

Comments of Grocery Manufacturers Association

concerning the

Federal Trade Commission and  
Department of Health and Human Services  
Public Workshop

on

Marketing, Self-Regulation & Childhood Obesity

July 14 and 15, 2005

Food Marketing to Kids Workshop -- Comment,  
Project No. P034519

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## **Comments of Grocery Manufacturers Association**

### **Federal Trade Commission and Department of Health and Human Services Public Workshop**

#### **On**

### **Marketing, Self-Regulation & Childhood Obesity**

The Grocery Manufacturers Association is pleased to submit comments for the record of the Public Workshop to be held July 14 and 15, 2005 entitled, “Marketing, Self-Regulation & Childhood Obesity,” sponsored by the Federal Trade Commission and the Department of Health and Human Services. These comments A) describe GMA’s and its members’ commitment to fighting obesity; B) summarize our current activities to foster health and nutrition;<sup>1</sup> C) outline the role of self-regulation in promoting responsible advertising, including to children;<sup>2</sup> and D) discuss how advertising will be part of the solution to the problem of obesity.<sup>3</sup> We look forward to the Workshop as an opportunity to raise awareness of GMA’s and its members’ current efforts, introduce new information and future initiatives, and learn from other participants in this important discussion.

Fighting obesity, in children and adults, is a public health issue of paramount importance to GMA and its member companies. An effective solution to the problem requires a comprehensive approach incorporating sound nutrition, increased physical activity, consumer education, and community support. Above all, the focus should be on giving parents and teachers the information they need to ensure that their children and students eat a nutritionally balanced diet and get the right amount of physical activity. The industry recognizes that it can help combat obesity by providing this information and by intensifying efforts to offer a wide range of nutritious products.

A great transformation is sweeping the food and beverage industry today. At the very moment that consumers are clamoring for information about nutrition and health, the United States Department of Agriculture (“USDA”) and the United States Department of Health and Human Services (“HHS”) have issued new dietary guidelines, the USDA revised its Food Guide Pyramid, the Food and Drug Administration (“FDA”) is amending its labeling policies, schools are examining their diet and fitness programs, and policy makers at state and federal levels are considering ways to assist consumers in finding solutions to their concerns. The advertising and labeling of food and beverages is an important source of the information parents and children receive about the choices that contribute to healthy lifestyles. A competitive marketplace is the most effective medium to deliver information about those choices.

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<sup>1</sup> Sections A and B contain information relevant to Education and Plans/Proposals for New Initiatives, as requested in the Federal Register Notice announcing the Workshop.

<sup>2</sup> Section C contains information relevant to Individual Company Self-Regulatory Efforts & Best Marketing Practices and Existing Industry-Wide Self-Regulatory Programs, as requested in the Federal Register Notice announcing the Workshop.

<sup>3</sup> Section D contains information relevant to Research on Impact of Marketing on Child Health, as requested in the Federal Register Notice announcing the Workshop.

The Grocery Manufacturers Association represents the world's leading branded food, beverage and consumer products companies. Since 1908, GMA has been an advocate for its members on public policy issues and has championed initiatives to increase industry-wide productivity and growth. GMA member companies employ more than 2.5 million workers in all 50 states and account for more than \$680 billion in sales. GMA is led by a board of member company chief executives.<sup>4</sup>

#### **A. GMA's Commitment**

The CEOs on the GMA Board have adopted a global strategy on food and health that states our resolve in no uncertain terms:

The food and beverage industry is committed to helping arrest and reverse the growth of obesity around the world. Achieving this goal will require multiple strategies, the integrated efforts of many sectors and long-term resolve. We are committed to doing our part and will support others in doing theirs.

GMA members recognize that they can make a significant contribution by providing a wide range of nutritious product choices and marketing these choices in ways that promote healthy lifestyles. They are committed to using their scientific knowledge and technological expertise to continue to research, develop and offer, in all distribution channels, a range of food and beverage products to meet many consumer needs, including nutrition, taste, convenience and value.

Consumer education is a key component of any effort to encourage healthier lifestyles. GMA members' commitment to promoting improved understanding of nutrition incorporates all of the following:

- Communicating nutritional information clearly in labeling, packaging, and advertising to enable consumers to make informed choices that best meet their lifestyle needs and physical activity levels;
- Employing a variety of communication tools, including nutrition labeling, in-store communications, customer care line and website information;
- Advertising responsibly, and continuing to take into account the special needs of children;
- Encouraging effective voluntary, national self-regulatory mechanisms promoting responsible advertising and marketing;

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<sup>4</sup> See [www.gmabrands.com](http://www.gmabrands.com), excerpted at Appendix A, for additional information on the resources that GMA and its members are making available to the public.

- Working with partners, including retailers, government and health professionals to extend healthy lifestyle messages; and
- Supporting efforts to increase physical activity and enhance nutrition education through partnerships with public health authorities, healthcare and educational organizations, government, and others.

GMA and its Board have also endorsed broader recommendations for fighting obesity that apply not just to food and beverage manufacturers, but also to employers, educators, nutrition and health experts, and public health officials. We must all work together to do the following:

- Incorporate physical activity and nutrition education in our nation's schools;
- Continue to find additional ways to encourage people to incorporate physical activity in their daily lives;
- Educate the public on the connection between calories consumed and calories burned;
- Raise consumer awareness of proper serving sizes;
- Encourage employers to promote employee wellness; and
- Address the needs of different population subgroups.

These recommendations reflect that the fact that no single measure can be expected to solve the problem of obesity. Multiple strategies and the commitment of many stakeholders will be necessary to address this important public health issue.

## **B. GMA and Members' Activities**

### Implementing and Promoting New Labels and Guidelines

GMA and its members have worked to shape public policy regarding food labeling and health claims by encouraging the free flow of truthful information on food labels and in advertising. GMA has supported FDA in requiring labeling of trans fat and allowing qualified health claims.

Following the release of the new Food Guidance System earlier this year, GMA announced an initiative to help promote its use. Specifically, GMA members are using their expertise in marketing, nutrition science and product development to help consumers adopt the recommendations of the USDA's Food Guide. The industry is:

- Increasing the use of whole grains, reducing saturated and trans fats, and reducing sodium content in its products; as well as introducing lower-sugar options and providing fruits and vegetables in convenient packaging;

- Using product labeling, marketing campaigns and other resources to inform consumers about how products they purchase meet the Food Guide's nutrition recommendations;
- Sponsoring education campaigns to increase awareness and adoption of the Food Guide's recommendations; and
- Displaying the Food Guide Pyramid and accompanying information on millions of products and messages that consumers will see millions of times in their stores and in their homes.

As part of this initiative, GMA will launch major public service programs, including a nationwide education campaign with Weekly Reader Corporation Consumer and Custom Publishing ("WRCC&CP") to promote the Food Guidance System to students, teachers, and families. GMA and WRCC&CP will distribute materials to *Weekly Reader* teacher subscribers consisting of a teacher's guide and student activities, as well as a parent take-home component in both English and Spanish. The materials will include math, nutrition, and science activities. WRCC&CP estimates this education campaign alone will reach more than 4 million students.

#### Improving Food Labels

With a grant to the International Food Information Council, GMA has sponsored research into how consumers use labels on products for nutrition information. This study has provided the Food and Drug Administration ("FDA") and our member companies with valuable assistance in developing labels that will better communicate calorie and serving size information.

Overall, GMA's positions on labeling are based on a fundamental objective – to empower consumers to make smart choices by providing clear, accurate information about nutrition. Consumers themselves are the ultimate decision-makers in the battle against obesity. They have a keen interest in health information, and manufacturers can better satisfy this interest by ensuring that nutrition information is communicated effectively. In a recent example of innovative and effective communication, several companies have developed graphics signifying healthier choices that appear on product labels or on in-store signage.<sup>5</sup>

#### American Council for Fitness and Nutrition

In 2003, GMA and many member companies founded the American Council for Fitness and Nutrition ("ACFN)," a nonprofit organization dedicated to promoting balanced fitness and nutrition. Now representing over 100 companies and organizations, ACFN is led by Dr. Susan Finn, a past president of the American Dietetic Association, and is guided by an Advisory Board of experts in the fields of nutrition, physical activity, and

<sup>5</sup> See [http://www.gmabrands.com/publicpolicy/obesity\\_ci.cfm](http://www.gmabrands.com/publicpolicy/obesity_ci.cfm) for links to member company sites that describe these and other programs.

behavior change. ACFN brings food and beverage companies, trade associations, and health and nutrition advocacy groups together to develop comprehensive and sustainable solutions for reducing and preventing obesity.

Among its many initiatives, ACFN this year launched a panel discussion series entitled, “Trends, Resources and Inspiration for Understanding and Maintaining Physical Health” or “TRIUMPH,” to convene organizations that are inspiring adults and children to embrace healthier lifestyles. In 2004, ACFN developed programs designed to educate Hispanic and African-American children and families, in a culturally appropriate manner, about healthy living. These are just a few of the activities ACFN, with the support of the industry, has undertaken to promote nutrition and fitness.

#### Other Public Policy Activities

At the federal level, GMA supported the Improved Nutrition and Physical Activity or “IMPACT” Act. The Act provides funds for community programs designed to research, prevent, and treat obesity.

In light of recent proposals to restrict certain foods and beverages in schools, GMA and its members have developed an Industry Position Statement on School Wellness Policy.<sup>6</sup> The School Wellness Policy reiterates food and beverage manufacturers’ commitment to working alongside educators to promote healthful eating and active lifestyles as part of a comprehensive student wellness policy. Industry members also pledge to continue to develop and offer students healthful food and beverage options as well as age-appropriate serving sizes.

#### Member Companies’ Activities

GMA members are responding to the call for foods that will help consumers strike a healthy balance in their daily diets. Members compete intensively to meet consumers’ demand for new products that combine taste, convenience, and nutrition. Around the country, companies are:

- Removing trans fat from products;
- Reformulating products to reduce calories, fat and sugars, lower cholesterol, and add vitamins, minerals, whole grains and fiber; and
- Offering new choices for smaller product package sizes.

Last summer, GMA surveyed 84 of the nation’s largest food and beverage companies about the initiatives they have undertaken to help consumers live healthier lifestyles.<sup>7</sup> Thirty companies responded, representing \$200 billion in annual sales. Ninety-seven

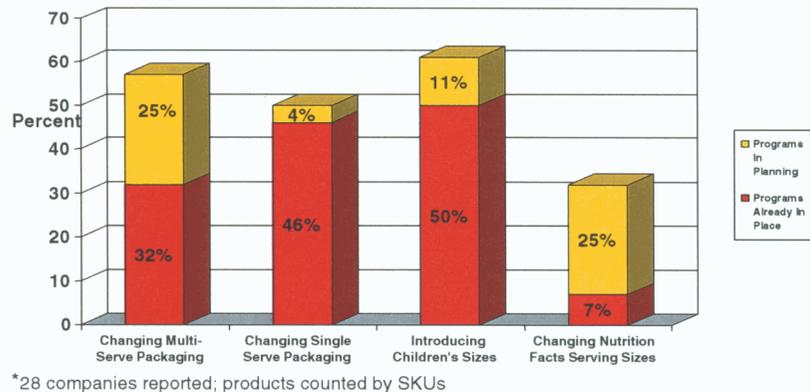
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<sup>6</sup> Attached as Appendix B.

<sup>7</sup> The survey report entitled, “GMA Members: Part of the Solution,” is attached as Appendix C.

percent of survey respondents said they were marketing improved products; these companies had improved nutrition in more than 3,000 products and sizes since 2002. More than half are making changes to multi-serve package sizes to help consumers manage their caloric intake. Fifty percent of respondents had created sizes for children, and another 11% had plans to reduce sizes for children.

## Members Changing Product Package Sizes



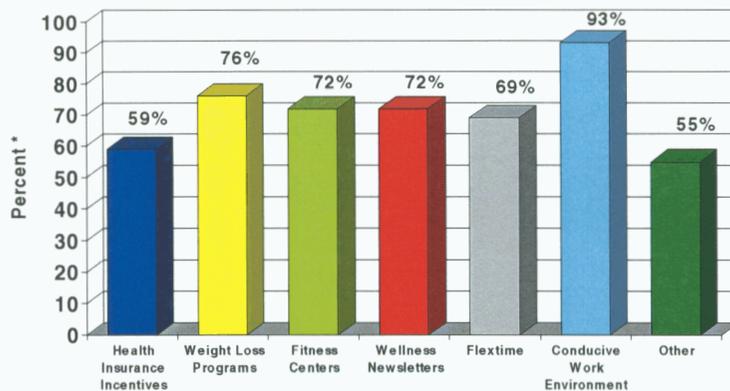
The survey also showed that companies are working to educate consumers about nutrition. By summer of 2004, more than 90 percent were promoting healthy lifestyles. Many are sponsoring specific programs promoting nutrition education and physical activity, particularly aimed at schools and local communities. For example:

- The General Mills Foundation, in partnership with the American Dietetic Association Foundation, has created the Champion Youth Nutrition Fitness Program. The program awards \$500,000 in grants each year to community-based programs across the United States that give children lifelong skills they need to eat a balanced diet and exercise regularly.
- The Coca-Cola Company and Kraft Foods together have made a combined five-year, \$12 million commitment to the Boys & Girls Clubs of America in support of Triple Play, a national after-school program developed in collaboration with the U.S. Department of Health & Human Services. Launched in March 2005, the program will be available to more than four million Boys & Girls Club members in all 50 states, plus Puerto Rico, the Virgin Islands and certain domestic and international military facilities.
- In partnership with the University of North Carolina at Chapel Hill, Gatorade sponsors a multiyear, multimillion dollar research, education, and outreach effort called Get Kids in Action. The program studies the ways that families, physicians, and community leaders can effectively get children to become more active. In support of Get Kids in Action, Gatorade offers kids ages 8 to 12 scholarships to sports camps at leading universities.

