

**Food and Beverage Marketing to Children**

<b>Date:</b>	February 8, 2008
<b>To:</b>	Board of Health
<b>From:</b>	Medical Officer of Health
<b>Wards:</b>	All
<b>Reference Number:</b>	

**SUMMARY**

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This report discusses children's exposure to food and beverage marketing and its impact on their diets and diet-related health outcomes. It proposes measures to address the children's marketing environment.

Marketing is one of several influences on the diets of young people. Children today are exposed to a greater intensity and frequency of marketing messages than any previous generation. Marketing has expanded into new media (Internet, mobile phones) and employs more sophisticated techniques than ever before. Research has focused almost exclusively on television advertising and has found that it influences children's food and beverage preferences, purchase requests and short-term consumption. Based on U.S. data, young children see 27 television food ads for every public service announcement promoting physical activity or healthy eating.

The susceptibility of young children to marketing messages is well established. There is strong evidence that children under eight years of age generally lack the cognitive abilities to objectively evaluate marketing messages. Younger children, four years and under, cannot consistently tell the difference between television commercials and programming. Food and beverage products developed for, and advertised to, children are dominated by those that are calorie dense and nutrient poor. Marketing to children is seen as critical to establishing and maintaining a life-long relationship with customers and children are increasingly becoming a powerful economic group in their own right. Children's advertising is primarily regulated by industry in Canada. A review of the current system and proposed industry voluntary changes finds substantial shortcomings and raises doubt that industry self-regulation could adequately address public health concerns related to children's marketing.

An analysis of approaches to alter the children's marketing environment finds that a ban on the commercial advertising of food and beverages to children under the age of thirteen years is appropriate in Canada at this time.

## **RECOMMENDATIONS**

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### **The Medical Officer of Health recommends that:**

1. the Board of Health urge Health Canada, Industry Canada and the Ontario Ministry of Government and Consumer Services to prohibit all commercial advertising of food and beverages to children under the age of thirteen years;
2. until effective legislation is in place, the Medical Officer of Health actively monitor trends, practices and policies related to the commercial marketing of food and beverages to children and report to the Board of Health as needed;
3. the Board of Health ask the national policy consensus conference on children's marketing, hosted by the Chronic Disease Prevention Alliance of Canada in March 2008, to adopt the position of a national ban on all commercial advertising of food and beverages to children under the age of thirteen years;
4. the Board of Health ask City of Toronto Agencies, Boards, Commissions and Divisions to avoid commercial advertising of food and beverages to children under the age of thirteen years in City funded or operated services, facilities and venues;
5. the Medical Officer of Health work with City of Toronto Agencies, Boards, Commissions and Divisions on implementing guidelines or policies related to children's marketing and report back to the Board of Health on the status of implementation;
6. the Medical Officer of Health continue to work with schools boards within Toronto and the Ontario Ministry of Education to enhance media literacy among parents and children as it relates to food and beverage marketing;
7. the Medical Officer of Health incorporate media literacy education related to food and beverage marketing into parenting programs delivered by Toronto Public Health where appropriate;
8. the Chair of the Board of Health urge the Public Health Agency of Canada to establish an ongoing monitoring system for food and beverage marketing to children and youth, including data on the frequency and content of exposures in all media, to assess the marketing environment and monitor trends;

9. the Board of Health urge the Canadian Institutes of Health Research (Institute of Human Development, Child and Youth Health and Institute of Nutrition, Metabolism and Diabetes) to fund research to address gaps related to the impact on children of marketing in all media and the relative strength of the effect of marketing in comparison to other influences on children's diets and diet-related health outcomes;
10. this report be sent to the Canadian Public Health Association and the Chronic Disease Prevention Alliance of Canada to seek their endorsement of the Board's position and to ask that they advocate to Health Canada and Industry Canada for a prohibition on all commercial advertising of food and beverages to children under the age of thirteen years;
11. this report be sent to the Association of Local Public Health Agencies, the Ontario Public Health Association, and local Boards of Health to seek their endorsement of the Board's position and to ask that they advocate to Health Canada and Industry Canada for a prohibition on all commercial advertising of food and beverages to children under the age of thirteen years;
12. this report be sent to the Ontario Ministries of Children and Youth Services, Education, Government and Consumer Services, Health and Long-Term Care, Health Promotion, to Health Canada, Industry Canada, and the Public Health Agency of Canada to inform the policy agenda on children's food and beverage marketing;
13. this report be forwarded to the Toronto Food Policy Council, the General Managers of Parks, Forestry and Recreation, Children's Services, and Economic Development, Culture and Tourism, the Chairs of the Toronto Transit Commission and the Toronto Public Library Board, the Directors of the Toronto District School Board, the Toronto Catholic District School Board, Conseil scolaire de district catholique Centre-Sud, and Conseil scolaire de district du Centre Sud-Ouest to increase their awareness of the impact of food and beverage marketing on children; and,
14. this report be forwarded to Advertising Standards Canada, the Canadian Association of Broadcasters, the Canadian Marketing Association and the Association of Canadian Advertisers for information.

