elise
23 Cortina, National Yogurt Association.

24 MS. CORTINA: Good morning, Elise Cortina. I
25 appear here today on the behalf of the National Yogurt

1 Association or NYA. NYA is the national trade
2 association representing the producers of live and active
3 culture yogurt products, as well as suppliers of the
4 yogurt industry. NYA's member companies are among the
5 largest makers of healthy and nutritious yogurt products
6 that are enjoyed by children and adults.

7 NYA member companies very much support the goal
8 of improving childhood nutrition and reducing childhood
9 obesity. Yogurt is available in a number of varieties,
10 including those with low or no fat, with or without
11 sugar, flavor, or fruit. We strongly believe that yogurt
12 can be an important part of a healthful diet for yogurts
13 (sic), teens, and children; however, we do have serious
14 concerns about the direction of the working group's
15 proposal to limit food marketing to children.

16 In particular, we believe the proposal would
17 effectively prohibit the marketing to children of any
18 yogurt other than certain non-fat and low-fat yogurts,
19 despite the fact that yogurt offers children significant
20 nutrition benefits and provides essential nutrients such
21 as calcium, protein, vitamin D, and potassium. As
22 proposed, the nutrient restrictions for fat, saturated
23 fat, and added sugar content would eliminate almost all
24 yogurts except for certain plain, non-fat yogurts and
25 non-fat yogurts with non-nutritive sweeteners from the

1 list of foods that may be marketed to children.

2 The 2010 Dietary Guidelines for Americans
3 recommend an increase in the intake, and I quote, "fat-
4 free or low-fat milk and milk products such as milk,
5 yogurt, and cheese." And yet the 1 percent fat
6 restriction and the confusing wording of the provisions
7 related to naturally present saturated fat in low-fat
8 dairy foods would preclude the marketing of most yogurts
9 to children.

10 The proposed guidance fails to include any
11 substantiation for the creation of a new definition of
12 low fat when FDA has clearly established a long-standing
13 definition. It makes no sense to prevent the marketing
14 of yogurt that is low fat as defined by FDA, given its
15 known nutrition benefits and current recommendations for
16 the U.S. population at large to increase its consumption
17 of low-fat dairy.

18 The working group has not provided a sufficient
19 basis for its principles and has no evidence that
20 limiting the advertising of wholesome and nutritious
21 products like low-fat yogurt to kids will decrease
22 childhood obesity. Furthermore, the sweeping
23 restrictions may actually serve to restrict a parent's
24 ability to receive valuable information about the
25 nutritional benefits of yogurt and the role it can play

1 in a healthful youth or adolescent diet.

2 Finally, the working group has suggested that
3 an audience must only be comprised of 20 percent youth,
4 ages 12 to 17, for certain advertising to be considered
5 targeted to adolescents. We question the basis for this
6 very low threshold, as the guidelines would, therefore,
7 have significant reach into venues and programming
8 directed at an overwhelmingly adult audience. The 20
9 percent threshold ensures, in effect, that this
10 initiative is not about curtailing advertising to
11 children but rather ending the majority of food
12 advertising to the entire adult American population.

13 For these reasons, the National Yogurt
14 Association respectively urges the working group to
15 reconsider its current proposal. I appreciate the chance
16 to share NYA's views, and I would be happy to provide
17 answers to any questions in writing after conferring with
18 my members. Thank you.

19 DR. POST: Thank you.

20 DR. SCHNEEMAN: One question for clarification.
21 I'll just talk loud. I can hear you.

22 MS. CORTINA: I can hear you.

23 DR. SCHNEEMAN: You referred to the fact that
24 low-fat, and yet we didn't set a criteria on fat, so I
25 was just curious what you meant by exclusion of low fat

1 products.

2 MS. CORTINA: I believe it is -- there is a
3 limit for fat. It's slightly nuanced, and so I will have
4 to go back and confer with my members. I want to be sure
5 I speak accurately, so I'll provide that clarification in
6 the written comment.

7 DR. POST: And I could just note, though, when
8 we -- under principle A we have fat-free and low-fat milk
9 products as the category that would qualify under -- and
10 that might be where you're getting the 1 percent.

11 MS. CORTINA: I think it's the -- it's the
12 calculation based on the RACC, various nuances for
13 calculation.

14 DR. POST: Okay. So, we look forward to your
15 comments.

16 DR. SCHNEEMAN: Thank you.

17 DR. POST: All right, the next comments are
18 from Lucas Darnell, the National Frozen Pizza Institute.

19 Anyone want to provide comments for Mr.
20 Darnell?

21 All right, well, I'm not sure if that means
22 more time for the next person, but the next person on the
23 list is Jim Davidson from Polsinelli Shughart, PC.

24 MR. DAVIDSON: Good morning. I'm Jim Davidson,
25 and I'm here on behalf of the Alliance for American

1 Advertising. We've been here before. A group of FTC
2 advertising specialists once wrote "The children's
3 advertising proceeding was toxic to the Commission as an
4 institution." That comment was applied to the well-
5 intentioned but ill-fated regulatory venture known as
6 KidVid. KidVid would have banned advertising to -- of
7 food products to a broad group of children with a goal of
8 reducing dental cavities. After nearly three years and
9 6,000 pages of hearing transcripts, the FTC staff
10 recommended termination of that rulemaking.

11 Viewing that result from the staff of the
12 Senate Judiciary Committee, where I was at the time, we
13 watched the regulatory process stop a serious restriction
14 on speech. But it's deja vu all over again, except the
15 working group, I think, is pursuing a flawed process.
16 Congress asked for a study and recommendations,
17 presumably to determine whether there was sufficient
18 basis for future legislation, but we've seen no study.
19 The IWG has offered regulations described as voluntary,
20 but the missing study would have provided the public and
21 the Congress with the rationale behind the proposed
22 regulations and the science on which the interagency
23 working group relied.

24 If the FTC had proposed a regulation then
25 Congress would have had the -- or the public would have

1 had the opportunity to hear testimony on the scientific
2 and policy justifications. It would have had -- been
3 reviewed by OMB and measured against the executive order
4 to ensure that benefits justify their cost and that they
5 pose the least possible burden.

6 The process bypassed these critical steps that
7 could have been used to measure the merits of any
8 proposal or a regulatory proposal. The multi-agency
9 proposal carries the force of government action to
10 restrict advertising, but it lacks the precision or the
11 defined goals that could be expected to support a
12 proposed rule.

13 It lacks the precision, and the description of
14 these proposed regulations are described as voluntary,
15 but that's inconsistent with the fact that food
16 manufacturing companies, ad agencies, networks, all would
17 be viewed as expected to comply with them.

18 At a workshop on legal strategies for
19 preventing childhood obesity, the Director of the Bureau
20 of Competition for the FTC suggested that the agency
21 pursue non-complying companies as engaging in unfair or
22 deceptive acts or practices.

23 We believe that these would be perceived as
24 enforceable rules, they would be reviewable by a Federal
25 court, and the compliance would be examined against the

1 Constitution and other Federal laws. We believe these
2 proposed regulations would violate the First Amendment.
3 The interagency working group has offered no evidence
4 that they would directly advance a substantial interest
5 of the Federal Government, and while the Institute of
6 Medicine offered multiple strategies to help reduce
7 childhood obesity in the U.S., the proposal would have
8 the Government deploy speech restrictions as the first
9 step, not the last resort. All right, thank you.

10 DR. POST: Thank you.

11 Okay, the next comments are from Joy Dubost
12 from the National Restaurant Association.

13 DR. DUBOST: Hi, my name is Dr. Joy Dubost. As
14 the Director of Nutrition of the National Restaurant
15 Association, I would like to express my strong concerns
16 and highlight several significant shortcomings of the
17 proposed nutrition principles. The restaurant industry
18 is a strong proponent for measures that address childhood
19 obesity. We collectively must focus on policies and
20 practice that will work.

21 The voluntary guidelines make it virtually
22 impossible to advertise a wide array of menu items sold
23 alone or as part of a meal. This would include an array
24 of healthful menu items from low-fat dairy to lean
25 protein and possibly water. The guidelines also deprive

1 parents of information that highlights numerous
2 nutritionally improved healthful food choices that fall
3 short of the very high bar that has been set.

4 How useful are voluntary standards if they are
5 so restrictive the industry cannot comply? It's
6 important to note food is not nutritious until the child
7 consumes it. Many restaurants have voluntarily stepped
8 forward to address concerns around childhood obesity. We
9 have been actively working with our members to
10 incorporate healthful menu items on children's menus and
11 thus have seen a consumer demand for these items
12 increase.

13 Restaurant companies from independent owners to
14 large chains have responded by providing hundreds of new,
15 more nutritious items through recipe reformulation and
16 new menu options. Parents have more choices than ever
17 before.