- Kellogg Company promotes healthy lifestyles through several programs. Examples include: Zumbando con Kellogg's, which combines dance fitness and nutrition education and is specifically designed for Latino families; and Earn Your Stripes, a campaign featuring sports stars like Mia Hamm, Kevin Garnett and Tony Hawk (all supported by Tony the Tiger), that encourages kids to get physically fit, eat right, and work hard. In addition, Kellogg's recently announced its sponsorship of "Girls on the Run," an after school program for girls 8-11 that focuses on running games and workouts, culminating in a 5K race.

GMA members also foster good health and nutrition among their employees. Most member companies sponsor employee wellness programs, providing health and fitness benefits to their workforces. Of the survey respondents, 76% offered their employees weight loss programs; 72% offered fitness center benefits; and 59% offered health insurance incentives.

### GMA Members Provide Employee Wellness Programs



\*29 companies reported; products counted by SKUs

These data demonstrate that GMA members strive to promote health and nutrition to all consumers, including employees. In the year since these results were collected, members have intensified their efforts to launch new products and programs. GMA is collecting the latest information now, and will be in a position by the time of the workshop in July to report the current levels of member companies' commitment to healthy lifestyle initiatives.

#### C. The Role of Responsible Advertising in Promoting Health and Nutrition

Research has often noted that companies competing for consumers' purchases are the most effective source of information about health and nutrition.<sup>8</sup> The current

<sup>8</sup> See, e.g. Pauline Ippolito and Alan Mathios, *Health Claims in Advertising and Labeling: A Study of the Cereal Market*, FTC Bureau of Economics Staff Report (1989).

unprecedented attention to nutrition and health will bear out that finding yet again. The thousands of innovations and reformulations flowing into the market are made possible through advertising and marketing. Consumers will not choose options they are not aware they have. And they will not embrace options that fail to fulfill their expectations. Advertising is critical to attracting and informing consumers. Responsible advertising is critical to keeping them.

### GMA and Member Companies' Guidelines and Policies

Every brand-name advertiser knows that effective advertising depends on consumers' trust and respect. Accordingly, the members of GMA have a longstanding commitment to responsible advertising and marketing practices. In keeping with that commitment, the GMA Board of Directors developed "General Principles in the Context of Food and Beverage Advertising" and "Additional Principles for Food and Beverage Advertising to Children" in November 2003.<sup>9</sup> The package included an underlying philosophy on advertising as well as specific principles to guide advertisers. An excerpt from the Preamble and several of the Principles follows:

*The members of GMA are committed to adhere to principles of responsible consumer communication, and have long subjected their advertising to rigorous internal review. Responding to public interest in transparency of advertising standards, GMA has drawn upon the experience of its members, and is publishing the core principles that we believe should guide the development, execution, placement and monitoring of food and beverage advertisements. GMA is offering these principles as a recommendation to all companies that advertise food and beverage products.*

#### **General Principles in the Context of Food and Beverage Product Advertising**

- *Food and beverage advertisements should not encourage or condone excess consumption and portion sizes should be appropriate to the setting portrayed.*
- *Food and beverage advertisements should not undermine the promotion of a healthy, active lifestyle.*

#### **Additional Principles for Food and Beverage Advertising to Children**

- *Food product advertisements should not undermine the role of parents and other appropriate adult role models in providing valuable dietary guidelines.*
- *Care should be taken not to exploit a child's imagination in a way that can encourage poor dietary habits.*

The Principles are reviewed on an ongoing basis to ensure they meet the highest standards and are continuing to respond to parents' changing needs and concerns.

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<sup>9</sup> The full Principles are attached as Appendix D.

In addition to the Principles discussed above, GMA members comply with internal company policies and programs designed to ensure that communications to children are conducted responsibly. Another layer of self-regulation comes from the broadcast and cable television networks that maintain and apply standards, some specific to children, for commercials that appear on their programs.

### NAD and CARU

The self-regulatory system managed by the National Advertising Review Council (NARC) deserves much of the credit for the truthful and responsible advertising that consumers see today. In the food and beverage sector, voluntary compliance with the decisions of the National Advertising Division (NAD) and the Children's Advertising Review Unit (CARU) ensures that advertising meets the highest standards of truth and accuracy.

Since it was founded in 1974, CARU has reviewed and reported on over 1000 advertisements directed to children, more than 150 of which involved food and beverages. CARU has informally consulted with food and beverage advertisers on hundreds of other ads. When it finds violations of its Self-Regulatory Guidelines for Children's Advertising ("CARU Guidelines"), CARU recommends changes to bring the ads into compliance. Advertisers' compliance with CARU's recommendations has been exceptional; the organization has a success rate of over 95% in resolving children's advertising issues. In rare instances of non-compliance, CARU refers the case to the Federal Trade Commission, which may investigate and bring action of its own. Thus, the system for self-regulation of advertising to children is strong and effective.

Even advertisers who have never been the subject of a CARU inquiry benefit from the guidance provided by its case decisions, which have addressed a range of issues involving health and nutrition, including advertisements that exaggerate the benefits of a food or beverage, or those that depict excessive consumption of snack foods. Moreover, industry adherence to CARU Guidelines has fostered advertising that promotes balanced diets and healthy life styles.

While many CARU Guidelines are potentially applicable to GMA members' advertising, the following Guidelines relating to Product Presentations and Claims specifically address advertising of food and beverages to children:

- The amount of product featured should be within reasonable levels for the situation depicted. *Guideline 7.*
- Representation of food products should be made so as to encourage sound use of the product with a view toward healthy development of the child and development of good nutritional practices. *Guideline 8.*
- Advertisements representing mealtime should clearly and adequately depict the role of the product within the framework of a balanced diet. *Guideline 9.*

- Snack foods should clearly be depicted as such, and not as substitutes for meals. *Guideline 10.*

CARU's sophisticated body of standards, which is continuously evolving, helps ensure that food and beverage advertising to children is truthful and accurate and reflects a balanced approach to health and nutrition.

In 2003, concerned that advertising self-regulation was not well-understood, GMA sent a formal request to NARC asking that it embark on a campaign to raise the visibility of its role in monitoring food and beverage advertising through NAD and CARU.<sup>10</sup> In response, NARC published a white paper entitled, "Guidance for Food Advertising Self-Regulation."<sup>11</sup> The white paper gives an overview of NAD and CARU's history and case precedent in the area of food and beverage advertising and is an invaluable resource for those interested in learning how remarkably well self-regulation works.

#### International Chamber of Commerce

The organization that sponsors self-regulation around the world is the International Chamber of Commerce, ("ICC"), which drafts the codes and policies that guide self-regulatory organizations in dozens of countries. In the area of marketing, ICC has developed international codes covering advertising practices generally, as well as online advertising and marketing, sales promotion, direct marketing, sponsorship, environmental advertising, and marketing and social research. ICC also sets forth world business views on government initiatives affecting marketing and consumer protection.

In 2003, GMA, through the auspices of the United States Council for International Business, asked ICC to explain to self-regulators how its existing voluntary codes would apply to advertising of food and beverages. In July 2004, ICC responded by issuing the "Framework for Responsible Food and Beverage Communications."<sup>12</sup> Based on this Framework, the European Advertising Standards Alliance is developing a Best Practice Recommendation on Food Advertising to be integrated into national advertising codes applied by self-regulatory organizations throughout Europe.<sup>13</sup>

#### **D. Role of Advertising in Combating Obesity**

Responsible food and beverage advertising will play an important role in the battle against obesity. Advertising is a powerful and effective way to educate consumers about how the wide array of products available can help them meet their individual nutrition goals. Food and beverage marketers communicate healthy lifestyle messages through

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<sup>10</sup> Attached as Appendix E.

<sup>11</sup> The white paper is available at <http://www.narcpartners.org/narcwhitepaper.aspx>.

<sup>12</sup> Attached as Appendix F.

<sup>13</sup> See EASA's *Focus* Newsletter, available at [http://www.easa-alliance.org/news\\_views/en/newsletter\\_004\\_0604.html](http://www.easa-alliance.org/news_views/en/newsletter_004_0604.html).

advertising using television commercials and print ads, websites devoted to health and nutrition, and logos signifying healthier choices that appear on product labels or in-store signage, to name a few. Marketers' use of varied communication tools and content help ensure that these messages reach and remain relevant for a wide range of consumers.

Advertising is also a critical element of the competition that drives innovation. The FTC has acknowledged the competitive benefits of advertising:

As health consequences become a more important consideration for consumers, food marketers have a powerful economic incentive to develop and market foods based on their nutritional attributes. These efforts, in turn, can provide consumers with even healthier products and more information about the health consequences of the foods they eat.<sup>14</sup>

GMA members will continue to address the obesity problem by offering new and innovative products – and using advertising to introduce those products to the market. Advertising will be critical to the success of these products. If manufacturers offering new alternatives cannot attract the attention of consumers, those alternatives will not survive in the marketplace. Only through effective, attention-getting messages, will consumers – adults and children alike – learn about new products and ideas. Moreover, several GMA member companies have taken voluntary steps to address public concerns about marketing to children. These measures highlight the potential for industry self-regulation, rather than government-mandated regulation, to ensure that children's advertising continues to be handled with appropriate sensitivity.

### Role of Parents and Schools

When it comes to children, parents are a primary source of health and fitness information. Research suggests that parents' eating habits and nutrition knowledge exert a major influence over children's dietary habits.<sup>15</sup> Parents must talk to their children about food and demonstrate the importance of balance – and as parents know, many of those conversations begin with a child's request for food. Whether the answer is “yes,” “no,” or “not now, maybe later,” responding to a child who asks for a product seen in an ad is an opportunity for a parent to explain the choices that lead to good nutrition. A child

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<sup>14</sup> Comments of the Staff of the Bureau of Consumer Protection, the Bureau of Economics, and the Office of Policy Planning of the Federal Trade Commission before the Department of Health and Human Services, Food and Drug Administration, *In the Matter of Obesity Working Group Public Workshop: Exploring the Link Between Weight Management and Food Labels and Packaging*, Docket No. 2003N-0338 (Dec. 2003).

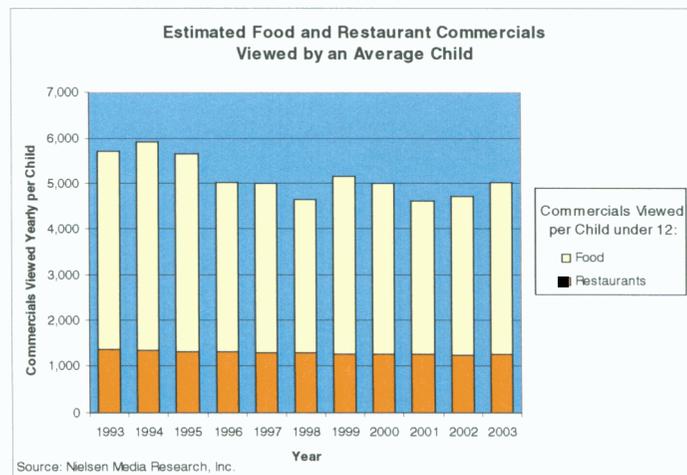
<sup>15</sup> See, e.g., Todd J. Zywicki, Debra Holt, and Maureen K. Olhausen, *Obesity and Advertising Policy*, (Oct. 2004), George Mason Law & Economics Research Paper No. 04-45, available at <http://ssrn.com/abstract=604781>, for a review of the literature. See also Sonia Livingstone and Ellen Helsper, *Advertising Foods to Children: Understanding Promotion in the Context of Children's Daily Lives*, (June 2004), available at [http://www.ofcom.org.uk/research/tv/reports/food\\_ads/?a=87101](http://www.ofcom.org.uk/research/tv/reports/food_ads/?a=87101); Brian M. Young, *Does Food Advertising Influence Children's Food Choices?*, 22 Int'l J. Adver. 441-459 (2003).

curious about choices is more likely to learn the importance of choice. Advertising contributes to that curiosity. GMA members will continue to ensure that food and beverage advertising is responsible, and will always take into account the special sensitivities of children.

Schools are also powerful avenues for bringing health and fitness information to children. Schools should restore physical and nutrition education programs to encourage healthy activity and healthy eating across all parts of children’s environment. In accordance with our School Wellness Policy,<sup>16</sup> GMA members will do our part by continuing to make healthful food and beverage choices available at schools.

Understanding the Facts

It is crucial that the debate about how food and beverage marketing affects kids be fact-based. Analysis and understanding of all the available research are necessary for development of appropriate and effective public policy recommendations in this area. Several recent public policy recommendations have relied upon erroneous assumptions about trends in advertising.<sup>17</sup> Data collected by Nielsen Research and analyzed by Georgetown Economic Services for GMA and the Association of National Advertisers<sup>18</sup> will be surprising to some who believe advertising has been rising in the last decade. The data showed that real expenditures for food, beverage and restaurant advertising on all television, including cable, have actually declined during the past decade. The analysis also concluded that the number of commercials for foods and restaurants seen by children under age 12 declined by 13 percent from 1994 to 2004.



<sup>16</sup> See Appendix B.

<sup>17</sup> See, e.g., Dale Kunkel, Brian L. Wilcox, Joanne Cantor, Edward Palmer, *Report of the APA Task Force on Advertising and Children*, (Feb. 20, 2004), available at <http://www.apa.org/releases/childrenads.pdf>, [http://www.apa.org/releases/childrenads\\_summary.pdf](http://www.apa.org/releases/childrenads_summary.pdf), [http://www.apa.org/releases/childrenads\\_recommendations.pdf](http://www.apa.org/releases/childrenads_recommendations.pdf), and [http://www.apa.org/releases/childrenads\\_implications.pdf](http://www.apa.org/releases/childrenads_implications.pdf); The Henry J. Kaiser Family Foundation, *Issue Brief: The Role of Media in Childhood Obesity*, (Feb. 2004), available at <http://www.kff.org/entmedia/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=32022>.