### **Financial Impact**

There are no direct financial implications arising from this report.

## **DECISION HISTORY**

Food marketing was highlighted as one of several influences on the diet and diet-related health of children in a report submitted to the Board of Health on February 10, 2006, entitled “Food Security: Implications for the Early Years”. Pursuant to this report, the Board of Health asked on February 27, 2006 that “the Medical Officer of Health report on Toronto children’s current exposure to food and beverage marketing and the impact of food and beverage marketing on child health”.

## **ISSUE BACKGROUND**

Poor diet can interfere with children’s growth and development and has been implicated in the increases in child and youth overweight and obesity in Canada. Poor diet during childhood has also been linked to chronic diseases in adulthood.

Concerns about the appropriateness and potential contribution of food and beverage marketing to children’s poor diet and diet-related health outcomes have been raised since the 1970s. For example, a June 8, 1979 Toronto Board of Health report entitled a “Policy Statement on Children’s TV Food Commercials” recommended that the “Board of Health advocate, in appropriate places, for a total ban on all TV ads directed at children” (1).

Marketing is one of many influences on the diets and diet-related outcomes of children and youth. Food and beverage marketing to children has reappeared as a public health issue in recent years amid concerns expressed by provincial, federal, and international community organizations and government agencies related to its impact on child health.

## **COMMENTS**

This report will provide information on the evidence related to children’s understanding of marketing messages and the influence of food and beverage marketing on their diets and diet-related health. It will also describe the current regulatory environment in Canada and elsewhere and evaluate a range of policy options to address food and beverage marketing to children.

For the purposes of this report, children are defined as those aged 12 years and younger. The terms “marketing” and “advertising” are often used interchangeably. However, in this report, marketing is defined as a broader concept than advertising. Marketing is understood as the planning and carrying out of the conception, pricing, promotion, and distribution of goods and services (2). Advertising will be understood as the promotional component of marketing which can manifest itself as promotional content on television, the Internet, in print, outdoor media and elsewhere.

## **Children’s Understanding of the Persuasive Intent of Marketing Messages**

A key area of research for public policy is the extent to which children have sufficient cognitive abilities to objectively evaluate marketing messages. It is difficult to articulate how young children interpret advertising. However, during the extensive review conducted by the U.S. Federal Trade Commission in the late 1970s, one psychologist gave the following example: “To a very young child, a Tony the Tiger commercial came across as follows: ‘Hi, I’m Tony the Tiger, and I love you. I’m your friend, and I want you to eat Sugar Frosted Flakes because I want you to grow up to be big and strong like me.’ That was the message received by very young children” (3).

An ability to understand persuasive intent develops over time, primarily as a result of cognitive growth and development, and is independent of the quantity of media messages to which children are exposed. A mature comprehension of persuasive intent goes beyond a child’s ability to acknowledge that an ad is trying to persuade. Four key elements must be understood:

1. the source of the message has other interests and perspectives than the receiver;
2. the source intends to persuade;
3. persuasive messages are biased; and,
4. biased messages demand different interpretive strategies than unbiased messages (4).

A U.S. Institute of Medicine systematic review found strong evidence that children under eight years of age generally lack this level of comprehension and that younger children, four years and under, cannot consistently tell the difference between television ads and programming (5). Beyond the age of eight children have greater ability to respond to advertising in a more sophisticated way but research has determined that many children as old as 10-12 years of age will not use their critical evaluation skills to interpret ads unless prompted to do so (6). At this age, children are still developing the ability to retrieve and use information stored in memory.

Early research from the U.S. found that children from low income households were delayed in developing an ability to understand persuasive intent (7). Children of parents with higher education levels who took a strong consumer educational role were found to increase their understanding of advertising (8). There is reason to believe that children living in today’s more complex marketing environment, where the lines between advertising and content are often blurred, may take longer to develop sufficient skepticism. In recognition of this fact, the Institute of Medicine concluded that “there is reason to expect that such ability [children’s understanding of persuasive intent] may be delayed in surfacing as compared to the developmental patterns established as normative for television” (5).

## **The Influence of Food and Beverage Marketing on the Diets and Diet-Related Health Outcomes of Children**

Two systematic reviews of evidence have been conducted recently on the influence of food and beverage marketing on young people. In 2003, the U.K. Food Standards Agency commissioned a systematic review of the influence of food promotion on children's food related knowledge, preferences, and behaviours (9). In 2006, the U.S. Institute of Medicine conducted a systematic review of the influences of food and beverage marketing on the diet and diet-related health of children and youth (5). Overall, research suggests that:

- Food and beverages developed for, and advertised to, young people are dominated by those that are calorie dense and nutrient poor (9,5);
- Television advertising influences children's food and beverage preferences, purchase requests and short-term consumption (5);
- There is moderate evidence that food and beverage advertising influences the food knowledge and beliefs of younger children and the usual dietary intake of children aged two to five years (5);
- There is limited research regarding the influence of food and beverage advertising on youth (5); and,
- There is strong evidence that children and youth's exposure to television advertising is associated with overweight and obesity. However, not enough evidence was found to conclude that advertising caused overweight and obesity (9,5).