18 We would like to highlight a couple of
19 particular concerns. The 2010 Dietary Guidelines
20 recommend a daily sodium intake of 2,300 milligrams for
21 the general healthy population. How do these
22 recommendations relate to the proposed sodium levels for
23 meals and main dishes of 450 and 300 milligrams per
24 serving? What is the scientific substantiation to
25 support these levels? This proposal on sodium levels not

1 only will be a challenge from a taste-and-flavor
2 perspective, but also safety.

3 Another concern we'd like to highlight is the
4 proposed principle around added sugar. From a supplier
5 side perspective of the restaurant industry, added sugars
6 do not appear on the nutrition facts panel and may only
7 sometimes be determined by reading ingredient statements.
8 Recipes will be needed to determine whether menu items
9 containing natural and added sugars meet the 13 grams or
10 less required level. Restaurants will undoubtedly be
11 reluctant in sharing proprietary recipes.

12 Also, why is the 13 grams of added sugar
13 requirement the same for individual foods, main dishes,
14 and meal products? In the case of sodium, levels are
15 adjusted to reflect greater proportions of food.

16 In addition, how will the four agencies measure
17 the efficacy of a decrease over time? This applies to
18 the assessment and the effect of the proposed nutrition
19 principles. The proposed nutrition principles are
20 inconsistent with other Federal programs. This only adds
21 another layer of complexity and confusion to an already
22 confused consumer, parent, and child. How will this be
23 addressed by IWG?

24 We have restaurant members who belong to the
25 Council of Better Business Bureaus' Children's Food and

1 Beverage Advertising Initiative and numerous other
2 members have made meaningful strides outside of the
3 formal initiative.

4 Similar commitments across our industry reveal
5 an ever-growing focus on the nutritional attributes of
6 menu items available for parents to purchase. The
7 restaurant industry is committed to its proactive role in
8 combating childhood obesity. The issue of marketing to
9 children is one that the restaurant industry takes very
10 seriously. We believe that the proposed principles are
11 conflicting with other dietary recommendations,
12 unattainable, and overreaching. Ultimately, they are
13 likely to make no impact on childhood obesity. Thank
14 you.

15 DR. POST: Thank you.

16 All right, the next comments are from Scott
17 Faber, the Grocery Manufacturers Association.

18 MR. FABER: My name is Scott Faber, I'm with
19 the Grocery Manufacturers Association. I'm joined by
20 Sarah Levy, who is here somewhere. Sarah? Thank you,
21 Sarah.

22 Our industry strongly supports efforts to help
23 Americans build healthy diets, and in recent years, we've
24 changed the recipes of more than 20,000 of our products
25 to reduce calories, sugar, sodium, and fat, and have

1 pledged to annually remove 1.5 trillion calories from
2 commerce by 2015. Making consumers aware of these
3 reformulated products is essential to efforts to build
4 healthy diets. In limiting the marketing of healthy
5 foods, including most yogurts, soups, vegetable juices,
6 and many cereals, as the IWG has proposed, will not help
7 Americans identify these healthier options.

8 In addition, the proposed principles are
9 inconsistent with, and in some cases more restrictive
10 than other standards, including standards for the WIC
11 program, the National School Lunch Program, and the
12 Healthier U.S. Schools Challenge. What's more, the
13 standards in the proposed principles conflict with the
14 2010 DGAs in several ways. While the DGAs set intake
15 goals for different age groups, the proposed principles
16 apply broadly to all children and teens.

17 The sodium levels in the proposed principles
18 are inconsistent with the daily sodium intake goal of the
19 DGAs. And when the sodium levels in the proposed
20 principles are reduced to 140 milligrams per RACC, few,
21 if any, healthy products could be marketed.

22 The saturated fat levels in the proposed
23 principles are inconsistent with the DGAs, and the
24 regulatory definition of low fat of three grams or less
25 per RACC. The nutrition standards of the proposed

1 principles are based in part upon the inclusion of food
2 groups but nutrients to encourage are omitted, including
3 short-fall nutrients and enriched grains.

4 What's more, the marketing of the IWG -- the
5 marketing the IWG seeks to regulate is not merely
6 marketing directed to children but includes packaging,
7 point-of-sale displays, sponsorships of charitable
8 events, and even the shape of food, such as animal
9 crackers. Compliance with the standards in the proposed
10 principles will require manufacturers to remove cherished
11 animals, characters, and sports heroes from our packaging
12 and dramatically reduce our support for community events
13 and organizations such as local museums and even Little
14 League.

15 By broadly defining marketing, the proposed
16 principles greatly exceed the intentions of Congress with
17 far-reaching implications for food manufacturers and for
18 our communities. GMA urges the interagency working group
19 to withdraw the proposed principles and to complete the
20 study required by Congress to assess the costs and
21 benefits of proposed restrictions.

22 The IWG should also assess the progress made by
23 our industry. New research shows that the average number
24 of food and beverage advertisements that children view on
25 children's programming has already fallen by 50 percent

1 between 2004 and 2010, and that programming for -- has
2 fallen even more dramatically for candies, cookies,
3 sodas, and snacks.

4 Ending childhood obesity within a generation is
5 a goal shared by our industry and by the Obama
6 Administration; however, the IWG has proposed dramatic
7 changes to food recipes and marketing without providing
8 any evidence that such extraordinary changes will help
9 build healthy diets and without any assessment of the
10 costs and benefits.

11 We urge the administration to complete a study
12 as Congress directed --

13 DR. POST: Are you almost finished?

14 MR. FABER: -- and to withdraw these
15 recommendations. Yes. Thank you.

16 DR. POST: Great. Thanks.

17 Oh, we have a clarifying question here.

18 MS. RUSK: Scott, you mentioned that the --
19 some of the nutrition or at least aspects of them were
20 inconsistent with the Dietary Guidelines. And one of the
21 difficulties we had was translating something that's
22 meant to imply -- apply to the overall diet to marketing
23 of an individual food. And, so, to some extent, we were
24 turning to other labeling regulations. And I just wonder
25 what suggestion you might have for how you would propose

1 translating overall diet recommendations to criteria for
2 an individual food.

3 MR. FABER: You know, I was struck by the
4 challenge of applying these broad criteria to so many
5 different kinds of food and the challenge we had as an
6 industry with front-of-pack labeling and how ultimately
7 when you apply these broad, broad criteria to all of the
8 foods that 300,000 different SKUs that are offered in
9 commerce, how ultimately in the case of a labeling system
10 you might put a symbol on something that might be
11 counterintuitive but still healthy, or in the case of
12 your principles, ban the marketing of something that
13 would presumably be healthy. Bottled water would be a
14 good example of something that clearly is not
15 contributing to obesity and yet in some cases because of
16 the amount of sodium that would be naturally occurring
17 would be prohibited if we applied these standards to our
18 marketing.

19 So, I think that is one of the big challenges,
20 is devising a system that does not exclude or ultimately
21 exclude us from marketing obviously healthy products that
22 moms and dads serve to their kids every day. I think
23 part of it is looking hard at the numbers, and I want to
24 echo what Joy said about added sugars and the challenge
25 with protecting our confidential business information and

1 complying what our companies view as a regulation.

2 So, that's just one challenge. I think there's
3 obviously a longer conversation here about what are the
4 appropriate numbers, how to deal with naturally occurring
5 nutrients. But I think our overall recommendation is
6 that the IWG needs to step back and really assess what
7 changes in marketing will ultimately produce the outcomes
8 we all want, whether it's to cover half your plate with
9 fruits and vegetables or to ultimately meet the goal of
10 ending obesity within a generation and to really focus on
11 child-directed marketing. Much of this marketing is
12 marketing that is directed for a general audience, not
13 simply for kids. And, so, stepping back and focusing on
14 things that are clearly child-directed would be an
15 important first step.

16 DR. POST: Can I just add one point, though?
17 We do have the exception of nutrients that are naturally
18 occurring as part of one of our principles.

19 MR. FABER: Yes, and I'll tell you, and I don't
20 know if Sarah wants to chime in here, but it's
21 extraordinarily hard to do those calculations and to
22 provide those calculations to our regulators in a way
23 that protects our trade secrets. Ultimately you're
24 asking us to tell you more about our recipes.

25 DR. POST: This and other information about how

1 it actually affects products would be great, and written
2 comments. So, thank you.

3 MR. FABER: We'll be happy to provide them.
4 Thank you.

5 DR. POST: Okay, next comments are from Tracy
6 Fox, Society for Nutrition Education.

7 MS. FOX: Thank you. I'm -- well, you've
8 already said who I am and who I'm representing. SNE
9 represents nutrition educators across the world and is
10 dedicated to advocating for effective nutrition education
11 and communication to promote healthful behaviors.

12 SNE strongly supports the proposed nutrition
13 principles and marketing definitions for food marketed to
14 children and urges the interagency work group to proceed
15 with your final report, which we know will be based on
16 your thorough study of the issue to Congress. A uniform
17 set of nutrition standards and marketing definitions is
18 long overdue. Child obesity rates, especially for
19 certain racial and ethnic groups, including African-
20 American and Hispanic youth, continue to climb at the
21 same time that marketing practices of unhealthy foods
22 abound.