<sup>18</sup> Analysis attached as Appendix G.

The fact that children are seeing fewer food and restaurant advertisements today than they did ten years ago speaks volumes about the causes and remedies of the problem of obesity in the United States today. Advertising that has been steadily declining cannot explain obesity that has been rising.

Every remedy to the obesity trend, however, has one element in common – information. It is time to talk about food, health and nutrition. The conversation should include parents, teachers, public health officials, children, and the people who make the food and beverages we consume every day. Advertising will be an important part of that conversation. It will be an important part of the victory in America's battle with obesity.

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GMA and its member companies appreciate the work the FTC and HHS are doing to understand the complexities of this issue. We look forward to contributing to the dialogue at the Workshop.

# APPENDIX A



**MEMBER LOGIN**

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**SEARCH**

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GMA is the world's largest association of food, beverage and consumer product companies. With U.S. sales of more than \$500 billion, GMA members employ more than 2.5 million workers in all 50 states. [Complete Member Listing »](#)

**WHAT'S NEW**

June 10, 2005

**EVENTS**

• **Call to Action on CAFTA-DR**

Visit our [Legislative Action Center](#) to learn more about CAFTA-DR and to contact your representative and senators in support of the measure.

▪ **GMA Pro-CAFTA-DR Letter to the Senate Agriculture Committee**

GMA reiterates its support for CAFTA-DR in a [letter](#) sent in advance of the committee's June 7 hearing.

▪ **Study on Children's Exposure to Food Ads**

[Data collected by Nielsen Media Research](#) shows that children are viewing less food, beverage and restaurant advertising today than they were a decade ago.

• **Value Channels and the New Retail Landscape**

Read how manufacturers can optimize the growth potential of value channels — supercenters, club stores and dollar stores — and how traditional retailers can position themselves to compete more effectively, in the May issue of [GMA/IRI Times & Trends](#).

▪ **IS/LD Conference Wrap-up**

Find out what industry executives had to say about [streamlining supply chains](#) to provide consumers with the products they need, when they need them, where they need them and at the price they want.

06/10/2005

**GMA Associate Member Council Meeting**

**GMA Industry Affairs Council Meeting**

**GMA Government Affairs Council Meeting**

White Sulphur Springs, WV

06/10/2005

**GMA Executive Conference**

White Sulphur Springs, WV [more »](#)

06/11/2005

**GMA Board of Directors Meeting**

White Sulphur Springs, WV

06/20/2005

**Data Synchronization Value Implementation Workshop**

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06/23/2005

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**GMA ENDORSES CAFTA-DR IN SENATE AG COMMITTEE LETTER**

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Executive Update provides members with information on the latest GMA activities.

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June 9, 2005

**Company Initiatives**

Companies are listed alphabetically. Place your mouse over either A-H or I-Z, then click on a company name to access the relevant Web site. If there is an arrow after the company name, place your mouse over it to see a drop-down menu of multiple sites. When you click on an item, a new window will open to view the site.

A-H	I-Z
<a href="#">ACH Food Companies</a> >	
<a href="#">Barilla America, Inc</a> >	
<a href="#">Bimbo Bakeries, USA</a> >	
<a href="#">Cadbury Schweppes Americas Beverages</a> >	
<a href="#">Campbell Soup Company</a> >	
<a href="#">Chicken of the Sea</a> >	
<a href="#">Coca-Cola Company</a> >	
<a href="#">ConAgra Foods, Inc.</a> >	
<a href="#">Dannon Company, Inc.</a> >	
<a href="#">Dean Foods Company</a> >	
<a href="#">Del Monte Foods Company</a>	
<a href="#">Dole Food Company, Inc.</a>	
<a href="#">General Mills, Inc.</a> >	
<a href="#">George Weston Limited</a> >	
<a href="#">Gorton's Seafood</a>	
<a href="#">H.J. Heinz Company</a> >	
<a href="#">Hershey Foods Corporation</a>	
<a href="#">Hormel Foods Corporation</a>	

**EVENTS**

06/09/2005  
**Washington Breakfast Series**  
Washington, DC

06/10/2005  
**GMA Associate Member Council Meeting**

**GMA Industry Affairs Council Meeting**

**GMA Government Affairs Council Meeting**  
White Sulphur Springs, WV

06/10/2005  
**GMA Executive Conference**  
White Sulphur Springs, WV  
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06/11/2005  
**GMA Board of Directors Meeting**  
White Sulphur Springs, WV

06/20/2005  
**Data Synchronization Value Implementation Workshop**  
Washington, DC

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June 9, 2005

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- » Priority Programs
- » Grassroots [M]
- » Events
- » Committees/Working Groups
- » Federal Legislation
- » Resources/Publications [M]
- » Consumer Products Policy Committee
- » Government Affairs Staff Directory
- » International Council of Grocery Manufacturers Associations (ICGMA)

## Company Initiatives

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A-H	I-Z
	<a href="#">J.M. Smucker Company</a> >
	<a href="#">Johnson &amp; Johnson</a> >
	<a href="#">Kellogg Company</a> >
	<a href="#">Kraft Foods Inc</a> >
	<a href="#">Mars, Incorporated</a> >
	<a href="#">McCormick &amp; Company, Inc.</a>
	<a href="#">Musco Family Olive Co.</a>
	<a href="#">Nestle U.S.A, Inc.</a> >
	<a href="#">Ocean Spray Cranberries, Inc.</a>
	<a href="#">PepsiCo, Inc.</a> >
	<a href="#">Procter &amp; Gamble Company</a> >
	<a href="#">Sara Lee Corporation</a> >
	<a href="#">Sun-Maid Growers of California</a>
	<a href="#">Unilever</a> >
	<a href="#">Welch Foods, Inc.</a>

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 Washington, DC

# APPENDIX B



**Industry Position Statement on School Wellness Policy**  
**April 14, 2005 – FINAL VERSION**

**I. General Principles**

- A. The food and beverage industry remains committed to improving student wellness and working alongside educators to promote healthful eating and active lifestyles as part of a comprehensive student wellness policy.
- B. The food and beverage industry looks forward to continuing its partnership with schools, in part by providing useful and timely health and nutrition information, and also by offering healthful food and beverage choices for students.
- C. The food and beverage industry supports the tenets of the Dietary Guidelines for Americans 2005, especially the major emphases of the Guidelines which call for:
  - getting adequate nutrients within calorie needs;
  - increased physical activity levels;
  - increased intakes of fruits, vegetables, whole grains, and low-fat or fat-free dairy foods;
  - managing intakes of saturated fat, trans fat, cholesterol, sugars, and sodium.

**II. Nutrition Education, Physical Activity and Wellness Policy**

- A. In order to successfully address childhood obesity, the food and beverage industry supports Institute of Medicine and U.S. Department of Agriculture recommendations that school systems should work to address the factors that influence both eating and physical activity.
- B. The food and beverage industry pledges its creative resources to support curricula, programs and an educational environment that are designed to support healthful eating behaviors, improve students' ability to make healthful dietary choices and work in concert to increase students' physical activity.
- C. As part of its commitment to working alongside educators to promote healthful eating and active lifestyles among students, the food and beverage industry stands ready to work closely with school systems to preserve and maintain an educational environment that does not compromise educational objectives.

**III. Foods and Beverages Sold In Schools**

- A. The food and beverage industry supports school systems' initiatives to adopt robust school wellness policies that address health, nutrition and fitness education, and supports the goals of schools that include adhering to Federal School Meal Program guidelines that require limiting access to "competitive foods" (i.e. foods sold outside the federal meal program).

- B. The food and beverage industry pledges to be responsive and respectful of individual school systems' choices regarding all food and beverages. Furthermore, the industry pledges to do its part to ensure that companies operate in compliance with federal, state and local requirements.**
- C. To support school systems' initiatives to improve overall student wellness, the food and beverage industry will continue to develop and offer healthful food and beverage options as well as age-appropriate serving sizes.**
- D. For all competitive foods, the food and beverage industry supports school wellness policies that include the following principles:**
- **The sale of competitive foods and beverages during the school day in elementary, middle and high schools should emphasize options that meet the Dietary Guidelines' goals of moderating intake of calories, saturated fat, trans fat, cholesterol, sugars and sodium while encouraging fruits and vegetables, low and fat-free dairy, and whole grains.**
  - **Competitive food and beverage offerings should provide an age-appropriate mix that is also appropriate to the school level, with the product mix determined by school systems.**
    - **Elementary School: Emphasize options that are consistent with the Dietary Guidelines. This will help elementary-school-age students to form good nutritional habits.**
    - **Middle/High School: Ensure options that are consistent with the Dietary Guidelines are offered as part of a broad choice of foods and beverages. This will also allow middle- and high-school-age students to develop their ability to make their own healthful nutrition choices.**
  - **The food and beverage industry supports school policymakers' continued use of vending machines as a way for schools to maintain complete control over choices of offerings, as well as location and times of operation.**

# APPENDIX C



GROCERY MANUFACTURERS OF AMERICA



# GMA Members: Part of the Solution

*Collier Shannon Scott  
Georgetown Economic Services, LLC  
October 2004*



## Methodology

- GMA surveyed **84 members** during Summer 2004
  - Quantified initiatives being undertaken to help consumers combat obesity and improve nutrition and health
  
- **30 Companies** responded (36% of those polled) to some parts of the survey
  - Representing nearly **\$200 billion in annual sales**
  - Approximately a third of the U.S. food and beverage industry sales



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## Subjects Surveyed

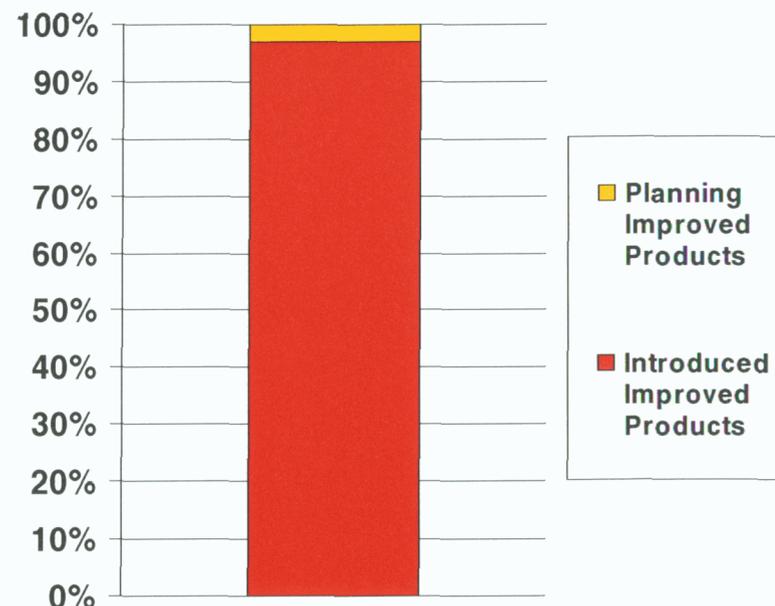
- Product Development
- Product Package Improvements
- Promoting Improved Products and Healthy Lifestyles
- Providing Consumer Information Resources
- Public Health Initiatives
- Employee Wellness Initiatives



## 100% of Respondents Are Improving Their Products 97% Already Have

- 97% of respondents have introduced or improved nutrition in **over 3,000 products and sizes\*** since 2002
  - 29% are new products
  - 71% reformulated products
- **Another 3%** are planning new or improved products

All Respondents Contributing Products to the Health of America



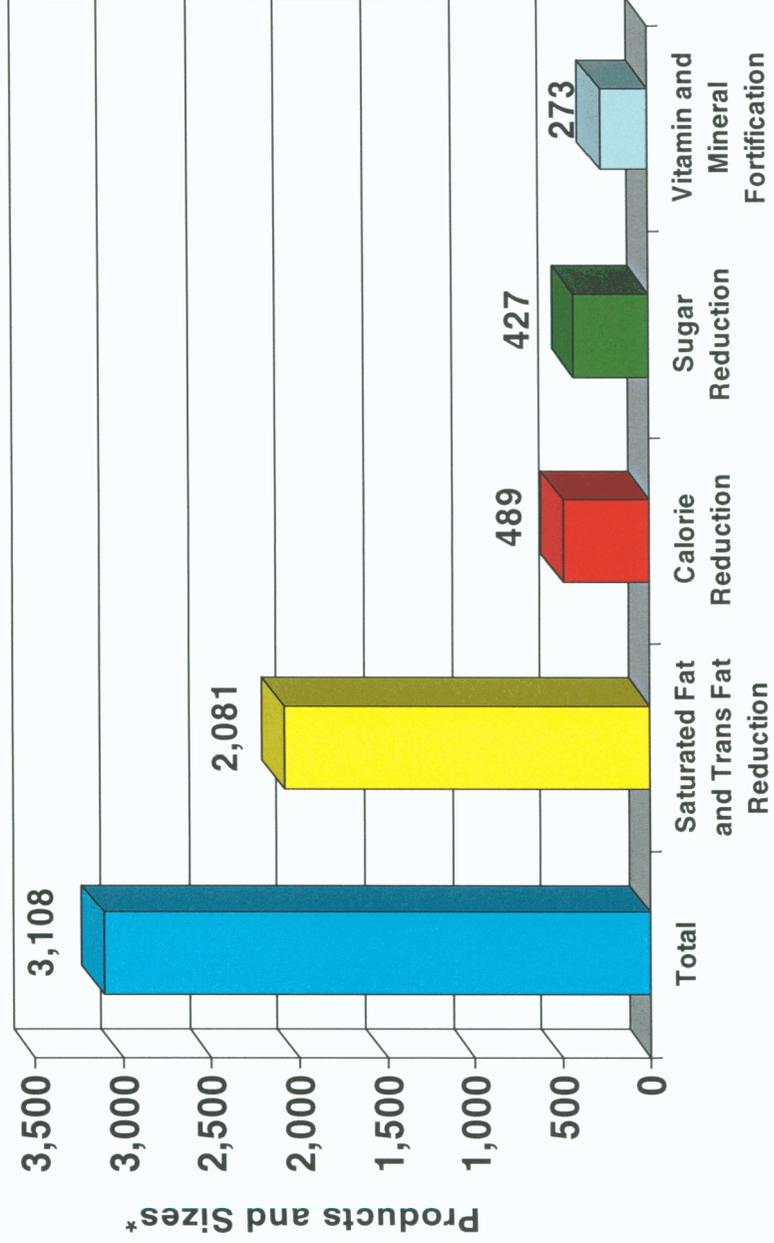
\*29 companies reported; products counted by SKUs



