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Regulatory Studies Program

Public Interest Comment on
Food Industry Marketing to Children Report[1]

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The Regulatory Studies Program (RSP) of the Mercatus Center at George Mason University is dedicated to advancing knowledge of the impact of regulation on society. As part of its mission, RSP conducts careful and independent analyses employing contemporary economic scholarship to assess rulemaking proposals from the perspective of the public interest. Thus, this comment in response to the Federal Trade Commission's (FTC) request for comment on the Commission Information Collection Activities for food marketing expenditures to children and adolescents, does not represent the views of any particular affected party or special interest group, but is designed to help the FTC make the greatest possible contribution to consumer welfare by evaluating the methodology of the FTC's study.

I. Introduction

In 2005 Congress passed Pub. L. No. 109-108, which President Bush signed into law. The conference report included language from the Senate report directing the FTC to submit a report on advertising expenditures by the food industry targeted to children and adolescents. The study was mandated under the heading of "childhood obesity." The Senate Report expressed concern over the increasing rate of obesity among children and adolescents and the advertising practices of the food industry.

In March 2006, the FTC requested relevant information and received comments from industry and trade groups, public health advocacy groups, and an individual. The comments suggested sources of relevant information, but none of the comments included any of the requested information.

Most of the suggested sources were market research organizations that produce research reports for a substantial fee. Because the FTC was not granted any specific funding for the report, the Commission is preparing to request this information directly from the food and beverage firms, under its authority to compel production of this data under the FTC Act, 15 U.S.C. § 46(b). The

[1] Prepared by Joseph Adamson, Mercatus research fellow, and Todd Zywicki, professor of law, at George Mason University. This comment is one in a series of Public Interest Comments from the Mercatus Center's Regulatory Studies Program and does not represent an official position of George Mason University.

Paperwork Reduction Act (PRA) requires this comment period to assess the validity of the study and the necessity of the requested information.

The FTC is seeking comment on: 1) whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, including whether the information will have practical utility; 2) the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; 3) ways to enhance the quality, utility, and clarity of the information to be collected; and 4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The Commission will contact fifty ultimate parent companies of food and beverage and quick service restaurant companies, which include an unnamed number of subsidiaries. It will also contact major marketers of fruits and vegetables to include the efforts at promoting consumption of these foods to children and adolescents.

The information requested will include: the types of food marketed to children; the types of measured and unmeasured media techniques used to market products to children and adolescents; the amount spent to advertise in measured and unmeasured media to children and adolescents; and the amount of commercial advertising time in measured media directed to children and adolescents. The Commission has estimated that the total time burden for all of the parent companies will be 6650 hours, based on an average burden of 100 hours for companies that market a single category of product to children and adolescents and 210 hours for companies that market multiple categories of products to children and adolescents. The estimated aggregate cost of the collection, based on labor costs of $250 per hour, is $1,662,500.

II. Analysis

Although the Senate's language does not mention any other factors related to increasing obesity, many factors cause obesity at any age. Any study concentrating solely on one risk factor, such as exposure to advertising, will provide an incomplete view of the causes of increased obesity. Additionally, a study of food and beverage advertising should not only focus on the negative effects related to obesity; it should also consider the positive informational effects of advertising. The information gathered for this study should include relevant data to examine the impact of advertising expenditure on the food-buying habits of children and their parents.

A. Does the proposed collection of information have utility for the FTC?

The FTC is seeking information on advertising industry practices with regard to foods marketed to children. Recent events have changed the advertising practices of major food companies, and any information provided about past expenditures and strategies will likely be outdated due to the adoption of new practices.

The Children's Advertising Review Unit (CARU), an industry oversight group under the Council of Better Business Bureaus, released its new guidelines in November 2006. The new guidelines strengthen CARU, which monitors advertising to children under twelve years old. CARU will have greater authority to: act against advertising that is unfair as well as ads which mislead; prohibit the misleading "blurring" of content between advertising and editorial content; and address the use of advertising in entertainment games.

