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Inter-agency Working Group Releases Nutrition Standards for Foods Marketed to Children at FTC Obesity Workshop

An interagency working group that includes representatives from the Federal Trade Commission (FTC), Food and Drug Administration (FDA), US Department of Agriculture (USDA) and Centers for Disease Control and Prevention (CDC) released what was described as “tentative” proposals on voluntary nutrition standards for foods marketed to children 2 – 17 during the FTC’s “Sizing Up Food Marketing and Childhood Obesity” forum held December 15. See <http://www.ftc.gov/bcp/workshops/sizingup/>. The proposal would effectively serve as a "voluntary" ban on marketing of most foods to minors except those that are part of a healthful diet or those that provide a meaningful contribution to a healthful diet. The recommendations of the inter-agency working group were developed in response to a Congressional mandate enacted as part of the Omnibus Appropriations Act (H.R. 1105) earlier this year. Comments on the recommendations will be solicited through a forthcoming Federal Register notice. A final report and recommendations must be submitted to Congress July 15, 2010.

The food industry will face significant new pressures to stop advertising foods that are safe, meet applicable FDA requirements, and can be enjoyed as part of an overall balanced and healthy lifestyle.

The Tentative Food Marketing Guidelines

The tentative recommendations appear in the following table. Note that Standards II and III are intended to be read together.

<p>Standard I: Foods Exempt from Standards II and III</p>	<p>The following foods are part of a healthful diet and may be marketed to children without meeting Standards II and III.</p> <ul style="list-style-type: none"> ✓ 100% fruit and fruit juices in all forms ✓ 100% vegetables and vegetable juices in all forms; must not exceed 140 mg of sodium per RACC* ✓ 100% non-fat and low-fat milk and yogurt ✓ 100% whole grains ✓ 100% water <p>Note: 100% is defined as no added nutritive or non-nutritive sweeteners and no other functional ingredients added to the product, except flavoring for water, milk, and yogurt</p>
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<p>Standard II: Meaningful Contribution to a Healthful Diet</p>	<p>Foods marketed to children must provide a meaningful contribution to a healthful diet</p> <p>Option A: ✓ Food must contain at least 50% by weight of one or more of the following: fruit; vegetable; whole grain; fat-free or low-fat milk or yogurt; fish; extra lean meat or poultry; eggs; nuts and seeds; or beans.</p> <p>Option B: ✓ Food must contain one or more of the following per RACC:*</p> <ul style="list-style-type: none"> ▪ 0.5 cups fruit or fruit juice ▪ 0.6 cups vegetables or vegetable juice ▪ 0.75 oz. equivalent of 100% whole grain ▪ 0.75 cups milk or yogurt; 1 oz. natural cheese; 1.5 oz. processed cheese ▪ 1.4 oz. meat equivalent of fish or extra lean meat or poultry ▪ 0.3 cups cooked dry beans ▪ 0.7 oz. nuts or seeds ▪ 1 egg or egg equivalent
<p>Standard III: Nutrients to Limit</p>	<p>Foods marketed to children must not contain more than the following amounts of saturated fat, trans fat, sugar, and sodium.</p> <p>Saturated Fat: ✓ 1 g or less per RACC* and not more than 15% of calories</p> <p>Trans Fat: ✓ 0 g per RACC* (<0.5 g)</p> <p>Sugar: ✓ No more than 13 g of added sugars per RACC*</p> <p>Sodium: ✓ No more than 200 mg per portion§</p>

* For foods with a small RACC (30 g or less or 2 tablespoons or less), the criteria refer to the amount per 50 g of food.

§ This level is interim and over time should be reduced to 140 mg per RACC.*

A number of products may be disqualified when Standard II and III are combined. The tentative guidelines do not address meals but recommendations may be forthcoming. Members of the audience at the obesity workshop also raised questions such as whether preservatives, food dyes and other additives should be covered in the standards, points sure to be raised during the public comment period.

Soliciting Public Input

The FTC is expected to issue a Federal Register notice before the end of January soliciting input on the standards themselves, as well as questions such as:

- Should the standards apply to the entire 2-17 demographic? What about children under 2?
- How should marketing be defined?
- Should the standards apply to brand advertising which does not depict a product?
- Should standards address nutrients to encourage?
- Should portion size be addressed?
- Should some foods be eliminated from Standard I?
- Should the sodium limit be higher for canned vegetables? Should permitted vegetables be limited to green, yellow and red vegetables?
- Should Option B of Standard II, which is based on a 2,000 calorie diet and 4 daily eating occasions, be adjusted for younger children?
- Should other nutrients to limit be included (*e.g.*, non-nutritive sweeteners or caffeine?)
- What are the marketplace impacts?
- Do the standards create incentives for companies to reformulate in a manner that would not advance the goals of the standards?

Both the Children's Food and Beverage Advertising Initiative (CFBAI), a self-regulatory program supported by major food and beverage companies, data showing a decline in television advertising for foods over many years, and First Amendment considerations were discussed at the workshop. It will be important for industry members to provide detailed input on all aspects of the tentative standards and their possible application.

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