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# Nutritional Improvements



\*29 companies reported; products counted by SKUs



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## Respondents Are Working with Retailers to Make Healthier Products

- **46%** have developed **more than 300 products and sizes** with retailers\*
- Another **11%** are planning joint projects

\*28 companies reported; products counted by SKUs



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## Respondents Are Helping Consumers Manage Intake

- **57%** have changed multi-serve packaging or are in the process\*
  - **32%** have changed over 100 products and sizes
  - **Another 25%** are planning changes
- **50%** have changed single-serve packaging or are in the process
  - **46%** have changed over 150 products and sizes
  - **Another 4%** are planning changes

\*28 companies reported; products counted by SKUs



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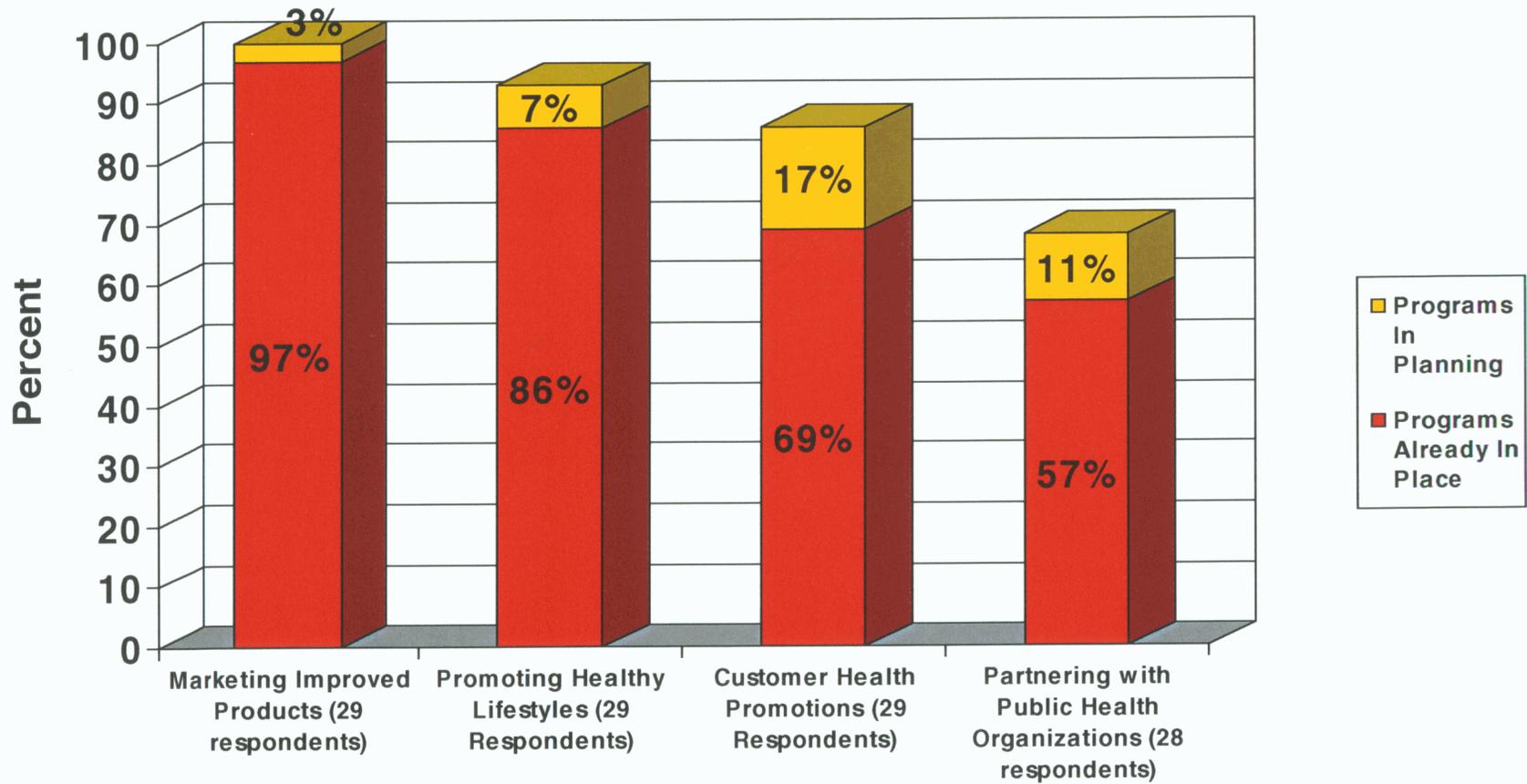
# Members Enhancing Product Packaging



\*28 companies reported; products counted by SKUs

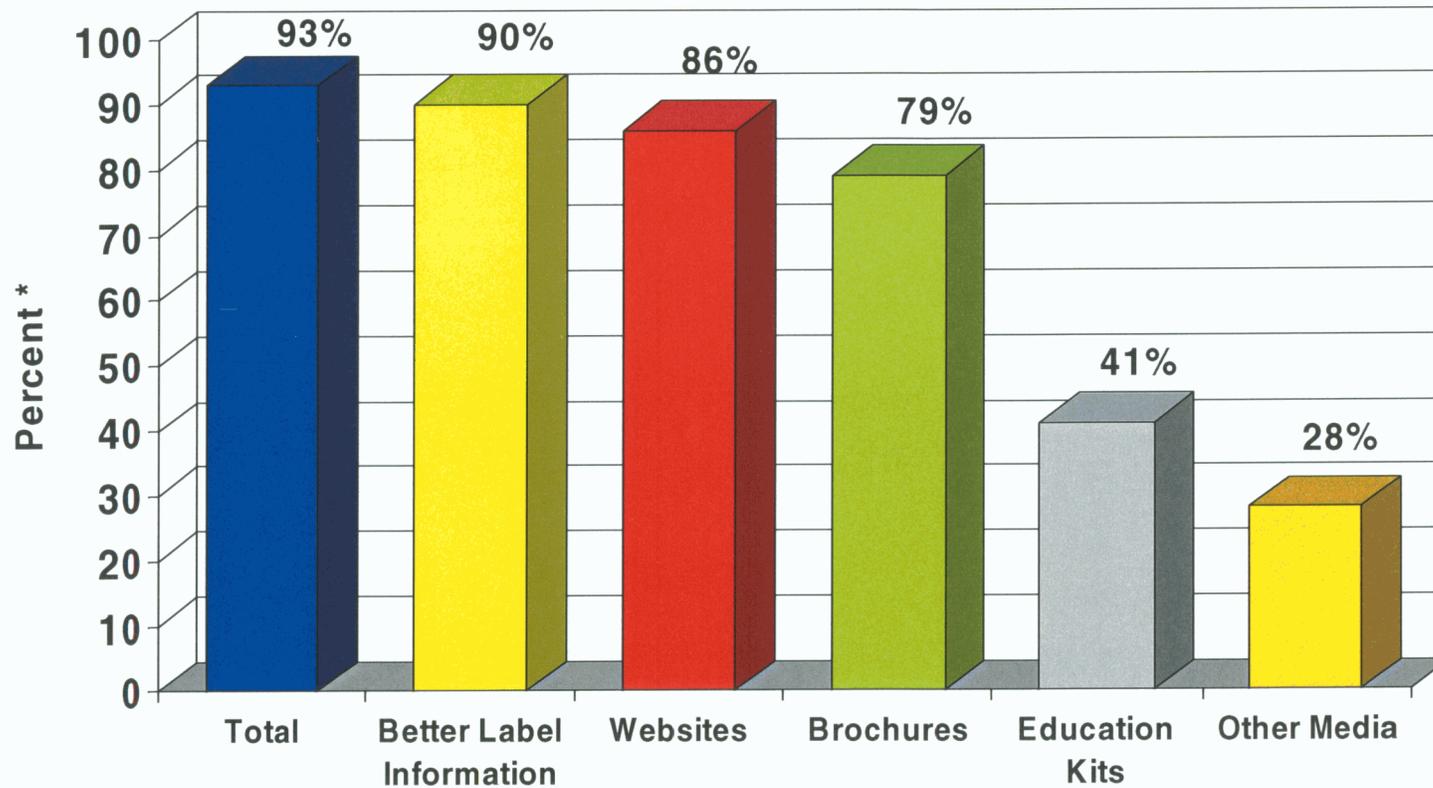


# Advertising and Promoting Nutrition and Health





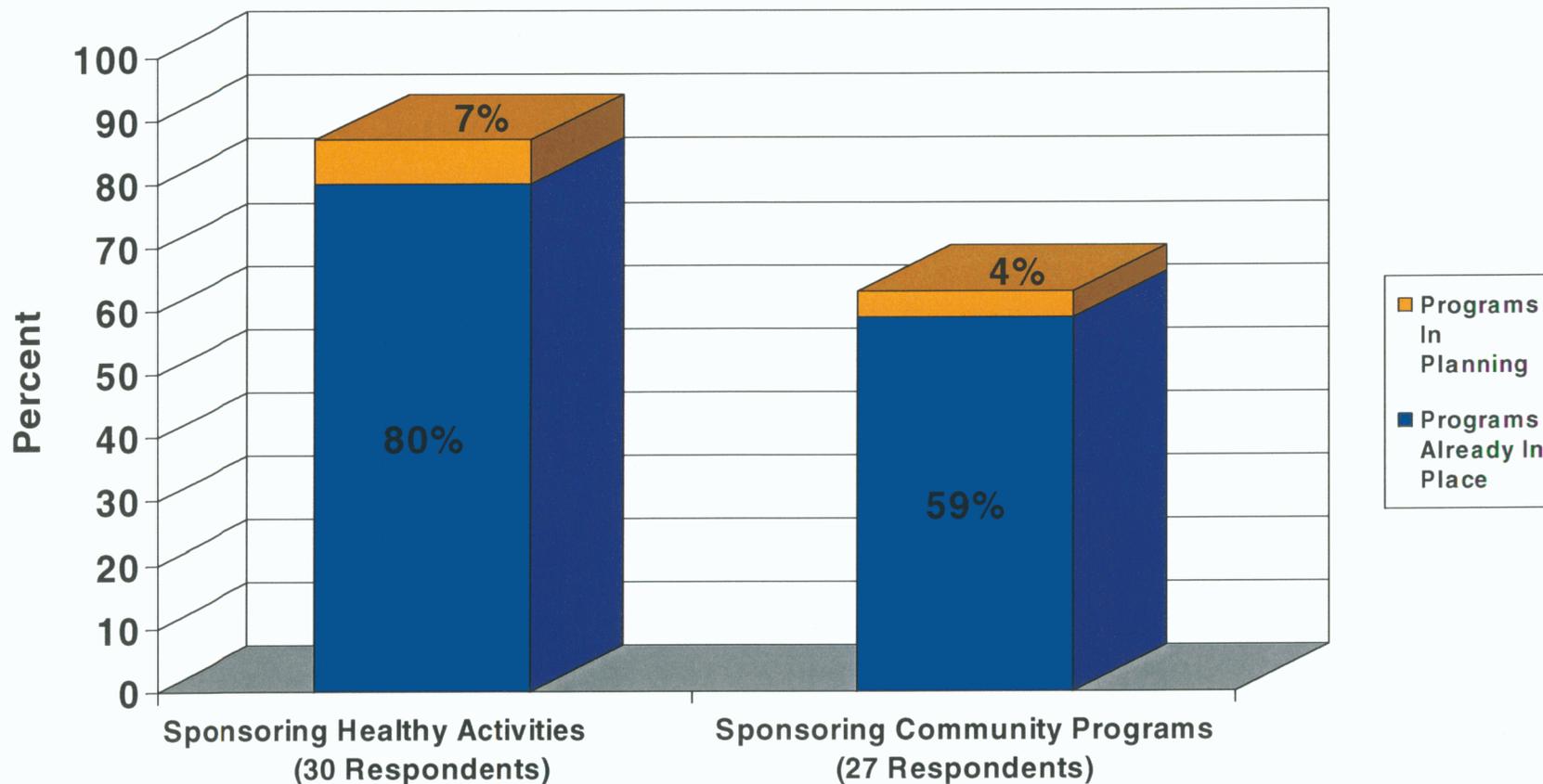
# 93% of Respondents Use Many Media to Communicate Healthy Lifestyle Messages



\*29 companies reported; products counted by SKUs



# Sponsoring Healthy Activities and Community Programs





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## Examples of Sponsored Activities and Programs