Conducting research to show that advertising is a cause of poor health outcomes such as obesity is difficult. A wide range of complex and dynamic factors influence food knowledge, preferences and behaviour. In response to this, the U.K. Food Standards Agency review concluded that "incontrovertible proof [of an effect of advertising on children] simply isn't attainable" (9).

There are several gaps in the research related to:

- Marketing influences such as Internet advertising, advergames, kids' clubs, product placement, mobile phones and podcasts; and,
- The relative strength of the effect of advertising, via television or other media, compared to other influences on children's diets and diet-related health outcomes (5).

## **Children's Exposure to Food and Beverage Marketing**

Advertising expenditures across all Canadian media were \$19 billion in 2007 (10). Little information is available publicly on Canadian expenditures related to marketing to children or on food and beverage marketing. U.S. food companies spend an estimated \$12 billion annually marketing to children and youth (11).

Content analyses of commercials shown during children's television programming from the U.S. and other countries such as Australia, New Zealand, and the U.K. have found

that calorie dense, nutrient poor foods predominate (12). There is little research available on the current content of children's television commercials in Canada. Canadian researchers are participating in an international research project to collect this information in 2008. A scan of new product introductions in the U.S. over the last ten years found that of the 3,936 new children's food products introduced between 1994 and 2004, only 41 were fruits and 11 were vegetables (13).

### The Rationale for Marketing to Children

Marketing to young people is seen as critical to establishing and maintaining a life-long relationship with customers. An invitation to an industry marketing conference notes that "a lifetime customer may be worth \$100,000 to a retailer, making effective 'cradle to grave' strategies extremely valuable. For this reason, building brand loyalty is critical and marketing to kids is the best way to do so" (14).

Children represent a powerful economic group in their own right. In 2002, U.S. children age 4-12 years spent \$30 billion, up from \$6.1 billion in 1989. One third of children's direct purchases were for sweets, snacks, and beverages, followed by toys and apparel (15). Children influence household purchases more than ever before and marketing to children can be an effective way to appeal to parents, especially mothers. Marketers have conducted a considerable amount of research to identify the best strategies to tap into what they call "kidfluence" (5). Figures are not available for Canada, but in the U.S., those aged 2-14 influence an estimated \$500 billion annually in household spending (16). Influence extends from food and restaurant choices to entertainment, vacation and car purchases (17).

Marketers also view children as prime consumers because of their propensity to be risk takers, explorers, early adopters of new technology, and being eager to make a personal statement. Children lack preconceived notions about marketing, and in theory, are easier to win over than more skeptical youth and adults. Sophisticated research on the child market is now undertaken with the assistance of researchers, child psychologists and cultural anthropologists. Experts conduct research in homes, stores and fast food restaurants, organize focus groups, study children's drawings, dreams and fantasy lives, and apply the findings to ads and product designs (18).

### How Marketers Reach Children

Many marketers strive for "360 degree marketing" to expose their brand message to children through multiple venues (home, school, in the community), media forms (TV, film, Internet, magazines, mobile phones, videogames) and strategies (commercials, spokescharacters, celebrity endorsement, event sponsorship, competitions and prizes, marketing tie-ins, product placement, and viral marketing – the use of pre-existing social networks to spread brand awareness, also called "word of mouth marketing").

Television is still the primary medium through which younger children are exposed to marketing messages, though there are differing opinions on whether it is losing ground to

other media, such as the Internet. Statistics Canada reported that children 2-11 years old watched 14.1 hours of TV per week in 2004 (19). Almost half (48%) of the child population has their own TV set and, among those in grades three to six, about 30% report never having adult input about what TV shows they can watch (20).

There is no recent research on the quantity or content of children's TV ads in Canada but a 2007 study on U.S. TV advertising found that children aged 2–7 years were exposed to an average of 17 minutes of advertising per day for all products (13,904 TV ads per year) and 8–12 year olds watched 37 minutes per day (30,155 ads per year). For every public service announcement viewed (promoting physical activity or healthy eating), younger children saw 27 food ads. Of the 8,854 food ads reviewed in the study, there were no ads for vegetables or fruit (21).

The Internet has become a strong secondary source of ad exposure for children. By February 2008, Internet ad revenues (for all ages) are expected to exceed radio ad spending for the first time in Canada, reaching a projected \$1.7 billion by the end of the year (22). A recent study found that 85% of the food brands most heavily promoted to children had a website that either directly targets children, or contained content that would likely be of interest to them. Some sites offered games, promotions, membership opportunities, movie and TV tie-ins, and most used viral marketing strategies such as encouraging visitors to email friends to invite them to visit the site or join an online club (23). A 2005 survey of 5,000 Canadian school children found that 68% of GTA children in grades four to six reported playing “product-centered games” (advergaming) with embedded brand messages such as product packaging, logos and/or brand characters. Only 16% believed the purpose of the games was primarily advertising (24). Whereas traditional TV ads are short and can be avoided, advergaming allows companies to engage young consumers with their brand for a much longer period.