23 Marketers have always done a better job of
24 communicating with our kids than parents, and these days,
25 kids are bombarded not only by television ads, and

1 through the internet and social media, with enticing
2 images and appealing ads about unhealthy foods. The
3 evidence is clear: Marketing works. Why else would food
4 and beverage companies spend so much money to develop
5 increasingly sophisticated and creative ways to reach our
6 kids? And we know that exposure to unhealthy food
7 marketing increases children's obesity risk.

8 SNE recognizes the companies that through the
9 Children's Food and Beverage Advertising Initiative have
10 really stepped up to the plate and have applied strong
11 nutrition standards to their marketing policies. But as
12 research has shown, industry self-regulation without a
13 uniform set of nutrition standards and marketing
14 definitions has not had a significant impact at reducing
15 unhealthy marketing practices. In simple terms,
16 companies that self-regulate limit nutrients that are
17 least important to their products -- sugar in happy meals
18 or sodium in cereal. This is exactly why we need uniform
19 standards and a more comprehensive definition of
20 marketing venues. Our children deserve no less.

21 Another benefit of having uniform standards is
22 the impact it could have on other programs and
23 initiatives. Such standards could be used by the FDA in
24 their efforts to improve front-of-pack labeling. The
25 National Institutes of Health and CDC could use them in

1 their We Can and other child obesity prevention work.
2 And USDA could integrate them into nutrition-assistance
3 programs and education efforts. For example, uniform
4 standards can serve as a blueprint as USDA sets strong
5 standards for foods and beverages in vending machines and
6 school stores. And standards could be used to assist
7 USDA in commodity purchases and food banks in their
8 efforts to promote healthier food donations.

9 No one believes marketing by food companies is
10 solely responsible for child obesity, just as tobacco
11 marketing is not the sole reason why people smoke. We
12 must take a comprehensive approach at tackling the
13 epidemic. And SNE believes that if implemented across
14 the board by food companies and beverage companies and
15 applied to a wider array of marketing venues, uniform
16 standards can have a positive and lasting impact on
17 health.

18 And having such standards can serve to inform
19 and unify public and private efforts at the Federal,
20 State, and local levels, providing consumers, and
21 especially kids, with more consistent messages in more
22 places about healthy eating. Thanks for the opportunity
23 to provide comments, and we'll be providing more detailed
24 recommendations in July.

25 DR. POST: Thank you. All right, the next

1 comments are from Melissa Maitin-Shepard, American Cancer
2 Society.

3 MS. MAITIN-SHEPARD: Good afternoon. On behalf
4 of the American Cancer Society Cancer Action Network,
5 thank you for the opportunity to testify at today's
6 meeting. ACS CAN is a nonprofit, nonpartisan advocacy
7 affiliate of the American Cancer Society and supports
8 evidence-based policy and legislative solutions designed
9 to eliminate cancer as a major health problem.

10 ACS CAN applauds the interagency working group
11 for developing proposed principles to guide industry
12 self-regulatory efforts on the foods that they market to
13 children and adolescents. Strong nutrition principles
14 for food marketing are necessary to encourage children to
15 make healthier food choices and to address the epidemic
16 of childhood obesity. Approximately one in three cancer
17 deaths are caused by nutrition and physical activity
18 factors, including overweight and obesity.

19 Reducing the marketing of unhealthy foods to
20 youth is an important strategy for reducing childhood
21 obesity and creating an environment that supports healthy
22 food choices. According to the Institute of Medicine,
23 food and beverage advertising affects children's food
24 preferences, purchase requests, beliefs, and short-term
25 consumption.

1 Overall, ACS CAN strongly supports the proposed
2 nutrition principles. We are pleased that they are
3 largely consistent with the 2010 Dietary Guidelines and
4 the American Cancer Society guidelines on nutrition and
5 physical activity for cancer prevention and that they
6 require foods marketed to children to both provide a
7 positive nutritional benefit and to limit nutrients that
8 have a harmful impact on weight and health.

9 We also support their broad applicability to
10 the FTC's 20 categories of advertising, marketing, and
11 promotional activities that target youth ages two to 17.
12 We encourage the working group to clarify that the
13 principles apply to all foods marketed to children with a
14 particular focus on the categories of foods most heavily
15 marketed.

16 While the proposed principles are strong, we
17 have several suggestions for further strengthening them.
18 First, calorie limits are needed under principle B.
19 Portion size is important, and the 2010 Dietary
20 Guidelines explicitly recommend eating less. Without
21 limits on calories, unhealthy foods that contribute to
22 overweight and obesity may meet the nutrition principles
23 and be allowed to be marketed to children.

24 Further, other nutrition standards for
25 children, including those for school meals and

1 competitive foods, contain calorie limits, so these
2 principles should as well.

3 Second, we believe the proposed five-year time
4 frame for implementation is too generous, and a two or
5 three-year time frame is more appropriate. Well, that
6 may not be enough time for reformulation of all products
7 that do not meet the principles. Marketing in these
8 principles could be stopped in the interim and a short
9 implementation time line would encourage quicker
10 reformulation.

11 We also recommend that the principles include a
12 phased-in brand marketing requirement that ultimately
13 mandates that all products in a brand meet the principles
14 with an interim target in order for the brand to be
15 marketed to children. Industry should not be able to
16 circumvent the principles by using brand marketing for
17 brands that contain a large proportion or number of
18 products that do not meet the nutrition principles.

19 In conclusion, we strongly support the proposed
20 nutrition principles and urge the interagency working
21 group to work swiftly to release strong final nutrition
22 principles for foods marketed to children. We urge
23 industry to adopt the final principles within our
24 recommended time frame. Thank you.

25 DR. POST: Thank you. The next comments are

1 from Lee Sanders, American Bakers Association.

2 MS. SANDERS: Good morning. I'm Lee Sanders,
3 speaking for the American Bakers Association and also on
4 behalf of the Grain Foods Foundation and the Wheat Foods
5 Council. We appreciate the opportunity to address the
6 IWG's proposed nutrition principles for foods marketed to
7 children and commend the group for its effort and
8 commitment. However, the proposal is misguided and will
9 not be effective in achieving this goal.

10 We have long advocated a consistent, science-
11 based approach to setting government nutrition
12 guidelines. Fortunately, there is an established
13 approach that accomplishes this important task, the
14 Dietary Guidelines for Americans. Reviewed and updated
15 every five years by leading experts, the Guidelines
16 provide solid science-based nutrition advice for all
17 Americans, including children.

18 Government initiatives involving nutrition
19 should be based on the Guidelines to ensure policy and
20 public health messaging consistency. The nutrition
21 principles outlined in the IWG proposal differ
22 significantly from the very recent Dietary Guidelines,
23 establishing an entirely new, non-science-based regime.
24 The proposal would, in effect, ban advertising of
25 nutritious -- of numerous foods that FDA defines

1 elsewhere as healthy, would disallow foods that FDA
2 explicitly authorizes for use in health claims. It would
3 disallow foods USDA promotes for consumption as part of
4 the Dietary Guidelines and for its WIC program, and would
5 disallow enriched products fortified with folic acid that
6 the CDC recently touted as one of the great public health
7 achievements in the last decade as it has lowered neural
8 tube defects.

9 The extremely restrictive nature of the
10 proposed criteria would preclude advertising of nearly
11 all baked goods to children. In fact, they eliminate the
12 ability to promote and advertise very basic and important
13 grain food staples in children's diets, including
14 nutritious, fiber-rich whole-grain -- whole-wheat breads,
15 whole-grain cereals, and enriched grain products that
16 offer iron, four B vitamins, including folic acids, such
17 as bread, pasta, and rice.

18 It is not -- it is critical for government to
19 focus on strategies that work. There is no evidence
20 looking -- linking advertising of particular foods to
21 obesity. A 2005 report from the IOM, commissioned by
22 Congress, concluded that there is no -- not sufficient
23 evidence to arrive at any finding for the causal
24 relationship from television advertising to obesity among
25 children.

1 Extensive work is already being done by the
2 baking industry to encourage demand for healthy foods
3 among children and adults alike. Our members have
4 invested heavily in developing new healthy-grain foods.
5 The expanding number and variety of innovative
6 nutritional and affordable whole grains and enriched
7 grains in the supermarket shelves is clear evidence.

8 The baking industry worked with Congress to
9 include funding in the 2008 Farm Bill for the Grain
10 Purchase Program that expanded the availability of whole-
11 grain food offerings in 2009 as part of the School Lunch
12 and Breakfast Program.