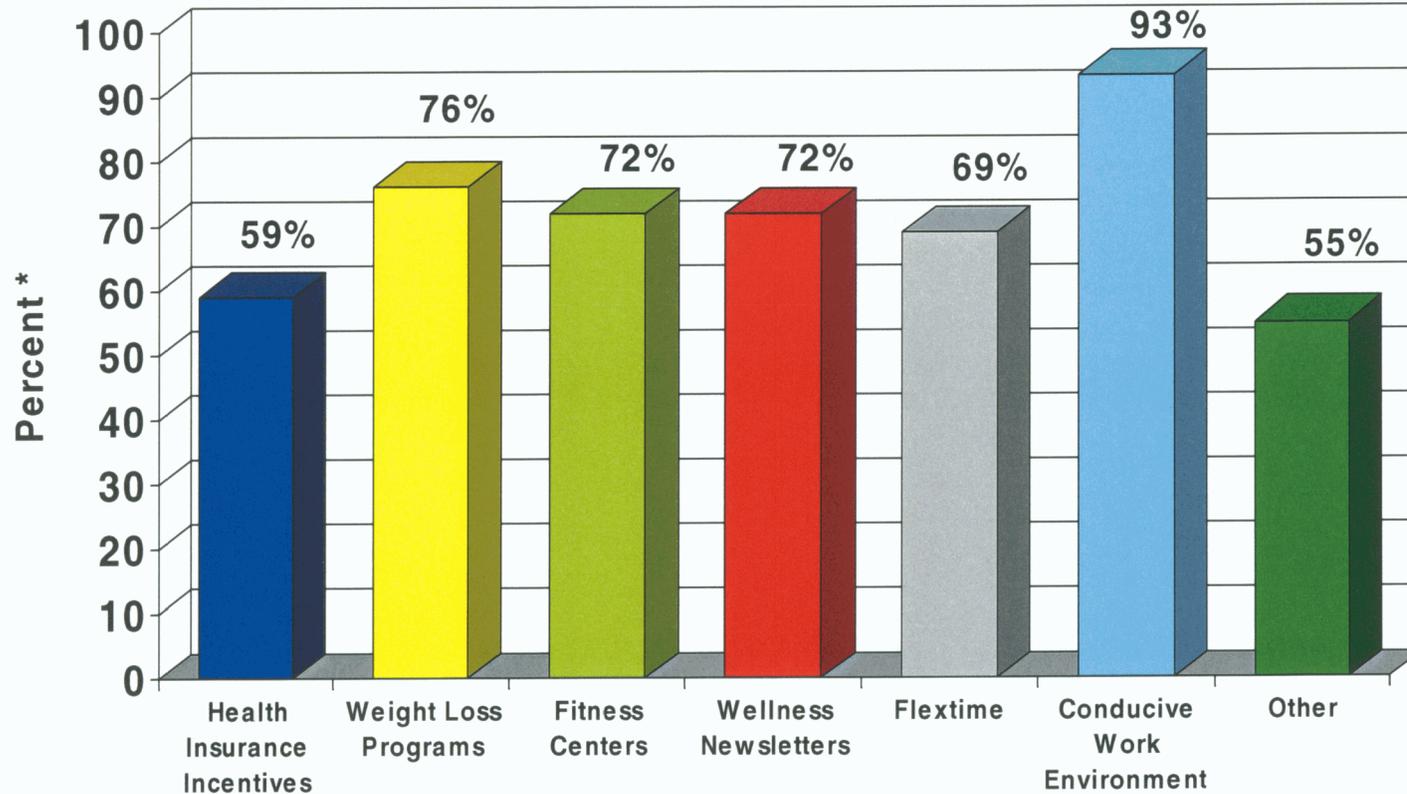
- Step With It pedometer program in schools
- General Mills Champions
- Camp Coca-Cola
- America on the Move
- Boys & Girls Club “Triple Play”
- News for Students Foundation
- National 4-H Healthy Lifestyles



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## GMA Members Provide Employee Wellness Programs



\*29 companies reported; products counted by SKUs



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## Product Snapshot

- Low-fat Dinty Moore Stew from Hormel Foods Corp.
- Entire portfolio of General Mills cereal is whole grain
- Smartzone Nutrition Bars from Hershey Foods
- 7UP Plus from Cadbury Schweppes
- No TFA Frito-Lay salty snacks from PepsiCo
- Reduced Size Hot Pockets from Nestlé



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# Conclusion

- All Members Have New Products on the Shelves or in the Pipeline
- Consumers Need to Hear About These New Choices
- Members Are Changing Package and Portions Sizes
- Members Are Helping Their Communities Become Healthier
- Members Are Helping Their Employees Improve Their Health

# APPENDIX D



**GROCERY MANUFACTURERS OF AMERICA**  
MAKERS OF THE WORLD'S FAVORITE BRANDS OF  
FOOD, BEVERAGES, AND CONSUMER PRODUCTS

---

## **GMA PRINCIPLES OF FOOD AND BEVERAGE PRODUCT ADVERTISING**

The members of the Grocery Manufacturers of America are committed to adhere to principles of responsible consumer communication, and have long subjected their advertising to rigorous internal review. Responding to the public interest in transparency of advertising standards, GMA has drawn upon the experience of its members, and is publishing the core principles that we believe should guide the development, execution, placement and monitoring of food and beverage advertisements. GMA is offering these principles as a recommendation to all companies that advertise food and beverage products.

The law requires advertising to be truthful and substantiated and prohibits advertising that misleads the audience to which it is presented. The principles listed below incorporate those mandates, and also reflect the best practices of the best programs that food and beverage companies apply to address the demands and circumstances of their consumers – both children and adults.

In addition to each company's own set of internal principles, grocery manufacturers have supported and will continue to support advertising self-regulatory organizations. GMA members will adhere to the sound standards set by such bodies as the National Advertising Division and the Children's Advertising Review Unit of the Council of Better Business Bureaus.

A person's health is affected by a multiplicity of factors, including genetic predisposition, dietary habits, activity level, and food availability. Information gained from advertising can, for example, help consumers make informed choices about their diets. This is because advertising can help convey information to consumers with respect to nutritional benefits, balance, moderation and variety, in addition to taste and enjoyment in a healthy diet. These principles are intended to help advertising play such a role. Public health is the responsibility of all stakeholders. The food and beverage industry is committed to playing its part by working with interested persons in empowering consumers to choose diets and levels of physical activity which can positively impact their health and well being. This will require multiple strategies, and the integrated efforts of manufacturers, retailers, public health officials, educators, dietary professionals, as well as many others.

Ultimately, what a person eats and how active a lifestyle is followed is a question of personal choice and individual responsibility. The food and beverage industry has committed itself to playing a positive role in helping consumers to make these choices with the benefit of advertising that adheres to sound fundamental principles.



## **PRINCIPLES OF FOOD AND BEVERAGE PRODUCT ADVERTISING**

### *General Principles in the Context of Food and Beverage Advertising*

1. Copy, sound, and visual presentation of food products should accurately represent all material characteristics advertised -- including size, and content, as well as nutrition and health benefits – and should not mislead consumers concerning any of those characteristics.
2. Nutrition and health benefit claims should have a sound scientific basis.
3. Food and beverage advertisements should not encourage or condone excess consumption and portion sizes should be appropriate to the setting portrayed.
4. Where a food or drink product is presented in the context of a meal, a reasonable variety of foods should be shown, to reflect generally accepted good dietary practice.
5. Food and beverage advertisements should not undermine the promotion of healthy, balanced diets.
6. Food and beverage advertisements should not undermine the promotion of a healthy, active lifestyle.
7. Food products not intended to be substitutes for meals should not be represented as such.



## **PRINCIPLES OF FOOD AND BEVERAGE PRODUCT ADVERTISING**

### *Additional Principles for Food and Beverage Advertising to Children*

The same principles that are applicable to general advertising also apply to advertising directed to children. Advertising is a valuable source of information to them as well, but advertisers must take into account the abilities and judgment that children at various stages of development can be expected to bring to the understanding of communications.

1. Advertisements should not mislead about potential benefits from the consumption of a product.
2. Food product advertisements should not undermine the role of parents and other appropriate adult role models in providing valuable dietary guidance.
3. Advertisements should not include any direct appeal to children to persuade their parents or other adults to buy advertised products for them.
4. Advertisements directed toward children should not create a sense of urgency.
5. While fantasy, including animation, is appropriate in communication with younger as well as older children, care should be taken not to exploit a child's imagination in a way that can encourage poor dietary habits.
6. Products derived from or associated with TV program content primarily directed to children should not be advertised during or adjacent to that program.
7. Broadcast or print media personalities (live or animated) should not be used to sell products, premiums or services in a way that obscures the distinction between program or editorial content and commercial promotion. For example, commercials or advertisements featuring characters from programs or publications primarily directed to children's should not be adjacent to programs or articles in which the same personality or character appears.

# APPENDIX E



# GROCERY MANUFACTURERS OF AMERICA

MAKERS OF THE WORLD'S FAVORITE BRANDS OF FOOD, BEVERAGES, AND CONSUMER PRODUCTS

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www.gmabrands.com

C. Manly Molpus  
PRESIDENT AND CEO

October 23, 2003

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C. Steven McMillan, Chairman/President/CEO  
Sara Lee Corporation  
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Dennis M. Mulren, President/CEO  
Birds Eye Foods  
Frank Palamoni, Global CEO, Infant and Baby  
Nutrition Consumer Health Worldwide  
William D. Perez, President/CEO  
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Daniel Servino, CEO  
Grupo Bimbo, S.A. de C.V.  
Timothy P. Smucker, Chairman/Co-CEO  
The J. M. Smucker Company  
Charles R. Swann, President/CEO  
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The Clorox Company  
Richard G. Welford, Chairman/CEO  
Dial Home Products  
William Wiegley Jr., President/CEO  
Wm. Wiegley Jr. Company

Mr. James Guthrie, President  
National Advertising Review Council  
70 West 36<sup>th</sup> Street, 17<sup>th</sup> Floor  
New York, NY 10018

Ms. Elizabeth Lascoux, Director  
Children's Advertising Review Unit  
70 West 36<sup>th</sup> Street, 17<sup>th</sup> Floor  
New York, NY 10018

Dear Mr. Guthrie and Ms. Lascoux:

As you know, the rising incidence of obesity has become a major public health concern. The food industry is committed to helping arrest and reverse the growth of obesity around the world. Achieving this goal will require multiple strategies, the integrated efforts of many sectors, and long term resolve. We at the Grocery Manufacturers of America<sup>1</sup> are committed to doing our part and will support others in doing theirs.

Food advertising will play an important role in the battle against obesity. We believe self-regulation can, too. The self-regulatory system managed by the National Advertising Review Council ("NARC") deserves much of the credit for the truthful and responsible advertising that consumers see today. In the food sector, voluntary compliance with the decisions of the National Advertising Division (NAD) and the Children's Advertising Review Unit (CARU) ensures that advertising meets the highest standards of truth and accuracy. Moreover, adherence to CARU's Self-Regulatory Guidelines for children's Advertising has fostered advertising that promotes balanced diets and healthy life styles.

<sup>1</sup> GMA is the world's largest association of food, beverage and consumer product companies. With U.S. sales of more than \$460 billion, GMA members employ more than 2.5 million workers in all 50 states. Led by a board of 42 Chief Executive Officers, GMA speaks for the industry at the state, federal and international levels on legislative and regulatory issues involving food, nutrition and public policy.

Gary Chartrand, Chairman/CEO  
Accurate Sales & Marketing Company  
Robert Caheta, President/CEO  
The Market Dispensary Group, LLC - New England

The effectiveness of self-regulation derives from stakeholders' appreciation of its role and advertisers' participation in its procedures. We think that both sources of strength can and should be enhanced. Most consumers, companies and policy makers probably are not aware of all that self-regulation has accomplished in the United States and do not appreciate its full potential to be a significant force in the future. It is time for self-regulation to get the recognition it deserves.

We urge NARC to embark on a campaign to raise the visibility of its role and to expand its monitoring of food and beverage advertising through NAD and CARU. More specifically, we are writing to urge CARU to publish a white paper explaining its principles, guidelines and decisions applicable to food advertising, we are asking CARU to focus its monitoring and educational efforts on the food sector, and we are announcing our commitment to enlist widespread support among food companies for self-regulation as administered by CARU and NAD.

### The Challenge of Obesity and the Role of Self-regulation

Food and beverage companies place a high priority on researching and developing new ways to make favorable changes in the nutrition profile of people's favorite foods even healthier without sacrificing quality or taste. The industry has introduced thousands of products that provide options for consumers looking for ways to incorporate variety, balance and moderation in their diets.

Informing consumers about products and services available to them is essential if they are to enjoy the benefits of the options that food companies provide. Educating consumers, especially parents and their children, how to meet their individual needs, tastes and preferences through the proper balance of activity and nutrition empowers consumers to maintain a healthy weight. Advertising is an important means of communicating that information and a critical element of the competition that drives innovation.

The value of advertising and marketing is tied to the trust and respect that those messages command. Accordingly, the members of GMA have a longstanding commitment to responsible advertising and marketing practices. The food industry is continuing to ensure that its communications with consumers accurately portray the products and the benefits they deliver. For example, the industry is continuing to ensure that its advertising and marketing practices do not encourage overeating or inappropriate consumption of foods. In addition, the industry is seeking ways to utilize its marketing capabilities to communicate healthy lifestyle messages to consumers through multiple media (from labeling to advertising to websites) and many channels (from retail customers to workplace environments).

At times, questions can arise whether individual messages comply with the standards that consumers expect, and regulatory authorities may intervene. But government regulation cannot be expected to mandate all that we would like advertising to accomplish, and broad restrictions can inadvertently suppress information that could help consumers.