As the new guidelines were released, ten major food and beverage companies also announced a voluntary self-regulatory program that further restricts the use of advertising to children under twelve years old called the Children's Food and Beverage Advertising Initiative. The companies represented in the agreement account for approximately two-thirds of children's food and beverage advertising expenditures. The Initiative requires that they:[2]

- devote at least half their advertising to children on television, radio, print, and Internet to promote healthier dietary choices and/or to messages that promote healthy lifestyles;
- limit products shown in interactive games to healthier dietary choices, or incorporate healthy lifestyle messages;
- not advertise food or beverage products in elementary schools;
- not engage in food and beverage product placement in editorial and entertainment content; and
- reduce the use of third-party licensed characters in advertising that does not meet the Initiative's product or messaging criteria.

In addition to the recently announced industry-wide guidelines, several companies have introduced their own rules on marketing to children. The two most commonly cited are the Walt Disney Company and Kraft Foods, a member of the Initiative. Disney recently restricted the types of foods that it will serve in its theme parks, as well as the foods to which it will license its characters for promotion. In early 2005 Kraft Foods created a new label designation for its healthier foods and shifted the mix of its advertising that primarily reaches children six to eleven years old to increase marketing of healthier foods and phase out advertising for products that do not merit the healthy label. In addition, Kraft does not advertise in media or programs with a primary audience of less than six years old.[3]

The FTC should account for this change in the marketing strategies of these ten companies, and any other companies that follow the new CARU guidelines or other self-imposed restrictions. The new industry-wide guidelines are stronger than their previous incarnation, which had been in effect, with some periodic revisions, for more than thirty years. Information on the companies' new marketing plans will have much more utility than historical data and strategies. The FTC should focus its effort on the plans currently being formulated by these food companies to ensure that the mandated report is as relevant and up-to-date as possible. The Commission may also

[2] Council of Better Business Bureaus, "New Food, Beverage Initiative to Focus Kids' Ads on Healthy Choices; Revised Guidelines Strengthen CARU's Guidance to Food Advertisers," (Arlington, VA, 2006), http://www.bbb.org/alerts/article.asp?ID=728.

[3] Gregory Lopes, "FTC not sweet on junk-food ads targeting children," *Washington Times*, November 7, 2006, final edition, http://www.washtimes.com/business/20061107-121239-2177r.htm.

seek information from past marketing efforts as a benchmark with which to compare new strategies for the future and to study the effect of previous marketing strategies.

B. Is the Commission's estimate of the cost burden accurate?

The previous comment period included a comment that referenced a number of media research firms which could be sources of the requested information.[4] The Commission rejected these resources because they charge substantial amounts for the information and Pub. L. No. 109-108 did not contain specific funding for the study.

The FTC's estimate of the total cost to the industry is $1.66 million and 6,650 hours. The cost of requesting some information from media research firms may result in a reduced overall burden to the economy. If the research firms were compelled to report information from their studies, their additional cost of doing so may be less than the cost to the food companies of producing similar information.

One type of information sought by the FTC for this study is the use of marketing through measured media outlets. Measured media are categories that are tracked by media research firms[5], such as those mentioned above, which were suggested as possible sources of information for the FTC. Measured outlets include TV, radio, magazines, newspapers, and the Internet; these are some of the major media that the Commission is mandated to study. This information is almost by definition more readily available from research firms than from the food companies. Research firms may also have better information on advertising time and exposure, which the study should be designed to measure, while food companies will be better able to produce information on advertising budgets. The FTC has previously used data from one of these firms to research the estimated TV advertising viewed by children.[6]

For these reasons, the Commission should consider requesting information from research firms, as well as the food companies in question. The information may be in a more readily useful form for the FTC, and the overall cost burden may be reduced. If the Commission follows this recommendation, it may need to be careful when releasing a report to preserve proprietary data collected by a market research firm.

C. How can the FTC enhance the quality, utility, and clarity of the information it collects?

The FTC must also consider how it will interpret the information it receives for the report. One of the most important factors affecting the quality, utility, and clarity of the information is how the Commission chooses to process and evaluate the information. For this reason, we offer several suggestions on how the FTC might analyze the information once it is collected.