As the marketing environment has become increasingly cluttered, marketers have developed strategies to integrate their messages into non-commercial content. Substantial amounts of money are now being spent on these techniques (5). Product placement, in particular, has expanded dramatically in recent years. A prominent example is Coca-Cola's \$20 million payment to the Fox Network's American Idol program to have their brand integrated into the program's content (25). The program appeals to a wide audience but is also one of the most highly rated programs among Canadian 2-11 year olds (26).

Schools, restaurants and supermarkets are also key venues through which food marketers can reach children. School based strategies can include beverage vending contracts, incentive programs, corporate sponsored educational materials and company logos in hallways and cafeterias. Fast food restaurants often employ marketing alliances with toy companies, film studios and sports leagues to attract young people. Supermarkets, informed by years of research, have evolved to maximize the attractiveness of products to children and to take advantage of parent/child interactions (5).

There is limited information available on the specific exposure of Toronto children and youth to marketing for calorie dense, nutrient poor food and beverages. Exposure in the



home via television, videogames and the Internet is likely similar to elsewhere in North America.

## **Media Literacy Education**

Media literacy is the ability to access, analyze, evaluate and produce communication in a variety of forms (27). The goal of media education is to develop the ability to think critically about all media messages that individuals see, hear and read in books, newspapers, on TV, the Internet, and other media forms. Some research has shown media literacy education to be effective in improving the critical thinking and literacy skills of young people, but has focused on older children and youth, on curbing the effects of media violence, and the promotion of alcohol, tobacco and drugs (28).

Media literacy education is a component of the Ontario school curriculum for all grades. The curriculum for grade one helps children begin to identify overt versus implied messages in advertising. By grade two, the curriculum explores the persuasive intent of advertisements. The media literacy modules do not explicitly address food and beverage advertising but the guidelines include frequent references to these types of ads as examples (29). Secondary school students learn how ads for healthy and less healthy foods differ, and how families, peers, and the media influence food choices and habits (30).

Individually-focused solutions such as media literacy education and health promotion campaigns can be useful, but are unlikely to be sufficient on their own to address the public health concerns related to today's children's marketing environment. Children's exposure to school media literacy curriculum is much smaller than their exposure to commercial advertising. Public health budgets for health promotion are a small fraction of food marketers'. Most importantly, younger children haven't yet developed the adult-level cognitive abilities that are needed for media literacy education to develop in them a sufficiently healthy level of skepticism about marketing.

## **The Regulation of Food and Beverage Advertising to Children**

Information collected on the regulation of children's marketing shows that most jurisdictions focus primarily on the advertising component of marketing. Given that most of the discussion about measures to alter the children's marketing environment has also centered on advertising, it will be the focus of this section.

### **The Regulatory Environment Globally**

Virtually all countries have some form of advertising regulation specific to children. A variety of approaches is in place ranging from full reliance on industry self-regulation to strict legislative control. A 2004 scan of food advertising regulation to children in 73 countries by the World Health Organization found that 62 countries had some form of regulation of television advertising to children and 22 had some form of regulatory or self-regulatory clause specific to food advertising (31).

In the United States, advertising to children is primarily regulated by industry. The Children's Advertising Review Unit (CARU), financed entirely by industry, has general principles on accuracy in advertising, portraying "positive and beneficial social behaviour", but has no enforcement powers beyond referring complaints to the Federal Trade Commission.

In the United Kingdom, significant changes have taken place recently. Since April 2007, ads for foods high in fat, sugar and salt (HFSS) have been banned during or around TV programs made specifically for children or those which would particularly appeal to children aged seven to nine. As of 2008, the ad ban now applies to all programs that appeal to children under 16 years of age (32). The government has also announced that it will commission an independent assessment of the overall impact of commercialism on children's wellbeing (33).

Advertising in Australia is regulated by a combination of state and federal government imposed regulation and industry self-regulation. The only enforcement tool available to industry self-regulatory agencies is to request the removal or amendment of an offending ad. There is growing advocacy among NGOs and state health ministers for an ad ban similar to the U.K. model, led by the work of Cancer Care Australia.

Sweden is one of three jurisdictions in the world where commercial advertising to children is prohibited by law (along with Norway and Quebec). The ban only applies to broadcast advertising (radio and television). There have been unsuccessful challenges to European authorities by the Swedish government to restrict cross-border advertising on satellite television (31).

## **Canada**

The regulation of marketing practices in Canada consists of three components: government legislation, regulations, and industry self-regulatory codes. Advertising to children is primarily regulated by the industry itself.