Self-regulation, however, is ideally suited to address the role of advertising and marketing in promoting healthful choices affecting diet, nutrition and life style. Voluntary compliance with advertising guidelines is likely to be more effective than deliberation, interpretation and litigation over statutes and regulations that attempt to advance the public interest by restricting or mandating commercial communications.

### Successful Experience With Self-regulation

Cooperation with an independent authority is often the first and sometimes the most important phase of consumer-protection regulation of advertising and marketing in numerous countries around the world. Decisions, codes and guidelines issued by self-regulatory bodies cover a wide variety of advertising claims and marketing practices. Self-regulation protects consumers in many instances that left unchecked would otherwise call for government action. The Federal Trade Commission has observed that self-regulation is a legitimate complement to official law enforcement, and that it substantially lessens the burden on prosecutors who must police the marketplace and enforce the laws against unfair and deceptive claims. According to former FTC Chairman, Robert Pitofsky, NARC “is the best example of self-regulation that I am aware of in American History.”

The food industry has long supported NAD’s mission “to review national advertising for truthfulness and accuracy and foster public confidence in the credibility of advertising.” Food manufacturers rely on the huge body of precedent from decades of decided cases, and endorse NAD’s guiding principles, which include the following:

- Advertisements must not be untrue, misleading, or deceptive, As a whole, an advertisement can be found misleading, even if every statement separately considered is literally true,
- Advertisements must not misrepresent material facts by omitting or obscuring important information, and
- All objective claims in advertisements must be substantiated.

Indeed, NAD’s record is impressive. Since its formation in 1971, NAD has handled over 3400 cases. What is even more impressive is advertisers’ willingness to adhere to NAD’s findings. Over the last fifteen years, that compliance rate has exceeded 95%. For those who decide not to heed NAD’s recommendations, the repercussions are swift. NAD and CARU not only publish their decisions alerting the public and other advertisers to questionable conduct; they also refer non-compliers to agencies like the Federal Trade Commission. The FTC has repeatedly stated that NAD/CARU-referred cases are taken seriously and are often considered before other corporate complaints that have not gone through the self-regulatory process.

Complementing NAD is the Children’s Advertising Review Unit (“CARU”), which reviews and evaluates advertising directed to children under 12 years old. CARU accomplishes its mission by systematically monitoring thousands of broadcast and cable

television, radio, child-directed websites, and children's magazines. If an ad is deemed misleading, inaccurate or inconsistent with CARU's self-regulatory guidelines, CARU seeks change through the voluntary cooperation of advertisers. In the last five years, CARU investigated over 430 advertisements aimed towards children.

Like NAD, CARU enjoys a success rate exceeding 95% in resolving child advertisement issues. Non-compliance with CARU findings can result in a FTC or other government agency investigation. This success rate has been recognized and commended by many, including the FTC. For example, C. Lee Peeler, Deputy Director for the Bureau of Consumer Protection at the FTC said the following about CARU:

“As an advertising law enforcement official, I have always found it remarkable that, in the name of self-regulation, major national advertisers would voluntarily modify or discontinue their advertising to meet CARU's standards that sometimes go beyond existing law. CARU's twenty-five years of success demonstrates a sustained commitment to effective self-regulation. It is a record of accomplishment for which CARU supporters should be justifiably proud.”

The NAD and CARU self-regulatory programs have proven to be extraordinarily effective. The industries' willingness to be self-governed, combined with the compliance incentives built into this self-regulatory process is a recipe for success. Explaining how this self-regulatory role affects advertising concerning diet, nutrition and life style is a natural and logical exercise for CARU, because the basic principles and guidelines are already in place. For example, CARU applies the following basic principles to all advertising it reviews:

- A recognition that advertising may play an important role in educating a child about health and well being,
- A recommendation that advertising address itself to beneficial social behavior, and
- An acknowledgment that parents retain prime responsibility for guiding their children.

Precedent from CARU and similar self-regulatory bodies can provide a framework for the proper treatment of the role of advertising in promoting a healthy life style. CARU, for example, has issued guidelines and has decided cases that can help mold the messages that young consumers receive on the importance of healthful diet and nutritional choices.

#### Guidelines and Cases Already Address Diet, Health and Nutrition

The following are excerpts from CARU's guidelines:

- Advertising “should not mislead children about product or performance characteristics . . . [including] nutritional benefits.”

Advertising “should not mislead children about the benefits from use ... [including] the acquisition of strength... growth... and intelligence.”

“The amount of a product featured should be within reasonable levels for the situation depicted.”

- “Representations of food products should be made so as to encourage sound use of the product with a view toward healthy development of the child and development of good nutritional practices.”
- “Advertisements representing mealtime should clearly and adequately depict the role of the product within the framework of a balanced diet.”
- “Snack foods should be clearly represented as such, and not as substitutes for meals.”

The following positions come from cases CARU has decided:

- Objection to a promotion that touted the more you eat the better your chance of winning,
- Objection to commercials that suggested snacks were more appealing than complete meals,
- Concern that advertisements for flavored drinks overstated their nutritional value,
- Objection to an advertisement that showed children eating excessive amounts of candy while watching television.

There can be no question that consumers of all ages are better off because the communications they receive pass through the filters of self-regulation. And some of these filters are only available through self-regulation. No law in the United States requires adherence to all these principles -- indeed, it is unlikely that any law could effectively do so -- yet food manufacturers overwhelmingly support them, and willingly comply with the decisions of CARU that implement them. Many of these companies market around the world. They are willing to commit to these principles and to self-regulation that applies them.

### Enhancing Self-regulation Can Promote Healthy Behavior

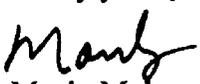
Self-regulation of food advertising has evolved into a sophisticated body of standards that is respected by virtually all observers. But if it is to realize its full potential, self-regulation must be visible and widely accepted by consumers and businesses alike. The most effective way to influence advertising for the benefit of diet, nutrition and health is to advance and promote self-regulatory organizations like NAD and CARU in the United States and in other jurisdictions.

Because consumers of all ages depend on advertising for accurate information about the nutritional content and health benefits of food, the credibility of such claims is critical to their educational value. Candor and substantiation are keys to credibility. NAD has already produced a wealth of decisions and a series of publications that spell out in great detail how it distinguishes the truthful from the misleading and the baseless from the substantiated. The food industry urges NAD to continue these efforts.

Because consumers' attitudes toward diet and nutrition begin taking shape at an early age, messages that reach children are especially important. But the principles covering such advertising weave through years of decisions and unpublished consultations. Therefore, we think CARU should synthesize and publish its relevant consultations, decisions, codes and guides dealing with advertising directed to children. The food industry urges CARU to issue a white paper on advertising related to diet, nutrition and health, to publicize its policy so it is better understood and accepted, and to focus its reviews on these important issues.

We stand ready to support you in the efforts you decide to undertake.

Sincerely yours,

  
C. Manly Molpus

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# APPENDIX F



**International Chamber of Commerce**

*The world business organization*

**Department of Policy and Business Practices**

## **ICC framework for responsible food and beverage communications**

### **Introduction**

The increasing worldwide attention to diet, nutrition and physical activity is of great significance to the international food and beverage community and to the broader business community of which it is a part. The following framework has been prepared by the Commission on Marketing and Advertising of the International Chamber of Commerce (ICC) to address some of the issues raised by these concerns.

The International Chamber of Commerce (ICC), as the world business organization, promotes high standards of business ethics through the development and dissemination of rules, including codes and guidelines on how business should direct its efforts to assure that commercial communications to consumers are responsible.

World business supports the notion that responsible commercial communications can assist consumers in making appropriate choices about food and beverage products, and in understanding the role of nutrition, diet and physical activity in healthy lifestyles. By conveying commercial communications consistent with principles of good nutrition, diet, physical activity and personal choice, business can play an important role.

ICC's longstanding view is that commercial communications are best regulated by effective self-regulation within a legal framework that protects consumers from false and misleading claims. In this way, self-regulation best serves the consumer's interest in receiving truthful and accurate communications. More broadly, advertisers and marketers should be guided by self-regulatory principles and participate in self-regulatory processes.

As a multi sectoral organization, ICC recognizes that its codes serve as an international standard and that they are used to develop regional and national codes by industry sector groups and by regional and national self-regulatory bodies.

To be effective, marketing self-regulatory systems bring together advertisers, advertising agencies and the media to develop standards, evaluate advertising for compliance with those standards, and take appropriate action to enforce them. World business agrees that effective self-regulation is the system that, through a combination of best practices and determined enforcement, can best inspire consumer confidence in advertising.

ICC welcomes the adoption by regional and national self-regulatory advertising bodies around the world of the general principles expressed in ICC's own codes. Furthermore, world business values the enforcement mechanisms such bodies have put in place to sanction or amend advertisements that do not meet applicable self-regulatory requirements.

**International Chamber of Commerce**

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20 April 2004 JAP/FBL/ef  
Document 240-48/19



The application of self-regulation in food advertising requires that it be legal, decent, honest and truthful. This framework focuses on the three intertwined issues addressed in other ICC publications: the role of commercial communications in our information-focused society, guidelines for communicating to children, and freedom of commercial speech.

### **The role of commercial communications in an information-focused society**

Never has so much information been so broadly and readily available to so many as it is now. A plethora of information about healthy lifestyles, nutrition, and dietary choices is available from a great number of sources, including commercial communications.

Good communications, and indeed good business practice, means that communicators must remain mindful of the need to provide honest and truthful information about their products, both to make the consumer aware of the choices available and to enable the consumer to choose among them according to his needs, desires, tastes and personal priorities.

An informed consumer is also crucial in the matter discussed in this paper and, as such, the focus on the operative principles that should guide marketers in their commercial communications is all the more timely.

### **Guidelines for marketing to children**

As children are consumers of food and beverages, they are legitimately a focus of marketing and have the right to information about the products that interest them. However, because of their lack of experience as consumers, young children deserve especially careful treatment by marketers in any commercial communications directed to them. ICC recognizes that children constitute an audience with a more limited capacity to assess information in advertising, which is why it includes specific provisions on commercial communications to children in its guidelines and codes.

Communicators must advertise and sell their products to children in a responsible manner. ICC remains mindful, however, that parents and other adults responsible for a child's welfare play a primary role in the broad range of decisions affecting their children, including choices about lifestyle, physical activity and diet. Moreover, parents, educators, the media, entertainment content providers and others have important roles in helping children develop a critical understanding of advertising and other media messages so that they become better informed.

These issues have been discussed at some length in the *Compendium of ICC Rules on Children and Young People and Marketing*, and these rules apply to food and beverage advertising as they do to any other type of commercial communications to children.

### **Freedom of commercial speech**

Freedom of commercial speech in the sale of all legal products is a fundamental principle of free markets. This freedom has nourished competition among companies and led to demonstrable benefits to consumers. As companies compete, consumers are presented with a wider array of choices, more information on which to base those choices and better prices.



But this exercise of freedom of speech, as with all rights, carries with it attendant obligations. ICC has long held that an essential element in freedom of commercial speech is responsibility.

**Conclusion**

ICC encourages food and beverage communicators to adhere to principles of responsible consumer communications, above and beyond compliance with laws and regulations, especially in communicating to children. In doing so, advertising from this sector will meet its obligation to remain responsible as well as legal, decent, honest and truthful. Food and beverage marketers, and national and regional self-regulatory bodies, should continue to review and update their self-regulatory guidelines to assure that communications reflect contemporary standards of responsible marketing.

While underscoring the multi-sectoral nature of ICC's guidelines, we set forth below how ICC believes that some important ICC principles contained in existing ICC codes would apply in the context of food and beverage commercial communications.



## ICC PRINCIPLES

## APPLICATION TO FOOD AND BEVERAGE ADVERTISING

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### ***ICC International Code of Advertising Practice Article 1***

All advertising should be legal, decent, honest, and **truthful**.

Application in the context of food and beverage advertising of this principle means that claims about nutrition and health benefits should have a sound scientific basis. The claims should be conveyed consistent with the nature and scope of the evidence, providing the consumer with supportable information.

The claim should also be judged by the likely perception of the reasonable consumer, especially where children and young people are concerned.

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### ***Article 1 continued***

Every advertisement should be prepared with a due sense of **social responsibility**....

Food and beverage advertisements should not encourage or condone excess consumption and portion sizes should be appropriate to the setting portrayed. Advertising should not undermine the importance of healthy lifestyles.

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### ***Article 1 continued***

No advertisement should be such as to impair **public confidence** in advertising.

Advertisements should respect the spirit of ICC, local and sectoral self-regulatory codes, in order to maintain confidence both in advertising and in the self-regulation system.

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### ***ICC International Code of Advertising Practice Article 3***

Advertisements should be so framed as not to abuse the trust of consumers or **exploit their lack of experience or knowledge**.

Where claims or terminology used in advertisements might reasonably be interpreted by a consumer as health or nutrition claims, they should be supportable with appropriate scientific evidence.

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## ICC PRINCIPLES

## APPLICATION TO FOOD AND BEVERAGE ADVERTISING

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### ***ICC International Code of Advertising Practice Article 5.1***

Advertisements should not contain any statement or visual presentation which directly or by implication, omission, ambiguity or exaggerated claim is **likely to mislead the consumer**, in particular with regards to

- characteristics such as: **nature, compositions**, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin or environmental impact.

Copy, sound and visual presentations in advertisements for food and beverage products should accurately represent the material characteristics featured in the advertisement for the product, such as taste, size, content nutrition or health benefits, and should not mislead consumers concerning any of those characteristics. Food products not intended to be substitutes for meals should not be represented as such.

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### ***ICC International Code of Advertising Practice Article 5.2***

Advertisements should **not misuse research results** or quotations from technical and scientific publications. Statistics should not be so presented as to **exaggerate the validity** of advertising claims. Scientific terms should not be used to falsely ascribe scientific validity to advertising claims.