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[4] Comments of the Grocery Manufacturers Association to the FTC request for Information and Comment, April 5, 2006, http://www.ftc.gov/os/comments/foodmarketingstudy/521602-00011.pdf.

[5] Institute of Medicine, *Food Marketing to Children and Youth: Threat or Opportunity?*, (Washington, DC: National Academies Press, 2006), 141-42, http://fermat.nap.edu/books/0309097134/html/142.html.

[6] Dr. Pauline M. Ippolito, "Marketing, Self-Regulation, and Childhood Obesity," (presentation, A Joint Workshop of the Federal Trade Commission and the Department of Health and Human Services, July 14-15, 2005), 5.

The Commission is seeking information from food and beverage companies on their advertising expenditures and strategies targeted towards children and adolescents. While this information is important, it leaves a number of gaps that preclude a conclusion on any link between advertising and obesity. First is the actual exposure of children and adolescents to food advertising. Second is the effect that advertising has on children and adolescents and their choices as consumers and as eaters.

This study should try to determine the extent to which children and adolescents are exposed to and process these advertisements. This information is at least as important as the amount of advertising the major food companies create. The study should recognize that total ad airtime and spending do not directly correlate with the messages that children and adolescents receive.

1. Evidence that children are less exposed to advertising than in the past

In a survey of potential causes of childhood obesity, Patricia M. Anderson and Kristin F. Butcher conclude that despite mixed findings, one can reasonably conclude that watching television is associated with obesity. Potential causes for this correlation include: 1) TV-watching crowds out physical activity; 2) increased exposure to advertising increases demand for, and consumption of, calorie-rich snack foods; and 3) children snack more while watching TV, increasing their total calories consumed.[7] Due to the difficulty of finding a causal relationship in surveys that measure these factors, there is no consensus as to why exactly television viewing correlates so strongly with obesity. We believe, however, that there is little evidence that advertising causes obesity.

Children's obesity rates have been rising over time. If advertising were a cause of the rise in obesity rates, then there should be a similar rise in children's exposure to advertising. But there is strong evidence suggesting that children's exposure to advertising during the period of rising obesity has actually decreased.

First, children of all ages now watch less television than they used to. In the late 1970s, the average child watched more than four hours of TV per day; that number declined to about 2¾ hours per day in 1999.[8] Second, the amount of advertising for public service announcements and cross-promotion for other programming has increased.[9] Third, much of this TV watching has been replaced by other forms of "screen time" with less advertising such as computer and video games, DVDs, and Internet use. The average child spends 20 minutes daily playing video games, 20 minutes on the computer, and 30 minutes viewing videos.[10] Fourth, there are new technologies, digital video recorders (DVRs), which allow viewers to record live television, then quickly and easily skip or fast-forward through advertisements. Older children and adolescents, who have greater control of this technology, as well as by channel-surfing with a remote control

[7] Patricia M. Anderson and Kristin F. Butcher, "Childhood Obesity: Trends and Potential Causes," *The Future of Children* 16, no. 1 (Spring 2006): 27.
[8] J. Howard Beales III, "Advertising to Kids and the FTC: A regulatory retrospective that advises the present," *George Mason Law Review* 12, no. 4 (Apr., 2004), Note 100.
[9] Federal Trade Commission, *Perspectives on Marketing, Self-Regulation, and Childhood Obesity: A Report on a Joint Workshop of the Federal Trade Commission and the Department of Health and Human Services*, (Washington, DC, April 2006), 9.
[10] Donald F. Roberts and others, *Kids & Media @ the New Millennium,* (A Kaiser Family Foundation Report, 1999), 20, http://www.kff.org/entmedia/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=13267.

during commercials, could very easily minimize their own exposure to advertising even as they increase TV-watching.