13 ABA does support an alternative approach, the
14 Children's Food and Beverage Advertising Initiative,
15 which now comprises 90 percent of advertising of food
16 programming for children under the age of 12. The
17 initiative provides a transparent and accountable self-
18 regulation mechanism aimed at shifting the mix of
19 advertising messaging in products directed to children to
20 encourage healthier dietary choices and lifestyles.

21 In conclusion, the proposed IWG principles will
22 further confuse the public by imposing a new set of
23 nutrition standards that are not consistent with other
24 government mandates. They will not achieve the intended
25 goal of encouraging children to eat more healthily as

1 they are not science-based and instead will stifle
2 existing successful industry initiatives to self-regulate
3 in the marketing arena. We believe that this flawed
4 proposal cannot be fixed but should be withdrawn.

5 DR. POST: Thank you. Thanks.

6 DR. DIETZ: I was curious as to why you think
7 folic acid fortification would be prohibited under these
8 guidelines. There's no comment of that.

9 MS. SANDERS: Well, if enriched products would
10 be disallowed, only enriched products are allowed to be
11 fortified with folic acid. Whole-grain products cannot
12 be.

13 DR. DIETZ: I think a more careful reading of
14 the standards would show you that that's not the case,
15 that an enriched product, as long as it contains the
16 recommended quantity of whole grain, for example, would
17 be a perfectly acceptable product.

18 MS. SANDERS: I'll be glad to address that
19 further in our written comments.

20 DR. POST: Could you provide comments? Yes.
21 Thank you.

22 Okay, thank you.

23 Next comments are from Mary Waters, North
24 American Millers Association.

25 MS. WATERS: Good morning. My name is Mary

1 Waters. I'm the President of the North American Millers
2 Association. We're the trade association that represents
3 43 grain dry milling companies that operate 170 mills
4 that mill wheat, corn, and oats in 38 states and Canada.
5 Their collective production capacity exceeds 175 million
6 pounds of product each day, and that's more than 95
7 percent of the total industry production.

8 The principles released on April 28th, as you
9 discussed earlier, list foods that children should be
10 encouraged to select because they make a meaningful
11 contribution to a healthy diet and contain limited
12 amounts of ingredients that adversely affect health or
13 weight. NAMA is concerned, as discussed earlier, that
14 enriched grains are not included on this list.

15 The 2010 Dietary Guidelines released this year
16 by USDA and HHS acknowledge the health benefits of both
17 enriched and whole grains, recommending six daily
18 servings with half of them being whole grain. Products
19 made with enriched flour provide important vitamins and
20 minerals not found in whole-grain products. Since 1941,
21 white flour has been fortified with key nutrients,
22 specifically thiamin, niacin, and iron were mandated by
23 the U.S. Government in response to the vast nutrient
24 deficiency seen in the U.S. population.

25 The fortification led to a nearly universal

1 eradication of crippling diseases in the U.S. such as
2 pellagra and beriberi. More recently, enriched grains
3 began to offer Americans with another important health
4 benefit -- they are the primary source of folic acid in
5 American diets, and folic acid is critical in the
6 prevention of neural tube defects. According to CDC, the
7 Center for Disease Control, since the FDA mandated
8 fortification of enriched flour with folic acid in 1998,
9 the incidents of neural tube defects has declined by 34
10 percent in white, non-Hispanics and 36 percent among
11 Hispanic women. FDA standards of identity prevent whole-
12 grain bread from being fortified with folic acid.
13 Currently, only whole-grain cereals can be fortified with
14 folic acid.

15 Fortified grain-based foods like cereals and
16 breads are vital to public health because they deliver a
17 density and variety of key nutrients that few children
18 would be able to receive otherwise. Grain-based products
19 are some of the most affordable means for achieving
20 appropriate nutrient intake levels, making them
21 especially critical for disadvantaged populations.

22 Other foods that may meet the IWG's proposed
23 nutrition principles are not nearly as affordable or
24 convenient. They are also harder to transport and store
25 and are more frequently wasted.

1 The grain industry would be particularly hard
2 hit by the proposed advertising ban because grain-based
3 products such as ready-to-eat cereals, snack bars,
4 breads, and pasta products constitute the majority of
5 individual food items advertised to children and
6 adolescents. Under the advertising ban, almost no grain-
7 based products, including unsweetened cereals, could be
8 marketed to children and adolescents.

9 Enriched grain foods provide children with the
10 nutrients they need and the foods they love. To put
11 enriched grain foods on a list of foods companies are
12 asked to voluntarily not advertise to children would
13 reduce available avenues to provide children with
14 affordable and convenient key nutrients.

15 Thank you, and I'd be happy to respond to any
16 questions either here or in writing.

17 DR. POST: Thank you. Great, thank you.

18 Okay, the next comments are from Laurie
19 Whitsel, American Heart Association.

20 DR. WHITSEL: I'm grateful I don't have to limp
21 across stage. I'm Laurie Whitsel, Director of Policy
22 Research for the American Heart Association. And thanks
23 so much for the opportunity to provide comment this
24 morning.

25 The American Heart Association believes that

1 the aggressive marketing and advertising of high-calorie,
2 unhealthy foods and beverages to children are
3 contributing to today's childhood obesity epidemic. The
4 AHA commends the interagency working group for proposing
5 a robust set of principles and standards for foods and
6 beverages marketed to children to guide voluntary
7 industry efforts. These standards are evidence-based and
8 will prioritize children's health and encourage industry
9 to take accountability for the foods they are promoting
10 to children and families.

11 The American Heart Association ultimately
12 believes there should be Federal regulatory oversight for
13 foods marketed and advertised to children; however, in
14 the interim, as long as there is third-party,
15 nongovernmental oversight and a voluntary initiative, the
16 AHA hopes that industry will choose to abide by the
17 proposed standards.

18 We're pleased that the standards proposed by
19 the working group are robust, science-based, and can be
20 uniform, which is an improvement over the diverse set of
21 standards that were developed by industry in recent years
22 as part of the children's food and beverage advertising
23 initiative. AHA supports both of the proposed
24 overarching principles, requiring marketed foods to be
25 healthy, while at the same time limited nutrients of

1 concern. The AHA applauds the working group for its
2 proposed limits on sodium, trans fat, saturated fat, and
3 added sugars.

4 The AHA does, however, encourage the
5 interagency working group to consider adding calorie
6 limits to the second principle in light of the current
7 obesity epidemic and the need to limit the serving sizes
8 of foods we eat.

9 We also encourage the IWG to make it clear that
10 the standards should apply to all foods, not just the
11 categories most heavily marketed to children. And the
12 time line's implementation should be no more than two
13 years so that we don't miss another generation of younger
14 people.

15 AHA also supports the broad definitions
16 proposed by the interagency working group of what
17 constitutes marketing to children. It's important to
18 encompass all of the ways industry reaches young
19 consumers.

20 AHA suggests that the working group consider
21 specific guidelines around brand advertising so that
22 industry cannot bypass the standards by marketing a brand
23 rather than specific food products.

24 Of course the American Heart Association will
25 be providing more detailed feedback in our written

1 comments to the agencies, but we'd like to take this
2 opportunity to applaud the interagency working group for
3 taking this very important step forward. Thank you again
4 for the opportunity to present our views this morning.

5 DR. POST: Thank you.

6 All right, the next comments are from Kristin
7 Wilcox from American Frozen Food Institute.

8 MS. WILCOX: I might be one of the only ones
9 that have to move this down, so I apologize.

10 My name is Kristin Pearson Wilcox, and I appear
11 today on behalf of the American Frozen Food Institute.
12 AFFI is the sole national trade association representing
13 all segments of the frozen food industry. As a
14 concluding speaker this morning, I want to tell you that
15 American food and beverage companies are committed to
16 offering increasingly nutritious foods to children and to
17 teens. Our industry has responded to the call of
18 consumers by voluntarily introducing more than 20,000
19 healthier food products in the marketplace in just the
20 last eight years, as was mentioned earlier today.

21 AFFI very much supports the goals of improving
22 childhood nutrition and reducing childhood obesity. I
23 want to express, however, our reservations about the
24 wisdom and direction of the working group's principles.
25 We agree with previous speakers that the working group's

1 principles would ban advertising for foods -- numerous
2 foods -- that the Food and Drug Administration define as
3 healthy and that the U.S. Department of Agriculture
4 encourages under the Dietary Guidelines and the WIC
5 nutrition program.

6 Their proposed principles would also prohibit
7 advertising of foods that FDA has explicitly authorized
8 for promotion using various health claims. While we
9 understand the challenges, we are troubled by this and
10 the proposal would prevent the advertising of certain
11 wholesome, healthy, and nutritious frozen foods to
12 children. For example, frozen vegetables in prepared
13 meals. Vegetables are vitally important to children, and
14 their restriction on advertising of frozen vegetables in
15 certain prepared meals would be detrimental to the
16 efforts aimed by the working group to increase child
17 nutrition. Fresh vegetables and frozen vegetables
18 deliver key nutrients and contribute to overall healthy
19 lifestyles. In fact, according to FDA, the nutrient
20 profile in select raw fruits and vegetables and frozen
21 single-ingredient versions of the same fruits and
22 vegetables deliver relatively equivalent nutrients when
23 consumed.