All nutritional and health-benefit claims for food and beverage products should have a sound scientific basis. Consumer taste or preference tests should not be used in a way that might imply statistical validity if there is none.

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### ***ICC International Code of Advertising Practice Article 6***

Advertisements containing comparisons should be so designed that the comparison is **not likely to mislead**, and should comply with the principles of fair competition. Points of comparison should be based on facts which can be substantiated and should not be **unfairly selected**.

Nutritional or health-related comparisons should be based on an objectively supportable and clearly understandable basis.



## ICC PRINCIPLES

## APPLICATION TO FOOD AND BEVERAGE ADVERTISING

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### ***ICC International Code of Advertising Practice Article 12***

Advertisements should be clearly distinguishable as such, whatever their form and whatever the medium used; when an advertisement appears in a medium which contains news or editorial matter, it should be so presented that it will be **readily recognised** as an advertisement.

Food and beverage manufacturers should particularly note that in advertising directed to children, broadcast or print media personalities (live or animated) should not be used to sell products, premiums or services in a way that obscures the distinction between programme or editorial content and commercial promotion.

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### ***ICC International Code of Advertising Practice Article 13***

Advertisements should not without reason, justifiable on educational or social grounds, contain any visual presentation or any description of dangerous practices or of situations which **show a disregard** for safety or **health**.

Food and beverage advertisements should not undermine the promotion of healthy balanced diets, nor the importance of a healthy, active lifestyle.

---

### ***ICC International Code of Advertising Practice Article 14***

The following provisions apply to advertisements addressed to children and young people who are minors under the applicable national law.

#### ***Inexperience and Credulity***

a. Advertisements should not exploit the **inexperience or credulity** of children and young people.

Advertisements directed towards children for food and beverage products should not create a sense of urgency, or inappropriate price minimisation.

While fantasy, including animation is appropriate in communication with younger as well as older children, care should be taken not to exploit a child's imagination in a way that could mislead him/her about the nutritional benefits of the product involved.



## ICC PRINCIPLES

## APPLICATION TO FOOD AND BEVERAGE ADVERTISING

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***ICC International Code of Advertising Practice Article 14 continued***

**Social Value**

a. Advertisements should not suggest that possession or use of a product alone will give the child or young person **physical, social or psychological advantages** over other children or young people of the same age, on that non-possession of the product would have the opposite effect.

Food and beverage advertisements should not mislead consumers about potential health or other benefits from the consumption of the advertised product. In advertisements to children or young people, this includes such things as status or popularity with peers, success in school or sports, or intelligence.

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***ICC International Code of Advertising Practice Article 14 continued***

**Social Value**

b. Advertisements should not undermine the **authority, responsibility, judgement or tastes** of parents, taking into account **current social values**. Advertisements should not include any direct appeal to children and young people to **persuade their parents** or other adults to buy advertised products for them.

Food product advertisements should not undermine the role of parents and other adults responsible for a child's welfare in guiding diet and lifestyle choices. Advertisements should not include any direct appeal to children to persuade their parents or other adults to buy advertised products for them.

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***ICC International Code of Sales Promotion Article 8***

Sales promotions addressed to children and young people should not exploit their **credulity or inexperience**. No sales promotion should be undertaken which is likely to **harm** children or young people mentally, morally or **physically**, or to **strain their sense of loyalty vis-a-vis their parents** and guardians.

Sales promotion offers addressed to children should provide the conditions of the premium offer, sweepstake or contest being advertised in terms that children can understand. Advertisers should strive to be sure that young children have an understanding of the products to be purchased, if any, to receive the premium; and for sweepstakes and contests, the conditions of entry, types of prizes and the likelihood of winning.

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# APPENDIX G

# Television Advertising and Internet Viewing of Food and Restaurant Messages

Total TV Ad Expenditures, Total Screen Time,  
TV Commercials and Web Pages Seen by  
Children

A Report to  
The Grocery Manufacturers of America  
The Association of National Advertisers

By  
Collier Shannon Scott, PLLC  
Georgetown Economic Services, LLC  
May 13, 2005

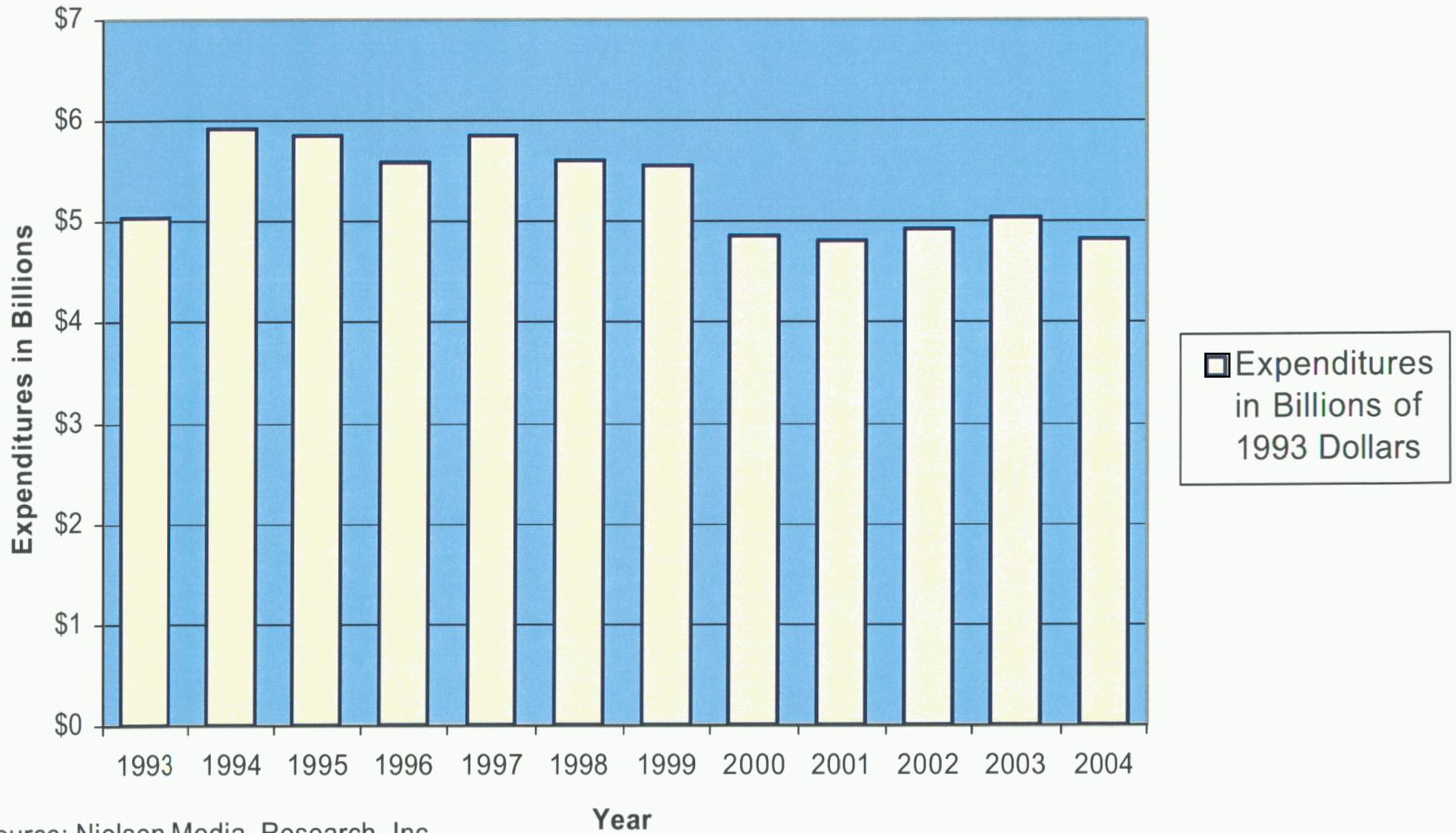
# Advertising Trends

- Expenditures on TV advertisements for foods and restaurants have declined in real terms over the last decade.
  - The food category includes foods and beverages.
- The number of food and restaurant advertisements seen by children under 12 has declined over the last decade.
  - The decline is evident in both food advertising and restaurant advertising.
- Children's visits to food and restaurant company websites are minuscule compared to TV impressions.
- TV is losing share of screen time to video games and computers

# Expenditures

- Real expenditures on food and restaurant advertising on all TV have fallen in the last decade.
  - Expenditures peaked at nearly \$6 billion in 1994 and dropped below \$5 billion in 2004.
  - In the last four years (2001-04), annual expenditures have averaged just under \$5 billion per year.
    - From 1994 to 1997 the average hovered close to \$6 billion.
- All expenditures are measured in 1993 dollars, thereby eliminating the effect of inflation on TV commercial prices.

## Estimated Inflation-Adjusted Expenditures: Food and Restaurant Advertising



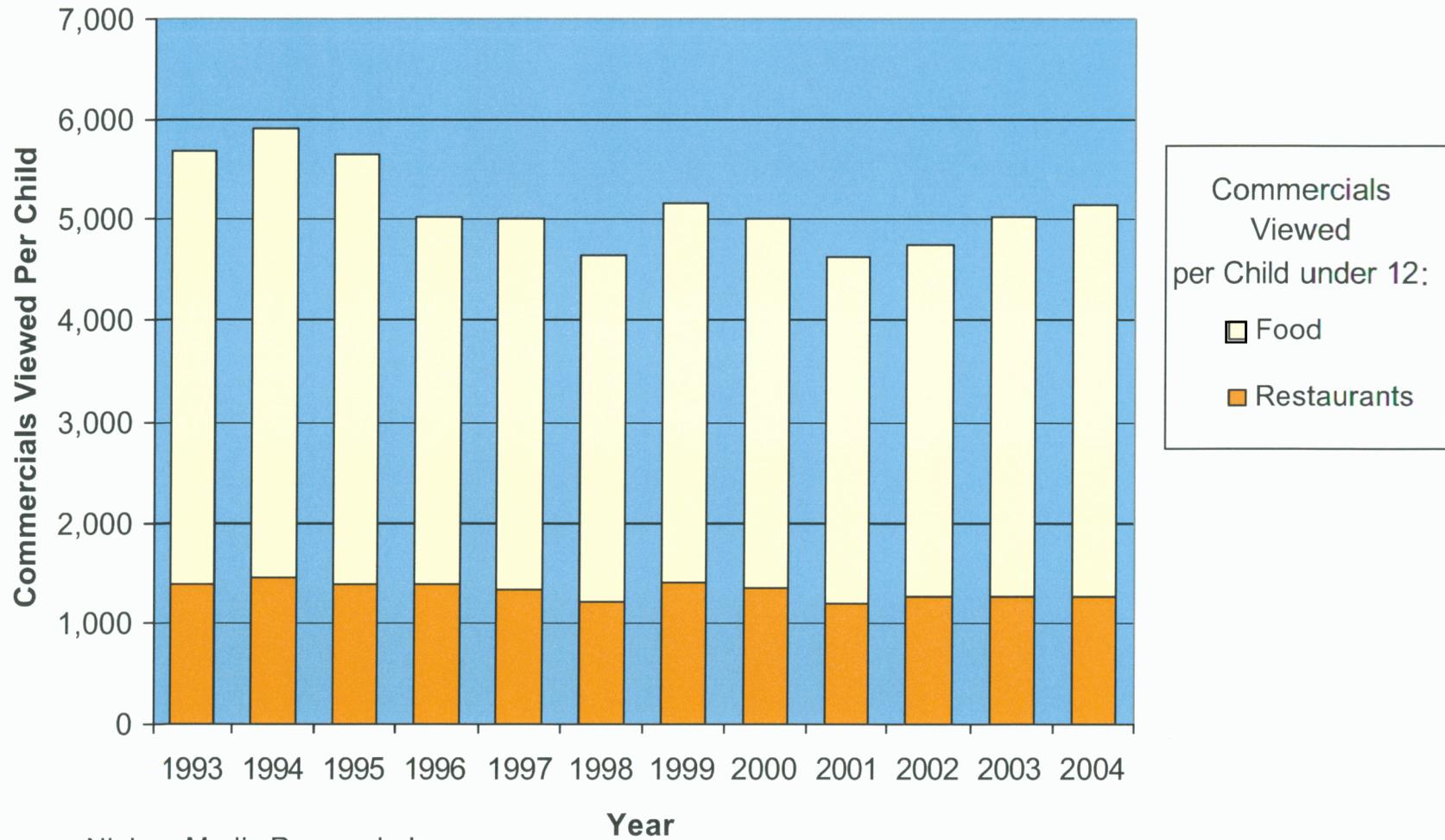
Source: Nielsen Media Research, Inc.

*Note: 2004 Real Expenditures calculated using estimate of Media Cost per Thousand inflation.*

# Food and Restaurant Commercials Viewed by Children

- The number of food and restaurant commercials viewed by children has fallen in the last decade.
  - The number of commercials viewed per year reached nearly 6,000 in 1994 and has remained around 5,000 in recent years.
  - In the last four years (2001-04), the number of commercials viewed has averaged about 4,900 per year.
    - In the first four years (1993-96) the average number of commercials viewed was about 5,600 per year.
- From their peak in 1994, impressions have declined by 13%.
- Both categories of commercials – food and restaurants – declined over the period.
  - The largest decline in commercials viewed was for foods.

