

Statement of the Commission
Concerning the Interagency Working Group on Food Marketed to Children
Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts

April 28, 2011

Childhood obesity now represents one of the most serious and costly health threats facing our country. According to data from the Centers for Disease Control and Prevention, over the past three decades, rates of obesity have more than doubled for children ages 2 to 11 years and more than tripled for adolescents ages 12 to 19 years. As a result, a total of 32 percent of children are now either overweight or obese, with a disturbing 17 percent falling in the obese range. These rates are even higher among some racial and ethnic groups. Children who are overweight or obese are at much greater risk of developing diabetes, high blood pressure, asthma, and other diseases. In 2008, the medical cost of obesity – a preventable condition – was \$147 billion.¹

While the urgency of the childhood obesity problem is obvious, the solution is less so. Tackling childhood obesity is a complex task that will require effort from many segments of society. Marketing can be an important tool to encourage children to make more healthful food choices. The goal of the proposal being issued today for comment is to encourage a marketing environment that supports, rather than undermines, parents' efforts to get their children to eat more healthfully.

The Interagency Working Group (Working Group), comprised of representatives from four federal agencies – the Centers for Disease Control and Prevention (CDC), the Federal Trade Commission (FTC), the Food and Drug Administration (FDA), and the United States Department of Agriculture (USDA) – was convened at the direction of Congress in 2009, as part of a bipartisan effort led by Senator Harkin and former Senator Brownback. The Working Group was charged with developing a set of principles to guide industry efforts to improve the nutritional profile of foods marketed directly to children ages 2 to 17 years. The Working Group's mission has also been incorporated into a larger effort of the White House Task Force on Childhood Obesity, created by President Obama to bring together experts from across the federal government to create and implement comprehensive measures to end the childhood obesity epidemic within a generation.

The Federal Trade Commission continues to support industry self-regulatory efforts to address childhood obesity by improving the nutritional quality of foods marketed to children. While such efforts have already made progress, the FTC believes that voluntary industry adoption of the Working Group's proposal will produce tangible benefits by shifting children's food marketing away from foods of little or no nutritional value toward more healthful foods. The Commission also believes that the voluntary approach continues to be preferable to government-imposed restrictions on food marketing to children, especially given the First

¹ Eric A. Finkelstein, Justin G. Trogon, Joel W. Cohen and William Dietz, *Annual Medical Spending Attributable To Obesity: Payer-And Service-Specific Estimates*, Health Affairs 28, no.5 at w822 (published online July 27, 2009), available at <http://content.healthaffairs.org/content/28/5/w822.full.html>.

Amendment constraints on the government's ability to regulate commercial speech. The proposal is not intended by any participating agency to be a precursor to a rulemaking effort.

The Working Group is issuing the proposal to seek input from food and beverage manufacturers, public health advocates, the entertainment industry, academics, and other stakeholders before issuing a final report to Congress. The Working Group proposal includes both nutrition principles and marketing definitions. The proposed nutrition principles are based on the health and science expertise of the CDC and drawn from existing nutrition policy and regulations of both the FDA and USDA. The marketing definitions were developed by the FTC in connection with its ongoing research and monitoring of food marketing activities directed to children. The CDC, FDA, and USDA will conduct the evaluation of comments relating to nutrition principles, and the FTC will lead the evaluation of comments relating to marketing definitions, with the FTC coordinating the overall comment review process.

The Commission recognizes that the proposal sets ambitious goals that, if adopted, would be challenging for industry to meet, even though many companies have already begun to take steps in the right direction. The childhood obesity epidemic, however, cannot be reversed without significant changes in our children's eating habits. The goals outlined in this proposal, which make recommendations regarding the types of foods children should be encouraged to consume for better health, represent the combined nutrition, health, and marketing expertise of the four agencies. Admittedly, the bar proposed by the Working Group is high, but the public health stakes could not be greater.

At the same time, the Commission is aware of the significant impact the proposal would have on the current marketplace. A significant percentage of the products currently marketed to children would not meet the proposed nutrition principles. Some foods would likely require substantial reformulation. Accordingly, the Working Group has proposed a five-year phase-in of the principles, with 10 years for final sodium targets. The Commission is particularly interested in specific and concrete data on which products currently meet the proposed principles or can be reformulated to meet them. The Commission also is seeking views on whether the proposed five-year implementation period is adequate and whether the final recommendation should include incremental goals. The Commission believes that as industry develops new products and reformulates existing ones, it should focus its efforts particularly, although not exclusively, on the foods most heavily marketed to children.

The Commission also acknowledges that the proposed marketing definitions would mean a substantial expansion of current self-regulatory programs. The proposal encompasses a broader range of advertising and promotional activities and, at the request of Congress, extends beyond children ages 2 to 11 to also cover marketing to adolescents ages 12 to 17. The Commission notes that adolescents, more so than younger children, are capable of comprehending the persuasive intent of marketing. In addition, the Institute of Medicine has reported that, while evidence suggests that food advertising influences the diets of younger children, the evidence is inconclusive for teenagers with regard to traditional measured media advertising. Based on that report, our preliminary assessment is that the final recommendations

of the Working Group, as they relate to teens, should be narrower in scope and possibly limited to in-school marketing activities and social media, such as online social networking web sites.²

The FTC looks forward to working with the other Working Group agencies and with all stakeholders to ensure that the final recommendations set out in the report to Congress will have the intended result of encouraging meaningful advances in self-regulatory efforts and improving the nutritional quality of the foods marketed to children and, ultimately, children's diet and health. We look forward to receiving comments on this proposal.

² We are cognizant of the explosion of social media use among adolescents and a reported increase in the use of social media for food marketing aimed at adolescents. The FTC's follow-up report to its July 2008 food marketing report, forthcoming later in 2011, will provide additional data relating to the use of social media for food marketing to children. We are unaware, however, of studies specifically addressing the impact of social media marketing as compared to advertising in traditional measured markets. Therefore, we specifically seek comment on whether a different approach is justified with regard to social media marketing.