24 The nutrient content levels of certain
25 nutrients is actually higher in frozen versions of some

1 vegetables because they are packed at the peak of
2 freshness. USDA's Dietary Guidelines just released this
3 year tell citizens to eat more vegetables and explicitly
4 mention frozen vegetables. However, under the
5 principles, companies may not be able to advertise
6 certain frozen vegetables and prepared meals to children
7 because they may not -- excuse me -- they may not reach
8 the stringent sodium level limitations. In fact, the IWG
9 acknowledges even that today, that some of the sodium
10 level recommendations, along with many other requirements
11 in the proposal, cannot be met by numerous products in
12 the marketplace today if fully implemented.

13 It seems counterproductive to prevent the
14 advertising of prepared meals which are mainly made up of
15 frozen vegetables to children under the scheme that
16 claims to improve childhood nutrition. And the working
17 group has provided no evidence that limiting advertising
18 of wholesome and nutritious products like frozen
19 vegetables to children will decrease childhood obesity.

20 In closing, AFFI and its members believe the
21 Federal Government should not be in the business of
22 prohibiting and selling the advertising of frozen foods,
23 especially foods that are good for children. We
24 respectfully urge the IWG to withdraw this proposal, and
25 I appreciate the chance to share our views. And AFFI

1 would be happy to provide an answer to any of your
2 questions in writing. Thank you.

3 DR. POST: Thank you.

4 MS. WILCOX: I apologize for struggling.
5 Excuse me.

6 DR. POST: Thank you.

7 We'll take a moment and see if others have
8 signed up for this time.

9 **(Pause).**

10 Okay, and we're just going to take another
11 minute to see if we have others on the list. Otherwise,
12 provided we get the all-clear, we'll take a 20-minute
13 break. But let's first wait a moment to see if there are
14 others that want this time.

15 **(Pause).**

16 DR. POST: Okay, then we're going to go ahead
17 and we'll take a 20-minute break, which brings us here
18 back at about ten of 1:00. And please be here and seated
19 at ten of 1:00. Thank you.

20 **(Brief recess).**

21 MS. ENGLE: Okay, good afternoon, everybody.
22 I'm Mary Engle with the Federal Trade Commission, and
23 we're going to start our third session, which is comments
24 on the proposed marketing definitions and general
25 comments, and some people who are commenting on both

1 aspects as well.

2 So, I think we're ready to begin. And the
3 first speaker is Angela Campbell with the Institute for
4 Public Representation at Georgetown Law Center.

5 MS. CAMPBELL: Thank you, Mary.

6 I support the working group's proposal to use
7 as a starting point the existing Federal Trade Commission
8 template for defining marketing to children and teens.
9 Because these definitions were developed to report on
10 expenditures, however, they should be modified to better
11 serve the goals of voluntary guidelines. To help reduce
12 obesity among children and adolescents, it is important
13 that the guidelines first cover all types of marketing to
14 youth; second, are easy to apply; and, third, are easy to
15 monitor.

16 The guidelines should cover all forms of
17 marketing because if only some types are covered,
18 companies can simply shift their marketing to the
19 uncovered areas. It is especially important that the
20 guidelines apply to any new forms of marketing that are
21 developed. Who would have imagined just a few years ago
22 that we would have social vending machines that would let
23 users send video messages and free sodas to their friends
24 mobile phones?

25 The guidelines should be easy to apply so that

1 more companies will agree to follow them. I hope that
2 the Children's Advertising Review Unit and the Children's
3 Food and Beverage Advertising Initiative will adopt these
4 standards as their own and that many non-member companies
5 will follow them as well.

6 Most importantly, companies that reach large
7 numbers of children and teens should only accept
8 advertising that complies with the guidelines. A few
9 years ago, Nickelodeon told a Senate subcommittee that if
10 uniform nutrition standards were adopted it would use
11 them as a filter in all marketing and advertising
12 relationships. I hope that Nickelodeon will make good on
13 its commitment and that other companies such as Disney,
14 Cartoon Network, and Facebook will follow suit.

15 The guidelines should be easy to monitor.
16 Companies will be more likely to agree to guidelines if
17 they can be sure that their competitors are following
18 them as well. Those concerned about the epidemic of
19 childhood obesity need to be able to identify companies
20 that have agreed to follow the guidelines and those that
21 have not. They also need to assess how voluntary efforts
22 are affecting the mix of foods and beverages marketed to
23 youth and whether youth's exposure to marketing for non-
24 nutritious products has been reduced.

25 It is essential that the FTC continue to

1 collect data through a compulsory process and to prepare
2 periodic reports to Congress on the progress made by
3 industry. But we should not have to wait three or more
4 years to see whether the voluntary guidelines are
5 working. Greater transparency would permit other
6 branches of government, public health organizations, and
7 academics to learn what industry is doing to address the
8 problem of childhood obesity and to assess the
9 effectiveness of these efforts. Thank you.

10 MS. ENGLE: Thank you, Angela.

11 Our next speaker is Cary Frye from the
12 International Dairy Foods Association.

13 MS. FRYE: Good afternoon. IDFA represents the
14 nation's dairy manufacturing industry that produces 85
15 percent of the milk, cultured products, cheese, and
16 frozen desserts marketed in the U.S. We commend the
17 interagency working group for its efforts to fight
18 obesity among children and teens; however, we believe
19 that food and beverage marketing can play an important
20 role in fostering healthy dietary practices and
21 motivating children and adolescents to consume nutritious
22 foods.

23 To encourage greater consumption of nutritious
24 dairy products among children, IDFA strongly supports a
25 self-regulatory process like the Children's Food and

1 Beverage Advertising Initiatives. A number of IDFA
2 members are already part of this voluntary effort.

3 Dairy marketing expenditures represent a tiny
4 portion of the total spent by others reaching out to
5 children. According to the FTC's 2009 report to
6 Congress, the marketing expenditures of all dairy
7 products represented only a little over 3 percent of the
8 \$1.6 billion spent in total food marketing directed at
9 youth.

10 Milk consumption has been declining for 35
11 years, while consumption of competing beverages has risen
12 dramatically. Seventy-one percent of milk consumed by
13 children ages two to 17 is a standalone beverage,
14 competing directly with beverages that have a much
15 greater degree of advertising directed at this
16 population.

17 Our members are formulating healthier product
18 options, like lower-calorie flavored milks, yogurt with
19 sugar reductions, great tasting, reduced-fat cheese, and
20 creamy ice cream, light ice cream made with skim milk.
21 We need to encourage marketing of these products to
22 youth, not set up rigid restrictions that could
23 discourage this marketplace trend.

24 IDFA offers these initial recommendations for
25 improving the nutrition principles. The levels of

1 nutrient to limit -- nutrients to limit in principle B
2 should be applied on the actual serving of the food as
3 packaged, not the RACC determined by FDA. The market of
4 portion-controlled packages from milk, kids yogurts,
5 frozen juice bars, and string cheese is growing and can
6 provide adequate serving sizes for specific age groups to
7 limit calories.

8 We agree that naturally occurring levels of
9 nutrients should not be counted towards the proposed
10 nutrients to limit and ask for clarification that this
11 applies to all dairy products made with milk. The
12 requirements for limiting saturated fat to 15 percent of
13 calories should be removed for dairy products. The
14 amount of allowed sugars should align with the IOM report
15 on competitive foods in schools that permits flavored
16 yogurt with up to 30 grams of total sugar per eight
17 ounces to counter the natural acidity in cultured yogurt.
18 And we also recommend eliminating the reference to 1
19 percent for low-fat milk, yogurt, and cheese and instead
20 simply use the descriptor low-fat.

21 We appreciate this opportunity to provide
22 comments, and we look forward to developing a more
23 detailed analysis when we submit our written comments.
24 Thank you.

25 MS. ENGLE: Thank you.

1 Next is Barbara Hiden from the American
2 Beverage Association.

3 MS. HIDEN: Good afternoon. I'm Barbara Hiden
4 with the American Beverage Association. We represent the
5 nation's non-alcoholic refreshment beverage industry. We
6 are the producers and distributors and franchise company
7 and suppliers to that industry.

8 We have hundreds and hundreds of brands, as you
9 can imagine if you walk down the grocery aisle, that
10 provide all sorts of flavors and choices and packages and
11 sizes for our consumers as folks strive to make healthy
12 choices and make choices that suit their needs and their
13 lifestyle. We also support a lot of voluntary
14 initiatives, most notably our work in schools through our
15 School Beverage Guidelines, a recent initiative we call
16 Clear on Calories, which is providing front-of-pack
17 labeling so that consumers can make informed choices as
18 they go down the beverage aisle. This will be on all
19 sizes, you know, up to what we consider a single-serve
20 now, which would be 20, 24 ounces even. Total calories
21 will be right there on the front. Of course they're on
22 the back already as part of the Nutrition Labeling and
23 Education Act, but this way the consumer won't have to do
24 the math, it will be right there on the front.