Though children are the primary audience for programming on the Disney Channel, Nickelodeon, and similar networks, the greatest number of children watches prime-time shows with wider audiences such as professional sports, *American Idol*, and *The Simpsons*. Food advertising makes up a substantial portion of the ads seen during children's and family programming, but that percentage has been decreasing from 64 percent in the 1970s to 46 percent in the early 1990s.[11]

The FTC's Bureau of Economics has found that children now view fewer ads on television than they did twenty years ago, as well as fewer ads for food products. Part of this is due to children spending less time watching television per day, as well as the changing composition of advertising to include fewer food ads and more ads for DVDs and videos. In 1977 children saw, on average, 20,000 paid ads on TV; that number decreased to 17,507 in 2004. During this time, the exposure to food ads also decreased primarily offset by advertising for movies, DVDs, video and computer games, and promotions for TV programming.[12]

Data also suggest that advertising for food and restaurants overall has decreased, compared to all advertising. Nielsen data suggest that real advertising spending stayed flat between 1993 and 2003, while food and restaurant advertising exposure for children under twelve decreased over that period. From 1993-1996, the average child saw 5,575 food and restaurant commercials per year, while from 2000-2003, the average exposure dropped thirteen percent to 4,850 commercials per year.[13] During this time, commercials also became shorter on average, translating to an even greater decrease in children's exposure to food advertising.

Advertising expenditures on television have also decreased. From 1994 to 1999, the real spending on TV advertising for food and restaurants was over $5.5 billion each year, with a peak of more than $5.9 billion in 1994. In 2000, the inflation-adjusted advertising expenditure for these products dropped to $4.86 billion. From 2000 to 2004, the real spending on food and restaurant advertising was between $4.79 billion and $5.04 billion each year.[14]

Little is known about the incidence of children's food advertising on the Internet, but available evidence suggests that children's exposure to food advertising online is small—as little as 0.025% of all food advertising impressions per year, or just a handful of views.[15] Casual viewing of many of the most popular web sites, such as Disney.com, indicates that most advertising is cross-promotion for other Disney products rather than outside advertising. It would be useful for the FTC to determine the extent of food advertising online, both through advertisements and

[11] Federal Trade Commission, *Perspectives on Marketing, Self-Regulation, and Childhood Obesity: A Report on a Joint Workshop of the Federal Trade Commission and the Department of Health and Human Services* (Washington, DC, April 2006), note 66.
[12] Ibid, 9.
[13] Comments of the Grocery Manufacturers Association to the FTC request for Information and Comment, April 5, 2006, (Appendix G), http://www.ftc.gov/os/comments/foodmarketingstudy/521602-00011.pdf.
[14] Ibid.
[15] Ibid.

adver-gaming, but it is difficult to estimate how much influence is held by this type of advertising.

2. Evidence of the effect of advertising on children's diets

Some evidence indicates that advertising plays a role in shaping food preferences among children exposed to it. Studies so far, however, have failed to demonstrate that advertising affects patterns of actual food consumption by children or that advertising causes an increased incidence in obesity rates among children, controlling for other risk factors.

There are two factors that the FTC should keep in mind in evaluating the evidence it collects from this study. First, the FTC should investigate questions of causation to determine how food preferences are translated into effective food demand and consumption by children. Second, the FTC should take into account the various effects of advertising of food products, which may actually result in a decrease in the market demand for a given category of food products.

Determining whether there is a causal link between advertising and children's obesity requires a description of the causal model of how food advertising is translated into consumption among children, especially small children. There is a clear intermediary role of parents in making food purchasing and dietary decisions for children, especially for small children. We are aware of no evidence on the extent to which food advertising influences purchasing decisions of parents. However, the idea of parents giving in to "pestering" by their children is one of the leading theories of how advertising affects the diets of children.[16] But it is known that countries and regions that have banned food advertising to children have not shown significant changes in childhood obesity. Quebec, for example, banned food advertising to children in the 1980s and has similar obesity rates to the rest of Canada, and Sweden banned all advertising on children's programs more than ten years ago, and has similar childhood obesity rates as the rest of Europe.[17]