### Government Regulation

Advertising falls under the responsibility of several federal departments, including Health Canada and Industry Canada, as well as the Canadian Radio-television and Telecommunications Commission (CRTC). A number of federal laws (such as *The Food and Drugs Act* and *The Competition Act*) provide overarching directions on the types of advertising permitted in Canada. At the provincial level, the Ontario *Consumer Protection Act* also sets standards related to advertising. None of these laws makes specific reference to food and beverage advertising to children.

## The Regulatory Environment in Quebec

Quebec has a legislated ban on all forms of commercial advertising to children. The province's *Consumer Protection Act* (1980) states that "no person may make use of commercial advertising directed at persons under thirteen years of age". The ban only applies to advertising that originates within Quebec, not messages broadcast or transmitted from outside the province. Product promotion via store windows, packaging and labels are not included in the ban. Educational advertising and public service messages to children are permitted provided they are beneficial to the education and development of the child and do not "constitute a trick to get around the spirit of the Act". Businesses may also partner with the public sector to produce educational children's ads such as for healthy food and beverages. The sponsor may even be identified in the ad but only in a "low key manner" (48). The Consumer Protection Office administers the ban, but does not monitor advertising, instead relying on citizen initiated complaints.

While the legislation behind the ad ban is the strictest in the world, many critics have noted that its enforcement has not been strong enough (49). There are indications that some marketers have developed strategies to circumvent the ban. Branded children's products, such as toys, have been known to appear in children's TV programs and videogames, with the brand name also featured on the screen. Some toy manufacturers have also developed their own children's TV programming, featuring their branded products (50). The ad ban was adopted at a time when television and print were the only media through which marketers reached children. Although the law is applicable to newer technologies and advertising techniques, there is no specific guidance for enforcement in today's media environment. The Office of Consumer Protection hopes to revise the application guidelines but has not done so in over a decade.

The Public Health Association of Quebec released a report on obesity in 2006, calling for new rules to be implemented to increase the effectiveness of the ban, such as tighter definitions of products and programs intended for the children (51). A survey of Quebec residents in 2007 found that 60% wanted the province's ad ban to be applied more strictly, with 74% believing that children are still specifically targeted with advertising messages (39).

Soon after the ban was implemented, the Irwin Toy company launched a Charter challenge, based on the right to freedom of expression. In 1989 the Supreme Court of Canada ruled that the ad ban was reasonable and justifiable, noting that the lawmakers "reasonably concluded that advertisers should not be able to capitalize upon children's credulity". The Court also commented on children's unique vulnerability to marketing messages, stating that "...advertising directed at young children is per se manipulative. Such advertising aims to promote products by convincing those who will always believe" (52).

## Industry Self-Regulation

Since the early 1990s, industry has had the responsibility for advertising regulation in Canada. Canada's national advertising self-regulatory body, Advertising Standards Canada (ASC), is a non-profit with over 160 members, including most of Canada's largest food producers and retailers, as well as the Toronto Transit Commission. ASC administers the *Canadian Code of Advertising Standards*, a set of criteria which applies to all media forms, and which is designed to "help set and maintain standards of honesty, truth, accuracy, fairness and propriety in advertising" (34). The Code has general provisions related to children (defined as those under 12 years of age) which focus on the avoidance of direct harm and which require marketers not to exploit children's credulity (naiveté or willingness to believe too readily), lack of experience or sense of loyalty.

ASC also administers a supplementary set of standards specific to children's advertising, entitled the *Broadcast Code for Advertising to Children* (BCAC). It applies only to television and radio commercials directed at children and originating within Canada. All broadcast advertising to children under 12 years of age outside of Quebec is prescreened for adherence to the BCAC by the Children's Clearance Committee, a part of ASC. Ads judged to be in violation of the BCAC can not be aired (35).

An analysis of the Canadian advertising self regulatory system finds many inadequacies. For example, the quantity of ads for calorie dense, nutrient poor foods to children is not regulated and the compound effect of advertising messages is not addressed. Therefore, a complaint to ASC that children's food advertising in Canada overall is dominated by calorie dense, nutrient poor products will not trigger a review. The fact that young children lack the cognitive ability to objectively evaluate advertising is not taken into account, except for a recommendation that advertisers not direct ads to children during the school-day morning hours. This is not part of the self-regulatory code but a supplementary guideline which lacks enforcement provisions. The Children's Clearance Committee meets bimonthly in-camera to review broadcast children's ads. Except for the Chair, the names of Committee members, including its public representatives, are not publicly available. The only requirement for Committee members is to be a parent of a child under 12 years.

In February 2008, 16 food and beverage companies announced commitments under the Canadian Children's Food and Beverage Advertising Initiative to shift their advertising directed to children under 12 years to the promotion of healthier dietary choices and healthy active living. Cadbury, Coca-Cola, Hershey, Janes Family Foods, Mars, McCain, PepsiCo and Unilever announced that they will not direct advertising to children under 12 years of age in Canada. Campbells, General Mills, Kellogg, Kraft, McDonald's, Nestlé, Parmalat, and Weston Bakeries committed to directing 100% of their children's advertising in Canada to healthier dietary choices. All companies also committed to:

- incorporate only products that meet the Children's Advertising Initiative criteria for healthier dietary choices in interactive games primarily directed to children under 12 years of age;

- restrict the use of third party licensed characters in children's advertising to products that meet the Children's Advertising Initiative criteria for healthier dietary choices;
- not pay for or seek to place food and beverage products in program/editorial content of any medium primarily directed to children; and,
- not advertise food or beverage products in elementary schools.