## Estimated Food and Restaurant Commercials Viewed by an Average Child



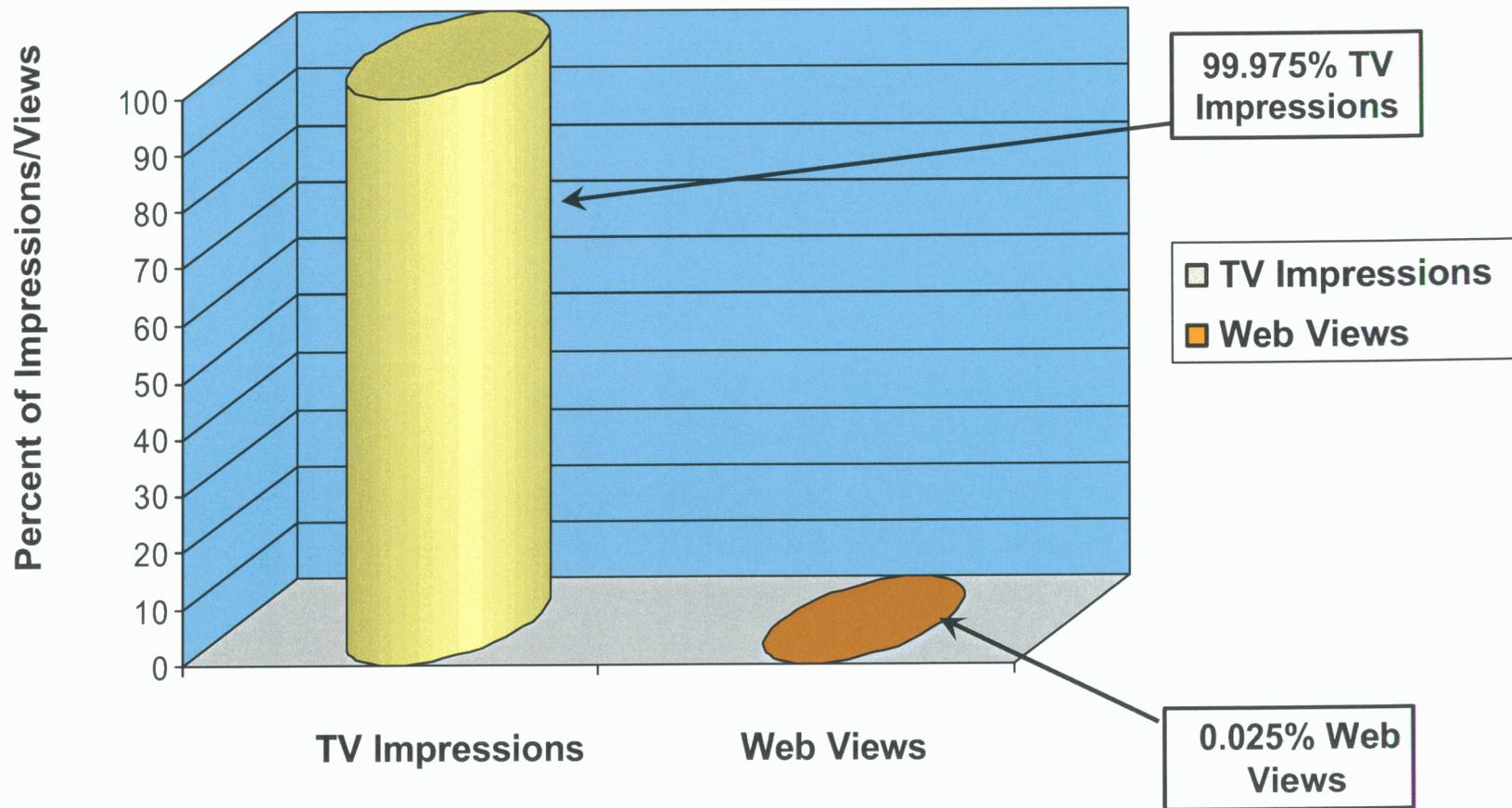
Source: Nielsen Media Research, Inc.

## **Children's Exposure to Internet Entertainment from Food and Restaurant Companies**

- Nielsen Media Research produces a list of the top 150 advertisers on Total TV by expenditure.
  - Of these 150 advertisers, there were 23 food and restaurant advertisers that had online entertainment content on their web sites in 2004.
  - These 23 companies accounted for 73% of total food and restaurant TV advertising impressions for children 2-11 years old.
  - Entertainment content on food and restaurant web pages accounted for an estimated 0.025% of the combined total web and TV impressions for these 23 advertisers.

Note: Calculations are based on data from Nielsen Media Research and Nielsen//NetRatings custom report for kids 2-11 visiting sites for these 23 advertisers in 2004.

## Television Impressions and Web Views of Major Food and Restaurant Advertisers in 2004

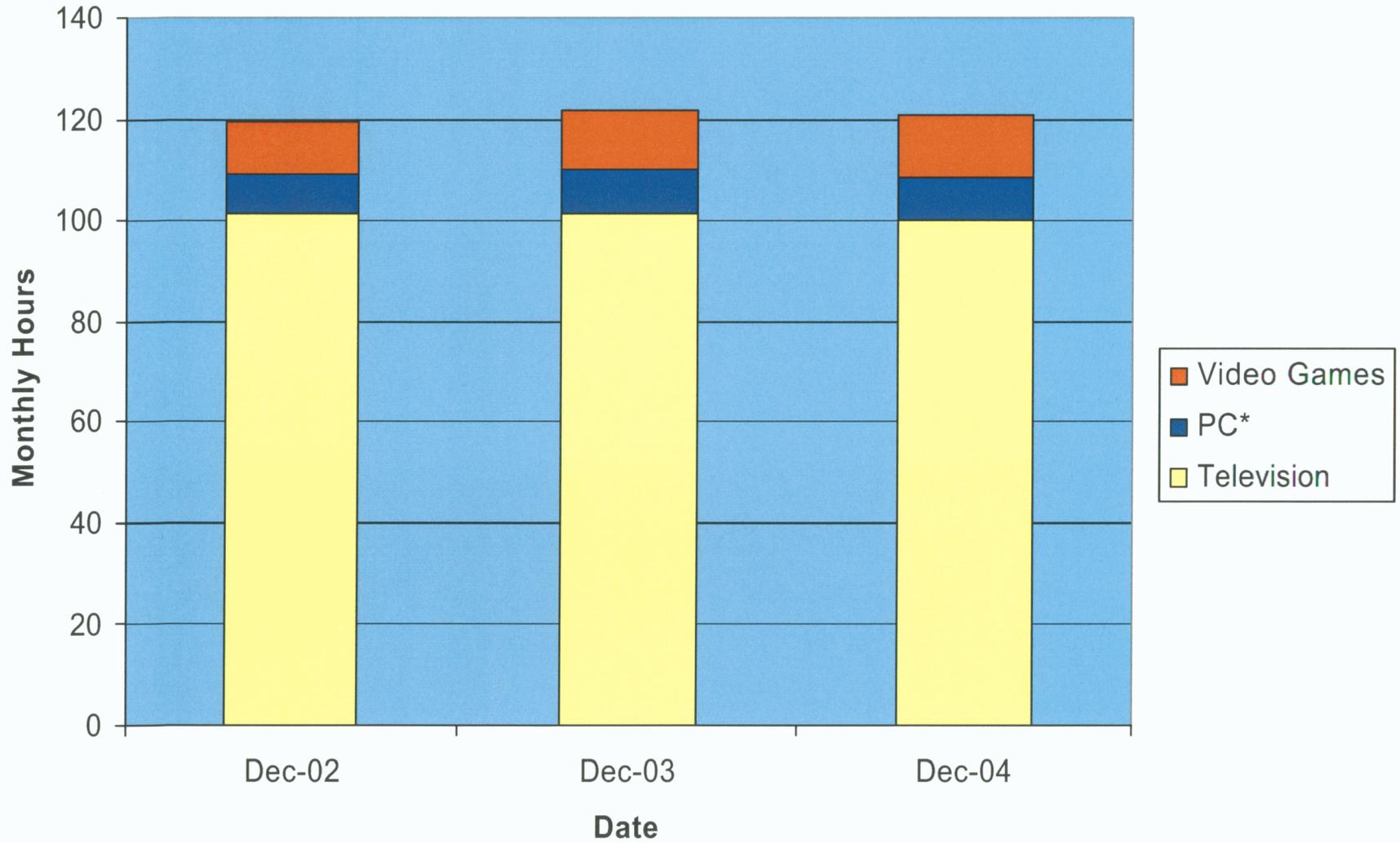


Source: Nielsen Media Research, Inc. and Nielsen NetRatings, Inc.

# Screen Time Trends

- **“Screen Time,”** which is defined as the number of hours an individual spends watching various types of media per month, is an indicator of how much time children spend with the main sources of video media.
  - Nielsen surveys are conducted in December.
  - Total monthly Screen Time viewing hours increased during the period, rising by about one-half of one percent per year from December 2002 to December 2004.
- **Increases in Video Game and PC Screen Time over the period were partially offset by a decline in TV’s share of total Screen Time.**
  - Video Game and PC usage captured a growing portion of the share of total viewing hours from TV each December, from 2002 to 2004.

## Total Screen Time for Children 6-11 Years Old by Media Type



Source: Nielsen Media Research for TV (affiliates, cable, PBS, Premium Pay, Ad Supported Cable), VCR Play (including DVD), and Video Games.

\* Source: Nielsen//NetRatings (U.S., Home and Work).

# Conclusions

- This report is an update and extension of our Report of October 1, 2004.
- Our prior conclusions remain the same.
  - Real advertising expenditures for foods and beverages have declined over the last decade.
  - The number of food and beverage commercials seen by children has declined over the last decade.
- Our new findings add confirming perspectives.
  - Views of food and beverage websites are minimal compared to TV impressions.
  - Screen time is migrating from TV to other media.

# Methodology

- Expenditures on food and restaurant advertising were calculated as follows:
  - Data on expenditures for the food and restaurant categories were provided by Nielsen Media Research.
  - These data represent total expenditures for advertisements for all foods and beverages and all restaurants on all TV programs.
    - Alcoholic beverages and related mixers were excluded.
  - A deflator was then applied to the expenditures to convert each year's expenditures to 1993 dollars.
  - This process enables us to make comparisons in constant dollars between expenditures in different years.
  - The deflator used advertising inflation indices from the *Universal McCann Media Cost Indexes*.
  - Preliminary price-index estimates are now available for 2004.
    - Preliminary estimates indicate that ad inflation was slightly greater in '04 than it was in '03.
    - The final estimate will be available in August.

# Methodology (Continued)

- Commercials viewed by an average child were calculated as follows:
  - Food and restaurant commercials viewed by children under 12 were provided by Nielsen Media Research.
  - The number takes into account commercials on broadcast and cable TV at national and local levels.
  - The total number of food and restaurant commercial impressions were divided by the total number of children under 12 in the TV audience. This yields an estimate of the number of commercials viewed per child each year.
  - The number of children consists of those under 12 in United States TV households.
  - The audience data were provided by Nielsen Media Research.
- Internet impressions provided by Nielsen//NetRatings.
- Screen time was provided Nielsen Media Research for TV and Video Games, and by Nielsen//NetRatings for PC time.

# Inflation Adjusted Advertising Expenditures

## Inflation Adjusted Advertising Expenditures

Year	1993	1994	1995	1996	1997	1998
Inflation Adjusted Product Category Expenditure on Total TV - Food and Restaurants	\$5,046,283,780	\$5,921,536,526	\$5,854,312,794	\$5,576,136,540	\$5,845,624,037	\$5,615,125,995

## Inflation Adjusted Advertising Expenditures (Continued)

Year	1999	2000	2001	2002	2003	2004
Inflation Adjusted Product Category Expenditure on Total TV - Food and Restaurants	\$5,568,893,837	\$4,860,667,065	\$4,793,050,622	\$4,924,392,741	\$5,042,172,392	\$4,835,989,618

Source: Nielsen Media Research, Inc.

Note: 2004 Real Expenditures calculated using estimate of Media Cost per Thousand inflation.

# Food and Restaurant Commercials Viewed per Child

## Food and Restaurant Commercials Viewd per Child\*

Year	1993	1994	1995	1996	1997	1998
Impressions per Child - Restaurants	1,366	1,446	1,374	1,366	1,337	1,206
Impressions per Child - Food	4,335	4,463	4,275	3,676	3,671	3,436
Total Impressions per Child -- Food and Restaurants	5,701	5,909	5,649	5,042	5,007	4,643

## Food and Restaurant Commercials Viewd per Child\* (Continued)

Year	1999	2000	2001	2002	2003	2004
Impressions per Child - Restaurants	1,404	1,346	1,189	1,250	1,265	1,268
Impressions per Child - Food	3,772	3,664	3,427	3,485	3,773	3,884
Total Impressions per Child -- Food and Restaurants	5,176	5,010	4,616	4,735	5,038	5,152

Source: Nielsen Media Research, Inc.

\* - Impressions per child calculated as impressions divided by the group definition.

# Screen Time Trends for Children 6-11 Years Old

## Total Screen Time for Children 6-11 (US)

	Hours/Month				% Monthly Hours			
	<u>Dec 02</u>	<u>Dec 03</u>	<u>Dec 04</u>	<u>% Chg 04 vs 02</u>	<u>Dec 02</u>	<u>Dec 03</u>	<u>Dec 04</u>	<u>pp Chg 04 vs 02</u>
<b>TV</b>	101.2	101.2	99.7	(1)%	85%	83%	82%	(3) pp
<b>Video Games</b>	10.4	11.9	12.7	22%	9	10	11	2 pp
<b>PC</b>	<u>7.8</u>	<u>8.6</u>	<u>8.6</u>	<u>10%</u>	<u>7</u>	<u>7</u>	<u>7</u>	<u>1 pp</u>
<b>Total</b>	119.4	121.7	121.0	1%	100%	100%	100%	--

Source: Nielsen Media Research for TV (affiliates, cable, PBS, Premium Pay, Ad Supported Cable), and Video Games. Nielsen/NetRatings for PC time (includes online and offline time).