If parents were giving in to the dietary wishes of their children, we should see children's eating patterns diverge from their parents. But evidence shows that all age groups have shown the same shifts in consumption, including a rise in overall energy intake.[18] At an early age, children tend to eat what their parents eat, and will overeat if their parents do. Parents have a much greater influence on the diets of their children than advertisements do.[19]

To analyze the rise in obesity levels, the Commission should also seek to include data on the levels of physical activity among children and adolescents to put its findings in context. Although the study is seeking information on the link between advertising and obesity,

[16] Center for Science in the Public Interest, *Pestering Parents: How Food Companies Market Obesity to Children.* (Washington, DC: November 2003), http://www.cspinet.com/new/pdf/pages_from_pestering_parents_final_pt_1.pdf
[17] David Ashton, Editorial, "Food advertising and Childhood Obesity," *J. Royal Society of Medicine* 97, no. 2 (February, 2004), 51-52.
[18] Samara Joy Nielsen, Anna Maria Siega-Riz, and Barry M. Popkin, "Trends in Energy Intake in U.S. Between 1977 and 1996: Similar Shifts Seen Across Age Groups," *Obesity Research* 10, no. 5 (May 2002), 370.
[19] Todd J. Zywicki, Debra Holt, and Maureen K. Ohlhausen, "Obesity and Advertising Policy," *George Mason Law Review* 12, no. 4 (Summer 2004), 999. (Citing Ruth N. Bolton, "Modeling the Impact of Television Food Advertising on Children's Diets," 6, *Current Issues & Research in Advertising* 173 (1983), 187-91.)

advertising is, at best, a secondary cause. Since obesity is caused by a long-term imbalance between energy intake and energy expenditure, the Commission should include information on trends in these areas. This information should not affect the information request since food manufacturers likely do not have this data readily available, but the FTC can look to numerous academic articles which have studied these trends, which include the following:[20]

- Overweight and obese children do not have significantly different basal metabolic rates. Basal metabolic rate is the amount of energy required for the body's resting functions.
- Studies of physical activity and overweight have shown mixed results, although this may be due to the use of body mass index to measure overweight, which may result in false positives for more muscular individuals.
- Sedentary activities, such as television watching, have a much stronger link with overweight and obesity.
- Experimental studies show that reducing children's television watching time results in a lowered body mass index.

Economic theory on advertising suggests that, for a market such as food products, advertising may not increase overall demand for food. The information sought by the FTC includes data on the types of foods marketed to children and adolescents and its placement in various media sources. For the information to have utility, the Commission must examine the effects of advertising spending.

Advertising can have two basic effects.[21] It may be "informative" in nature, increasing demand for an entire category of products, or advertising may be "persuasive" in nature, increasing demand for certain individual brands of products. Informative advertising is most common for products in a new segment of the market, for example an iPod. This advertising increases demand for both the iPod and for MP3 players in general. Once a market has matured most advertising becomes persuasive and brand-centered.

Brand-centered advertising will have an ambiguous effect on overall category demand for a product such as snack foods. First, brand advertising will likely have some spillover effect on other products in a given market, thereby increasing category demand. For instance, advertising by Coca Cola will have some effect in increasing demand for soft drinks more generally. But advertising by Coca Cola will also increase the cost and the market price of Coke, thereby reducing market demand. Second, advertising increases product differentiation, thereby permitting the producer to increase the price it charges.[22] This too will tend to decrease market demand. The overall effect of these offsetting forces is ambiguous, making it difficult to predict whether brand-centered advertising increases or decreases market demand for a category of products.

[20] Patricia M. Anderson and Kristin F. Butcher, "Childhood Obesity: Trends and Potential Causes," *The Future of Children*,16, no. 1 (Spring 2006), 26-28.
[21] Kyle Bagwell, "The Economic Analysis of Advertising" (unpublished manuscript), 6, http://www.columbia.edu/~kwb8/adchapterPost082605.pdf.
[22] Ibid.