Most companies have already implemented the changes and full implementation will be completed by the end of 2008. Advertising Standards Canada will audit compliance and publish annual compliance reports to the public (36). There is no mention of any enforcement measures or penalties that will be imposed if companies fail to live up to their commitments. ASC has indicated that information used to determine compliance will not be made public.

For four of the companies that pledged to not advertise to children, it will be a continuation of existing practices since they do not currently advertise products to children under 12. For other companies, a TV program (or print, radio or Internet content) will be defined as directed to children if the audience comprises 50% or more children under 12 years<sup>1</sup>. This is a much higher threshold for defining children's media content compared to the criteria used by the Quebec *Consumer Protection Act* which prohibits advertising to children. It defines children's programs as those with an audience of 2-11 year olds greater than 15%. The Quebec criteria would define more media content as "directed to children" than would the industry initiative.

Participating companies have provided specific criteria for defining which of their products qualify as healthier dietary choices. While the definitions are based on established scientific sources such as Health Canada, the U.S. Food and Drug Administration, and others, the products that fit the criteria may not always match what the average consumer views as "healthier dietary choices" for children. For example, Kellogg's Froot Loops and Corn Pops cereals, and General Mills Reese Puffs and Cinnamon Toast Crunch cereals fit the nutritional criteria and may continue to be advertised to children under the terms of the initiative (37, 38). General Mills also notes that it will reformulate some of its products (such as lowering the sugar content of Chocolate Lucky Charms cereal) to bring them in line with the nutritional criteria, thus making them available for advertising to children (38).

Companies also promised to restrict the use of licensed characters in children's advertising to healthier foods. However, the change only applies to third party licensed characters. It does not apply to advertiser-generated characters, such as Ronald McDonald or Tony the Tiger, which were created by marketers specifically to appeal to children. Companies also committed to end advertising of food and beverages in elementary schools. However, the change will not apply to displays of food and beverage products, fundraising initiatives, public service messaging or educational programs. The

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<sup>1</sup> The exception is Hershey Canada which will use a threshold of 30% or more of the annual average audience being composed of children under 12 years.

Canadian Teachers' Federation has expressed concerns about the trend towards increasing reliance on private sector funding by schools via these activities (20). There are several reasons to believe that strengthening Canada's existing self-regulatory system is unlikely to significantly affect the intensity or frequency of food and beverage advertising targeted to children, the sophisticated techniques employed, or the range of new media used to reach them. While marketers acknowledge that child health and well-being are important concerns, these goals are external to marketing's primary purpose which is to encourage product purchases and brand loyalty. Current self-regulation aims to prevent direct harm and promote trust in advertising, an objective that is fundamentally different from addressing public health concerns (39). The shortcomings of recent proposed industry changes related to children's food and beverage advertising brings skepticism about the ultimate effectiveness of self-regulatory approaches. The track record of industry self-regulation in many industries in addressing public health concerns has been problematic. For example, the tobacco industry's worldwide claims to self-regulate advertising to young people have been widely discredited (40). Industry codes of practice have been so widely used by industries seeking to fend off regulatory intervention by government that there is now substantial doubt about their effectiveness (41).

### **Local Policies and Practices on Advertising Directed at Children**

The City of Toronto does not have a corporate policy on the types of commercial advertising that is displayed in its facilities or at events. There is a City of Toronto Advertising Policy but it deals with advertising that the City itself generates to promote programs, services, policies and employment opportunities (42). The City does not have any jurisdiction over broadcast advertising. It does have extensive rules related to the placement of private or public outdoor advertising. The City's new outdoor advertising contract with Astral Media Outdoor also includes provisions giving it the "right to reject any ad design it considers to be in poor taste or an inappropriate use of the medium". If the City receives complaints from the public once an ad appears, it may be removed without the client's consent.

Some City of Toronto agencies, boards, commissions and divisions have their own rules related to advertising. TPH collected information from relevant local contacts to identify existing policies and/or guidelines related to children's food and beverage advertising and partnership or sponsorship arrangements.