25 We're also part of the Children's Advertising

1 Review Unit, which has been mentioned by several other
2 speakers today, which is part of the Council of Better
3 Business Bureaus.

4 We think these types of voluntary initiatives
5 can be very successful. For example, under our School
6 Beverage Guidelines, we have reduced beverage calories
7 available in schools by 88 percent. We have, as I
8 mentioned, the Clear on Calories initiative, it was
9 launched in February. We're already getting products out
10 into the marketplace. Soon, by the end of 2012, all of
11 our beverages will be labeled with a front-of-pack
12 labeling initiative.

13 We think these types of approaches make a lot
14 of sense and are worth doing. The proposal that has come
15 out from the interagency working group, certainly the
16 goals are laudable. But when we dig down into it and
17 look exactly at what is on the table we find that it's
18 going to be impractical and unworkable. And there is
19 nothing that proves that advertising, per se,
20 restrictions thereon will do anything to reduce childhood
21 obesity, so we question the efficacy.

22 It also provides a definition for children that
23 goes beyond what folks traditionally are used to seeing.
24 We think that that's a little too broad in its scope.
25 We're very concerned about the system that sets up what

1 we consider a listing of good foods and bad foods. We
2 don't think that's based on science. We don't think it's
3 an appropriate role for government. We think it's over-
4 reached, and we think it's bad public policy.

5 A couple of other speakers have mentioned here
6 today the impact or potential impact on bottled water,
7 and I'd like to speak to that. When you look at
8 principle A, those foods are supposed to contribute a
9 significant or needed nutrient to the diet. Water does
10 not; diet soft drinks do not. They do provide hydration
11 and refreshment, but they would be precluded in -- under
12 our interpretation of these guidelines.

13 The term marketing is overly broad in our view.
14 I see the red light has come on, so I'm going to save
15 most of the rest of it for our written comments, but we
16 did want to get those concerns on the table. And we do
17 think that the proposed guidelines need to be withdrawn
18 and the agencies should start over. Thank you.

19 MS. ENGLE: Thank you.

20 Next is Dan Jaffe from the Association of
21 National Advertisers.

22 MR. JAFFE: Good afternoon. The Association of
23 National Advertisers whose members carry out more than
24 \$250 billion worth of advertising and marketing in the
25 U.S. annually thank you very much for this opportunity to

1 speak here today.

2 Clearly, a three-minute statement cannot even
3 scratch the surface, let alone provide a careful review
4 of the IWG proposal. Nevertheless, there are some clear
5 conclusions that can be drawn. First, if the stringent
6 marketing and advertising proposals were, quote,
7 voluntarily accepted by the food, beverage, restaurant,
8 and media communities, the cost would be multi-billions
9 of dollars in non-market-driven reformulations and the
10 suppression of virtually unprecedented amounts of
11 advertising to those 17-year-old or younger.

12 Second, and most disturbingly, the IWG report
13 provides virtually no evidence that these proposals, if
14 fully complied with, would provide any positive impact on
15 obesity rates in the U.S. Third, it is severely
16 misguided to apply these marketing and advertising
17 restrictions to minors, 17-year-old or younger. It is
18 totally unjustifiable to treat 17-year-olds as if they
19 were seven. Many 17-year-olds are allowed to drive by
20 themselves and stand at the threshold of being able to
21 vote, marry, and go into the military.

22 It takes extraordinary analytic contortions to
23 state that teenagers, nevertheless, are incapable of
24 dealing with food advertising. And I believe that that's
25 true for social media as well.

1 Fourth, the proposed IWG definitions of
2 marketing, promotion, and advertising, "directed to
3 children," are breathtakingly over-broad. They threaten
4 to suppress an enormous amount of traditional marketing
5 activity, including a wide range of longstanding
6 corporate icons, the sponsorship of many Little League
7 teams and other sporting events and many charitable
8 activities by food, beverage, and restaurant companies.

9 Fifth, the claim that these proposals are,
10 "voluntary," clearly violates truth in labeling laws.
11 They cover virtually every food category, every medium of
12 marketing and advertising, and they become dramatically
13 more restrictive over time. Can anyone doubt that these
14 proposals are not voluntary but thinly veiled government
15 commands? This is a classic case of backdoor regulation
16 without the responsibilities to actually meet the
17 requirements of such regulation.

18 Sixth, the IWG has completely failed to carry
19 out the careful study of these issues that was mandated
20 by the Congress. I think that the agencies that are here
21 who have some truly expert people know what a full study
22 means, particularly if they were trying to put forward a
23 regulation. That clearly has not happened here.

24 The existing proposals utilize old data from
25 2006 that totally ignores the enormous changes in the

1 marketplace. It fails to even examine, for example,
2 recent studies carried out by the Georgetown Economic
3 Services for the Association of National Advertisers and
4 GMA. Using 2010 Nielsen data demonstrates food and
5 beverage advertising directed to kids on the broadcast
6 media has dropped by more than 50 percent since 2004, and
7 having categories such as cookies and soft drinks it has
8 dropped by more than 90 percent. And you'll be hearing
9 about the CFBAI and how all of the remaining categories
10 are handled.

11 Therefore, ANA strongly urges the four agencies
12 to withdraw this proposal until they have carried out the
13 careful study, including a cost-benefit analysis that
14 Congress has mandated. Thank you very much for your
15 time.

16 MS. ENGLE: Thank you, Dan.

17 Next up is Elaine Kolish from the Council of
18 Better Business Bureaus Children's Food and Beverage
19 Advertising Initiative.

20 MS. KOLISH: Thank you for the opportunity to
21 comment. With the limited amount of time, I'm going to
22 make just three points. First, self-regulation is
23 working. CFBAI's participants have stepped up to the
24 plate and are changing what's on the plate. The 17
25 leading food companies who are part of this self-

1 regulation initiative share the IWG and the First Lady's
2 goals of combating childhood obesity. They are committed
3 to being a part of the solution and supporting the
4 efforts of parents by advertising healthy and healthier
5 foods to kids.

6 The CFBAI represents a sea change from the past
7 with its participants agreeing to using meaningful,
8 science-based nutrition standards to govern their
9 advertising to kids or not to engage in child-directed
10 advertising. The program and the standards which were
11 held by the FTC, members of Congress, health groups, and
12 many others as being important and historic have
13 continued to improve since they were launched and have
14 accomplished much. We are gratified that the FTC
15 continues to support self-regulation efforts to address
16 childhood obesity and promote healthy diets and
17 recognizes that progress has been made.

18 There are many examples of notable progress,
19 but I will focus on sodium changes. Before our program,
20 some products had as much as 900 milligrams of sodium.
21 Now the highest is 760. But most have far, far less.
22 With the FDA healthy level of 600 milligrams being the
23 target for main dishes and meals, and 480 or lower being
24 used for individual foods.

25 As you know, sodium presents very challenging

1 issues. Those challenges are not, however, limited to
2 package good companies and restaurants. One illustration
3 can be found in the recipes for home cooks found in the
4 leading food sections in newspapers across the country.
5 They show that even at home making delicious foods that
6 are low or lower in sodium is extraordinarily difficult.
7 For example, none of the six recipes with nutritional
8 analyses in our leading local paper last week would meet
9 the IWG's proposed standards. In particular, four
10 greatly exceeded your proposed sodium limits. For
11 example, one delicious-sounding recipe for low-fat tomato
12 basil soup contains 580 milligrams of sodium per serving,
13 far more than what's in the soups our participants
14 advertise and far higher than the 210 milligrams you
15 propose.

16 My second point is the proposed standards are
17 unworkable. While we appreciate that the IWG recognizes
18 that its principles would require a phase-in period, the
19 specific goals for nutrients to limit and for foods to
20 include exceed any reasonable expectation of what can be
21 accomplished within five years. Indeed it's very
22 questionable whether on a wide-scale basis foods that
23 would meet those limits can be produced and, if they can,
24 whether they would be safe or affordable or tasty.

25 The proposed definitions of child-directed

1 advertising also are overly broad and over-reach,
2 sweeping in, for example, long-standed (sic), customer-
3 supported corporate activities designed to support
4 physical activity. In contrast, we've worked with our
5 participants to strike the right balance. We cover, for
6 example, ads and traditional and new and emerging social
7 media when they're directed -- clearly directed at kids,
8 not other age groups or moms.

9 My third point is that unrealistic standards,
10 even though very well intentioned, are not as you might
11 hope, aspirational. The food pledge program has
12 succeeded because the bars that were set, while very
13 challenging for the participants, were reasonable and
14 could be met through gradual, steady changes. They
15 encouraged, not discouraged, innovation and
16 reformulation, and they've encouraged more companies to
17 participate in self-regulation. Principles that pose
18 insurmountable challenges, not reasonable ones, and that
19 are over-reaching are unlikely to have the same positive
20 effect.