Numerous studies[23] have shown that advertising may not generally affect dietary choices as much as it affects brand choice. People do not shift their "menu" of foods in response to ads, but rather the brands that comprise their existing menu. The 2006 Institute of Medicine report concludes from its review that there is, at best, moderate evidence that food advertising causes a change in the diet of two to five year-olds and weak evidence that it affects the diet of six to eleven year-olds. None of the cited studies are statistically significant or have high causal validity.

Children and adolescents who view more advertising are almost necessarily at greater risk for obesity, because their higher exposure to advertising means they are spending more time watching television, surfing the Internet, or reading books or magazines than children and adolescents who are more engaged in physical activities that are not permeated with marketing messages. This would create the appearance of a link between advertising and obesity, when advertising simply has a spurious correlation with obesity.

3. Beneficial effects of advertising

This study should also examine the beneficial aspects of advertising. In a competitive market, advertising serves an educational purpose. Advertisements inform consumers of new products or the advantages of choosing one product over another. The results of strong advertising can eventually transform markets. For example, after Kellogg's began touting the high fiber content of certain breakfast cereals, other companies followed by advertising the fiber content of their cereals. Within three years, the average fiber content of cereals, weighted by market share, increased by seven percent, equivalent to two million more households eating high-fiber cereals.[24]

Although many news sources had reported on the benefits of higher-fiber diets, "informationally disadvantaged" groups had not responded to that information.[25] These groups are less health-conscious and don't actively seek health-related information. In the case of the high-fiber cereals, these are also the groups that benefited most from the informational aspect of advertising because of their limited exposure to major news sources. They significantly changed their cereal-buying habits in response to the advertising of fiber content. Restricting food advertising would have the greatest effect on these groups, who are at the greatest risk for obesity, as they rely on advertising to inform their food purchasing choices.

Advertising and food labeling for children can have similar beneficial effects. Allowing food producers to advertise changes in their recipes that yield foods with fewer calories or less fat will help consumers choose healthier foods. Parents may see commercials for healthier foods or label designations for foods that meet a certain nutritional benchmark and may be more likely to choose those foods over similar but less healthy products.

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[23] John C. Luik, *Ideology Masked as Scientific Truth* (Washington, DC: Washington Legal Foundation, 2006), 78.
[24] Jerry Ellig and Cindy Goh, "Food Labeling, Health Claims, and Dietary Guidance: Advance Notice of Proposed Rulemaking" (public interest comment submitted to the Food and Drug Administration on behalf of the Mercatus Center, February 25, 2004), http://www.fda.gov/ohrms/DOCKETS/dailys/04/mar04/030304/03N-0496_emc-000012-02.pdf.
[25] Pauline M. Ippolito and Alan D. Mathios, "Information, Advertising, and Health Choices: A Study of the Cereal Market," *Rand Journal of Economics* 21, no. 3 (Autumn, 1990), 464-78.

Intuitively, marketing foods specifically to children also can help parents. By allowing children to select which foods are appealing or unappealing, advertising allows parents to choose food for their children from a smaller potential grocery list. This would save parents time while shopping, reduce the aggravation of preparing foods that their children refuse, and lead to less wasted food.

III. Conclusion

Academic research on the effects of food and beverage marketing generally has failed to find a causal relationship between advertising and overall demand for categories of products. Viewing advertisements has a greater effect on brand choice. Viewing more advertisements may correlate with obesity, but this is not a causal link. Sedentary activities, many of which will expose a child to more advertising, have a much greater correlation with obesity and can be a direct cause of obesity by crowding out physical activity.

The FTC report should account for these facts, as well as for the recent changes in CARU and the adoption of the Children's Food and Beverage Advertising Initiative, in their report on advertising and obesity. The goals of the information collection should reflect what is already known in academic literature about the effects of advertising and the causes of obesity and seek to fill the gaps in that knowledge.

Finally, a preferred outcome of the collection of information would include a publicly available database, so other researchers can replicate the findings of the FTC, as well as answer questions beyond the scope of the FTC study. As noted in the request for comment, the FTC is barred from disclosing trade secrets or confidential commercial or financial information. However, every effort should be made to release as much data as possible while maintaining confidentiality for the companies where they require it.