The scan revealed that:

- Most contacts do not have policies on advertising and no City contact reported having explicit policies on food and beverage advertising to children. Children's Services and the Toronto Public Library Board reported that their practice is to not allow commercial food or beverage advertising to children in their facilities.
- Parks, Recreation and Forestry does not have an advertising or sponsorship policy but staff hope to develop one after stakeholder consultations. Advertising in its facilities is generally restricted to arena boards, signage on vending machines and

- kiosks. Advertising, partnership and sponsorship arrangements are administered centrally by City staff. Ad revenues currently make up a very small portion of overall revenues.
- The Toronto Transit Commission (TTC) is a member of Advertising Standards Canada and follows the Canadian Code of Advertising Standards. Sales for advertising on and in TTC vehicles and facilities (except transit shelters) are administered by CBS Outdoor Media. Questionable ads are forwarded to the TTC for review. Three Commissioners sit on the TTC Advertising Review Committee which has the final word on advertising. The TTC raised \$14.9 million in advertising revenue in 2006, approximately 1.9% of total revenue.
  - The Special Events Sponsorships team (Economic Develop, Culture and Tourism) has no policies related to advertising to children at its events, but staff attempt to keep commercial content to a minimum and be sensitive to the events' audiences. Advertising at events can include banners, logos, naming rights and sponsor mentions during event promotion. Corporate sponsorships contribute approximately half of the annual budget for Special Events.
  - The Toronto Zoo has no ad policies specific to children but their practice is to focus any food-related events or food sampling to families and parents rather than children.
  - The public and Catholic school boards each have policies on advertising as well as policies related to sponsorship and partnership arrangements. Commercial advertising opportunities in Toronto schools appear to be strictly regulated at the Board level. It is not known how often individual schools enter into food marketing or sponsorship arrangements without Board authorization.

## **The Prohibition of Commercial Food and Beverage Advertising Targeted to Children**

A legislated prohibition on the commercial advertising of food and beverages to children under thirteen years of age would require a number of components, including: definitions of *food*, *beverages*, *advertising* and *child*, criteria to define what constitutes advertising targeted to children, and a mechanism for enforcement.

### Definitions

The definition of food provided by the federal *Food and Drugs Act* encompasses food and beverages:

“*food* includes any article manufactured, sold or represented for use as food or drink for human beings, chewing gum, and any ingredient that may be mixed with food for any purpose whatever.”

The Act also gives a definition of advertising as “any representation by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic or device”.

There are precedents and research to support the use of age thirteen as a cut-off for the proposed ad ban. The Quebec law applies to children under thirteen years. This threshold was itself chosen based on other advertising regulations that existed during the law's development and weighing the scientific evidence available at the time. The question of the age threshold was raised in the *Irwin Toy Ltd. v. Québec (AG)* Supreme Court case but the Court judged that the legislature had made a reasonable assessment as to where the line should be drawn. Subsequent research suggests that age thirteen is appropriate. Many children as old as 10-12 years will not use their critical evaluation skills to interpret ads unless prompted to do so (6). The original rationale for age thirteen as a cut-off for the Quebec ban was based on research that focused almost exclusively on TV advertising. There is reason to expect that children's development of a healthy level of skepticism about marketing may be delayed in today's more intense media environment that has expanded far beyond television (5).

### Criteria to Define Advertising Targeted to Children

Models of a children's advertising ban have been proposed or implemented at the federal and provincial levels in Canada. The Quebec ad ban provides the most relevant provincial model, although the law is broader, applying to all products, not just food. Ontario also has a *Consumer Protection Act* and could follow the Quebec model, adapted to apply to food and beverage advertising specifically. The 1989 Supreme Court precedent upholding the Quebec law suggests that such legislation is within the jurisdiction of provincial governments.

Quebec's Consumer Protection Office determines whether an ad is directed at children based on the following criteria:

- a) the nature and intended purpose of the goods advertised;
- b) the manner of presenting such advertisement; and,
- c) the time and place it is shown.

The law's application guidelines were drafted with TV advertising in mind, but they provide a framework which could be adapted to other media forms. In terms of the content of advertising, it is judged to "appeal particularly to the instinctual needs of children so as to arouse their interest" if it features components, such as:

- the use of themes relating to fantasy, magic, mystery, suspense or adventure;
- the use of persons with whom a child can identify: the undue use of children, the use of children's voices, of heroes, of imaginary or fanciful creatures, and of animals;
- the use of animated cartoons; or,
- at the technical level, the use of such methods as spectacular sound and colour, fast cutting, animation and repetition.

The timing and placement of an ad are also important determinants, independent of content. For example, TV ads for products aimed partly at adults and partly at children



may not be broadcast except in programs whose percentage of viewers aged 2 to 11 years represents less than 15 percent of the total viewing audience<sup>2</sup>.

At the federal level, a private members bill that would prohibit all commercial advertising to children nationally is currently before Parliament. Introduced by Peter Julian, a New Democratic Party M.P., the bill would amend the *Competition Act* and the *Food and Drugs Act* with much of the same language used by the Quebec ad ban. It has been argued that advertising directed at children already contravenes the *Competition Act's* requirements against misleading commercial representations (43).