21 In conclusion, we appreciate the FTC's support
22 for self-regulation. We are deeply committed, like you,
23 to improving the nutritional composition of foods
24 advertised to kids. We recognize there is room for
25 improvement, and we are working to strengthen our program

1 and bring about even more changes in the foods advertised
2 to kids. Thank you.

3 MS. ENGLE: Thanks, Elaine.

4 Our next speaker is Dan Levy from the American
5 Academy of Pediatrics.

6 DR. LEVY: Much to the consternation of my
7 staff and my patients, I've taken the day off from
8 practice to come and speak with you and to represent the
9 60,000 pediatric pediatrician members of the American
10 Academy of Pediatrics.

11 And what I'd like to do is share some evidence-
12 based information with you from the Academy. As a
13 pediatrician, I've been in practice for 32 years, and I'm
14 seeing a distressing increase in the number of children
15 and adolescents who are overweight and obese. Today,
16 about 30 percent of the children we treat are struggling
17 with overweight or obesity, and this number is growing.
18 This trend has alarmed the pediatric community and should
19 spur us as a nation into action.

20 We have been honored to work with the First
21 Lady, Michelle Obama, on the Let's Move campaign, and
22 we're committed to increasing the national focus on the
23 child health crisis. The AAP applauds the interagency
24 working group's efforts to address overweight and obesity
25 and support overall the proposed nutritional advertising

1 principles.

2 While we recognize that the roots of this
3 epidemic are complex, it's clear that food marketing to
4 children is a big factor. For each hour of daily
5 television viewing by children, the likelihood of obesity
6 increases by 4 to 5 percent, beginning with 12 percent
7 with one hour and so on.

8 Part of this has to do with the poor food
9 choices encouraged by advertisements. More than 80
10 percent of all advertisements in children's programming
11 are for fast food or snacks, and for every hour the
12 children watch TV they see an estimated 11 food
13 commercials.

14 Although exposure to food ads has decreased in
15 the past few years for young children, it's increased for
16 adolescents. In 2009, the fast food industry alone spent
17 \$4.2 billion on advertising in all media. A study of
18 50,000 ads from 2003 to 2004 on the 170 top-rated shows
19 found that 98 percent of food ads seen by children aged
20 two to 11 years and nearly 90 percent of food ads seen by
21 teens are for products that are high in fat, sugar,
22 sodium, and, of course, low in nutritional content.

23 New technology is also enabling advertisers to
24 reach young children and teenagers with a variety of
25 online interactive techniques. A study of the top five

1 brands in eight different food and beverage categories
2 found that all of them had internet websites; 63 had --
3 63 percent had adver-games; 50 percent had cartoon
4 categories; and 58 percent had designated children's
5 areas. Half of the websites urge children to ask their
6 parents to buy their products, yet only 17 percent
7 contained any nutritional information.

8 The AAP agrees with the interagency working
9 group that there needs to be a consistent set of national
10 marketing standards; however, the working group
11 suggestion to not include marketing to adolescents beyond
12 in-school marketing and social media inappropriately
13 limits the reach of even these voluntary guidelines.
14 Teens are being hit with food advertisements everywhere
15 they turn. Their cell phones can even be targeted by
16 fast food companies that offer teenagers a discount on
17 fast food as they walk by a particular restaurant.

18 No platform in which food advertising is
19 reaching adolescents, such as product placement on TV
20 programming, should be ignored. We strongly suggest that
21 the principles apply to all marketing approaches
22 companies use to reach children and adolescents.

23 Additionally, the AAP urges food and beverage
24 companies to agree to stop marketing unhealthy food
25 during television programming that is viewed

1 predominantly by young children. While we acknowledge
2 and understand that the interagency working group's
3 proposed guidelines are voluntary, the AAP supports a
4 more robust restriction on junk food advertisement on
5 children's programming and will continue to support
6 Congressional action to make this mandatory.

7 We understand that the adoption of the
8 marketing principles won't be easy, but a few important
9 actions are. Many companies are at the table and wish to
10 be part of the solution to the national obesity crisis.
11 Eliminating unhealthy food marketing to children is an
12 essential part of that solution.

13 Thanks for the opportunity to speak to you. We
14 look forward to providing a more detailed statement in
15 response to the published request for comments. And the
16 only other thing I would say is that kids are vulnerable.
17 They're vulnerable to the messages that we send. We've
18 got to do better than we're doing now. Thank you.

19 MS. ENGLE: Thank you.

20 Next up is Jeff McIntyre from Children Now.

21 MR. MCINTYRE: Good afternoon. I am Jeff
22 McIntyre, the Director of National Policy for Children
23 Now and the Chair of the Children's Media Policy
24 Coalition. We enthusiastically support the creation of
25 these proposed nutrition standards for the marketing of

1 food to children and are pleased that we are able to move
2 forward in this process.

3 In Children Now's 2007 conference on the future
4 of children's advertising, Senator Sam Brownback raised
5 concerns specifically related to the advertising of
6 unhealthy foods to children. Out of that conference,
7 Senator Brownback joined Senator Harkin to create a joint
8 industry advocate task force at the Federal
9 Communications Commission to create a set of voluntary
10 standards for marketing food to children. Sound
11 familiar?

12 As someone that chaired the public health
13 committee of that task force at the time, those
14 discussions were professional but contentious, and after
15 several months failed to arrive at an agreement
16 acceptable to public health experts, child advocates, and
17 industry lobbyists.

18 In the wake of that failed task force, Senators
19 Brownback and Harkin were forced to turn to legislation
20 to create a voluntary nutrition standard. The result was
21 the interagency working group that we have all become so
22 fond of and find ourselves addressing today.

23 This brief history review is important as it
24 informs several of the questions raised by the working
25 group and the recently issued proposed comments. The

1 working group guidelines, if consistently adopted by the
2 industry, would become an important part in addressing
3 childhood obesity. Unfortunately, as several studies,
4 including the Children Now 2009 report, demonstrate,
5 self-regulation has not been effective in this area. The
6 lack of consistency among companies participating in the
7 Children's Food and Beverage Advertising Initiative is
8 dramatic. And when compared to groups outside of that
9 initiative, the results are that much more striking.

10 As the working group considers the proposed
11 standard, these impressive imperfections of self-
12 regulation should be considered so the standard can
13 address the gaps. Without any means of accountability or
14 ease of monitoring those gaps, voluntary simply becomes
15 random, and that's unacceptable.

16 Also, the media companies should have a more
17 clear and present participation in this. To go from
18 participating in a Federal agency task force directed by
19 two U.S. Senators, charged with creating solutions to
20 essentially absent in the working group's proposal,
21 especially regarding marketing to teens, is quite a step
22 away from responsibility in this area. And it goes
23 against the recent White House Task Force report
24 recommendation that the food and beverage industry and
25 the media and the entertainment industry should jointly

1 adopt meaningful uniform nutrition standards for
2 marketing food and beverages to children.

3 Specifically choosing the broader language
4 around teens and not narrowing the platforms to just in-
5 school and social networks can help accomplish this.
6 There should not be a withdrawal. This is the mechanism;
7 this is the time for this to happen.

8 Thank you so much for your work and diligence
9 in this, and we greatly look forward to the next steps.

10 MS. ENGLE: Thank you.

11 Our next speaker is Kate Roberts from
12 Children's Hospital.

13 DR. ROBERTS: The second one who has to lower
14 this. Hi, my name is Dr. Katherine Roberts. I'm a
15 third-year pediatric resident in Southern California and
16 a resident leader within the American Academy of
17 Pediatrics. I am speaking as an individual pediatrician
18 today.

19 First, let me applaud the working group as well
20 as the Congress in taking the ambitious and necessary
21 step forward in combating childhood obesity by addressing
22 food marketing to children and adolescents. As a
23 pediatrician, I see the negative impact of childhood
24 obesity on my patients every day. I see the 11-year-old
25 boy who has chronic knee pain and requires hip surgery

1 due to the heavy weight on his joints.

2 I see the 15-year-old girl who is flunking out
3 of school and showing signs of depression due to low
4 self-esteem from being overweight. And I see the two-
5 year-old little girl with Kool-Aid in her sippy cup
6 because commercials lead parents to believe that Kool-Aid
7 is healthy and kids like the fun character they see on
8 the box.

9 From my daily interactions with my patients,
10 there are three main things evident to me that I would
11 like to share with you and some ideas on how to take that
12 next step into implementation. Number one, marketing
13 plays a huge role in children and adolescents' diets. I
14 spend a good part of my day, every day, teaching my
15 patients and their families about healthy eating. And
16 every day it's evident how much of their beliefs of what
17 is and is not healthy is based on marketing, TV,
18 internet, packaging, and more.