### Mechanism for Enforcement

Enforcement of advertising regulations typically arises from inquiries initiated by citizen complaints. This is the practice with current industry self-regulation and the Quebec law. The federal private members bill would use the *Competition Act's* existing citizen-initiated formal complaint investigation procedure. Any six Canadian residents aged 18 year or older could apply to the federal Commissioner of Competition to launch an inquiry into an ad that violates the Act. Those found guilty could be subject to a financial penalty. In practice, the Quebec Consumer Protection Office tends to work collaboratively with marketers to address questionable ads, but stricter measures are available. In June 2007, the Office filed charges against Saputo Inc. and its advertising firm for an ad campaign promoting a new line of Vachon baked goods to children in daycare centres. The company pleaded not guilty and is awaiting trial in 2008. The Quebec model provides a good framework for a national approach, but will be optimally successful only if accompanied by adequate administrative resources and application guidelines that address the 21<sup>st</sup> century children's marketing environment.

### Effectiveness

There is little information available on the effectiveness of existing advertising bans on children's diet or health. The Quebec ban was not adopted on the basis of child health concerns but on the issue of respecting the vulnerability and dignity of young children. Nevertheless, a 1990 study found that English-speaking children reported having more sugary cereals in their homes than did French-speaking children. The hypothesis was that Anglophone children were more likely to be exposed to advertising by watching American TV programming that was unaffected by the ban. However, the analysis did not provide data to show whether differences between English and French speaking children existed before the ad ban (44). A more recent analysis of Francophone and Anglophone household expenditure data in Quebec concluded that the ad ban resulted in 3.5-8.1 million fewer fast food restaurant meals being purchased per year. The analysis compared French speaking families in Quebec (who were most affected by the ban because English speakers could still be exposed to cross-border English language ads) to French speaking families in Ontario and Allophones in both provinces. Fewer visits to

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<sup>2</sup> Although the law applies to children under 13 years, the Consumer Protection Office relies on data collected by the Bureau of Broadcast Measurement which uses the 2-11 age group as its standard child demographic category.

fast food restaurants were still observed in French speaking families with children in Quebec (45). It is unknown the extent to which cultural differences contribute to the results.

Industry representatives have argued that the Quebec ad ban has been ineffective because the prevalence of obesity in the province has risen since the law was enacted (46). However, there is no information on the prevalence of obesity in Quebec without the ban. In the absence of a comparative analysis, it is difficult to draw conclusions about the influence, positive or negative, of the ban on the diet or health of Quebec residents today.

There are legitimate concerns about the effectiveness of a legislated ad ban given the quantity of cross-border media available to children via TV and the Internet. Data from Statistics Canada show that, although most programs watched by children are produced in other countries, 89.1% of viewing time is spent watching Canadian-based TV stations (47). These stations, and the advertising shown during their programs, would be subject to Canadian laws. The impact of an ad ban on Internet exposures is more difficult to determine. There is little public information available on the sites most visited by children or the online marketing to which they are exposed. However, a restriction on ads in other media would likely reduce the ability of companies to promote children's websites. The most common way to make children aware of online content is to promote them in TV ads and on product packaging. While the effect of a total ban on children's diet or health is unknown, it is the only option which fully addresses the research showing that young children lack the cognitive abilities to objectively evaluate marketing messages.

An increased interest among stakeholders in addressing the regulation of children's advertising suggests there is an opportunity to move forward with this approach. Several organizations have made public statements about the need for improved regulation of children's advertising, including the Canadian Paediatric Society, the Centre for Science in the Public Interest, and the Elementary Teachers Federation of Ontario. The Chronic Disease Prevention Alliance of Canada will hold a national consensus conference on children's marketing in March 2008 to develop a position statement and action plan. Participating organizations will include the Canadian Diabetes Association, the Canadian Medical Association and the Heart and Stroke Foundation. Toronto's Medical Officer of Health will participate at the conference as an expert presenter.

## **CONCLUSIONS**

Marketing messages are powerful communications that can have a positive or negative influence on children's behaviour, attitudes, health and well-being. Children today are exposed to more marketing than any previous generation, having expanded beyond traditional TV ads into newer media. Food and beverage products developed for, and advertised to, young people are dominated by those that are calorie dense and nutrient poor. While information on the unique exposure of Toronto children and youth to food and beverage advertising is limited, it appears that exposure in the home and in public

spaces is similar to exposure by young people in other parts of North America. There is strong evidence that advertising influences the food and beverage preferences, purchase requests and short-term consumption of children. Young children have been shown to lack the cognitive abilities to objectively evaluate advertising. An analysis of Canada's self-regulatory system and recent industry public initiatives finds substantial shortcomings and raises serious doubt that it could adequately address public health concerns. An analysis of approaches to alter the children's marketing environment finds that a ban on the commercial advertising of food and beverages to children under thirteen years of age is appropriate and feasible at this time. Until effective legislation is in place, interim measures should be pursued such as continuing to support media literacy education for parents and children, active monitoring of trends, practices and policies related to children's marketing, and asking Toronto Agencies, Boards, Commissions and Divisions to avoid commercial food and beverage advertising targeted to children in City funded or operated services, facilities and venues.

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## **SIGNATURE**

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