19 I commonly have to explain to families that
20 fried veggie chips really aren't vegetables. Or that 880
21 milligrams of sodium in a can of soup is way too high.
22 It is clear that what is being marketed is seen as
23 credible information by parents and deeply affects
24 children's and adolescents' diets.

25 Secondly, families want to eat healthy. I

1 can't say this enough. Families, parents, children, and
2 adolescents want to eat healthy foods. But they are
3 either too busy, it is too complicated, or it is too
4 expensive. That is where these standardized nutrition
5 guidelines can step in. By marketing, formulating, and
6 educating the public about healthier foods, food
7 companies and beverage companies can help children and
8 adolescents to eat healthier and improve the overall
9 health of our nation's youth.

10 Thirdly, if the food industry adopts these
11 standardized nutrition guidelines, there will be
12 significant improvement in the health of our nation's
13 youth.

14 As for the next step, how do we incentivize
15 companies to implement these guidelines? We need to make
16 the proposed nutritional guidelines a win/win for
17 companies and for youth. So, how do we do that? Here's
18 a couple ideas off the top of my head. How about a
19 healthy stamp of approval on foods that meet the
20 nutrition guideline criteria which children and families
21 learn to recognize and want to buy?

22 How about some creative marketing strategies
23 for children, something fun and colorful, such as dancing
24 carrots or weight-lifting broccoli? For adolescents,
25 something cool, of course, such as partnering with MTV

1 for labeling. Imagine for the younger adolescents Justin
2 Bieber saying, "I like carrots over potato chips." Or
3 point rewards for healthy food products, low-sugar
4 yogurt, whole-wheat crackers.

5 These are just some of my ideas. Therefore, to
6 me, it is clear that through innovation and working
7 together we can help prevent childhood obesity and make
8 it win/win for everyone. Thank you so much for your
9 time.

10 MS. ENGLE: Thank you.

11 The next speaker is Laura Shumow from National
12 Confectioners Association.

13 MS. SHUMOW: Hello, I'm Laura Shumow with the
14 National Confectioners Association, which represents over
15 350 manufacturing confectionary companies, as well as
16 over 200 companies that supply and service the industry.
17 NCA member companies are diverse. NCA represents major
18 confectionary companies that sell brands that are
19 recognizable and add happiness to most family homes.

20 At the same time, two-thirds of NCA's members
21 are small businesses. Many of the industry's
22 manufacturers are now fourth and fifth-generation family-
23 owned companies and have long histories of engaging with
24 and supporting their local communities.

25 Our largest members that represent the majority

1 of candy sold in national distribution channels are
2 Kraft, Hershey, Mars, and Nestle. These leading
3 companies have all made major commitments under the
4 Children's Food and Beverage Advertising Initiative to
5 not advertise candy to children under 12.

6 While the NCA and our members support
7 responsible advertising and marketing, especially when it
8 comes to children, the interagency working group
9 guidelines are over-reaching in the scope of marketing
10 activities they cover and with the age groups they
11 target. I'll provide some examples of how the definition
12 for marketing activities would impede our industry's
13 business practices and community involvement.

14 First, by limiting the ability to use packaging
15 and point-of-purchase displays, the guidelines would
16 prohibit seasonal products related to major holidays.
17 Examples of products impacted include a chocolate Easter
18 bunny, a Chocolate Santa, a pumpkin-shaped Halloween
19 candy, and a package of chocolates covered in hearts or
20 snowmen.

21 Candy is a treat to be eaten in moderation and
22 is a fun, integral part of seasonal celebrations.
23 Considering over half of all candy sold is around the
24 holiday season, limits on these fun products would
25 severely impact the confectionary business.

1 Second, by limiting the ability of companies or
2 brands to sponsor events and sports teams, especially
3 when these sponsorships would be visible to teen
4 audiences, would impact not only major entertainment
5 events, but would also, and perhaps more importantly,
6 remove one of the ways that small businesses lend their
7 support to communities.

8 Many of our small and medium-sized companies
9 proudly fund programs like Little League and high school
10 athletic teams. Other activities that would be
11 prohibited include sponsorship of any concert or sporting
12 event at the college and university level, including NCAA
13 basketball. It would also severely limit large and small
14 companies' participation in campaigns to raise funds for
15 national charities like United Way, which raises funds
16 for both children and adult organizations. Our members
17 will not stop supporting these programs.

18 In summary, while NCA members support
19 responsible advertising, these guidelines are over-
20 reaching. This is especially the case considering the
21 lack of evidence demonstrating that such measures would
22 actually have an impact on children's overall health
23 status. Considering the commitments to reduce or
24 discontinue advertising to children under 12 made by the
25 confectionary industry and the broader food industry, our

1 collective time and efforts would be better spent
2 securing alignment on responsible marketing practices for
3 the 12-and-under age bracket. NCA would be pleased to
4 work with the interagency working group to this end.

5 MS. ENGLE: Thank you.

6 Next we'll hear from Margo Wootan from the
7 Center for Science in the Public Interest.

8 DR. WOOTAN: Thank you. And I'm testifying
9 today on behalf of the Food Marketing Work Group, which
10 is a coalition of organizations and experts that focus on
11 food marketing to kids.

12 We very strongly support the proposed nutrition
13 principles and marketing definitions for food marketing
14 that have been proposed by the interagency work group.
15 The work group's nutrition principles and marketing
16 definitions are very much needed. Of course, a number of
17 factors contribute to obesity, that goes without saying,
18 but food marketing plays a very important role. Kids are
19 constantly inundated with food marketing through
20 increasingly sophisticated and ubiquitous marketing
21 approaches which affect their food choices, their diets,
22 and their health.

23 The working group guidelines, if adopted by
24 industry, would make a very important contribution to
25 addressing childhood obesity. We're encouraged by the

1 fact that the current self-regulatory approach has
2 spurred a lot of product reformulation and has resulted
3 in the first reductions in unhealthy food marketing to
4 kids, certainly in the last couple of decades, maybe
5 ever.

6 As you know, 17 companies participate in the
7 CFBAI, which you've already heard about; however, several
8 studies show that the vast majority of marketing aimed at
9 kids remains to be foods that are high in calories,
10 saturated fat, sodium, and added sugars and low in
11 fruits, vegetables, whole grains, and key nutrients.

12 Self-regulation has not been effective as it's
13 currently being practiced, but we see good promise. One
14 of the key limitations is that each company has its own
15 set of nutrition standards, and while there are many
16 common elements among these nutrition standards, they
17 also include strategic differences that weaken their
18 impact.

19 The proposed interagency working group
20 principles would provide a consistent set of national
21 marketing standards which are solidly based on consensus,
22 science -- consensus nutrition recommendations and the
23 Dietary Guidelines for Americans.

24 Another flaw in the current self-regulatory
25 system is that companies marketing policies don't cover

1 all the approaches that they use to market food to
2 children. For example, few cover on-package marketing or
3 many of the marketing techniques that they use in
4 elementary, middle, and high schools. We strongly
5 support that the working group principles would apply to
6 all marketing approaches that companies use to reach
7 children.

8 We understand that the adoption of the
9 marketing principles won't be easy, but few important
10 actions ever are. But they're very important. Companies
11 have vowed to be part of the solution to the national
12 obesity crisis, and eliminating unhealthy food marketing
13 to children is an essential part of that solution.

14 The interagency working group marketing
15 principles address the key gaps in self-regulation that
16 will make it fully effective. We urge the interagency
17 working group to address the public comments and reduce
18 the final marketing principles soon. Families have
19 waited a very long time for these and they shouldn't have
20 to wait much longer.

21 So, thank you for the opportunity to testify.
22 We'll provide more detailed recommendations in our
23 written comments.

24 MS. ENGLE: Thank you.

25 And now since we're running ahead of time, I

1 think -- I don't know if anybody has signed up to speak,
2 but anybody who hasn't signed up in advance and wants an
3 opportunity to say a few words, you can come to the mic.

4 No? Okay. All right, well, I want to thank
5 everybody both for coming and for those who prepared
6 remarks for today and to remind you that we really do
7 want to hear -- receive written comments as well and
8 address some of the issues maybe that you've heard today,
9 to respond to some of those, as well as to elaborate on
10 some of the concerns that have been expressed.

11 The comment period is open until July 14th.
12 And as was mentioned earlier, a transcript of the session
13 today, as well as the slides that were presented earlier,
14 should be available on the FTC website, ftc.gov, in about
15 a week or so.

16 Is there anything else? All right, that's it.
17 Well, thank you all very much for coming.

18 **(Whereupon, the forum was concluded.)**

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MATTER NUMBER: P094513
CASE TITLE: Interagency Working Group on Foods Marketed
to Children
DATE: MAY 24, 2011

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

DATED: JUNE 2, 2011

RICK SANBORN

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

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

WANDA RAVER