

Food Marketing: Who Can Create Change?

Kelly D. Brownell
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www.YaleRuddCenter.org

Food Marketing

Powerful

Relentless

Exploitative

Potential Paths to Change

Industry self-regulation

Public pressure on industry or legislators

Federal regulatory action

State and local actions

Litigation

Food Industry Self-Regulation

Children's Food And Beverage Advertising Initiative



Nutrition Keys

PER SERVING

450
CALORIES

5g
SAT FAT

25% DV

360mg
SODIUM

15% DV

14g
SUGARS

500mg
POTASSIUM

14% DV

3g
FIBER

12% DV



The NEW ENGLAND JOURNAL *of* MEDICINE

Perspective
JUNE 23, 2011

Front-of-Package Nutrition Labeling — An Abuse of Trust by the Food Industry?

Kelly D. Brownell, Ph.D., and Jeffrey P. Koplan, M.D., M.P.H.

The Food Industry and Self-Regulation: Standards to Promote Success and to Avoid Public Health Failures

Lisa L. Sharma, MBA, MPH, Stephen P. Teret, JD, MPH, and Kelly D. Brownell, PhD

Threatened by possible government regulation and critical public opinion, industries often undertake self-regulatory actions, issue statements of concern for public welfare, and assert that self-regulation is sufficient to protect the public. The food industry has made highly visible pledges to curtail children's food marketing, sell fewer unhealthy products in schools, and label foods in responsible ways. Ceding regulation to industry carries opportunities but is highly risky. In some industries (e.g., tobacco), self-regulation has been an abject failure, but in others (e.g., forestry and marine fisheries), it has been more successful. We examined food industry self-regulation in the context of other self-regulatory successes and failures and defined 8 standards that should be met if self-regulation is to be effective. (*Am J Public Health*. 2010;100:240–246. doi:10.2105/AJPH.2009.160960)

industry, manufacture products whose consumption is linked to health concerns (tobacco and alcohol), along with 2 quite different industries (marine fisheries and forestry), which have developed extensive self-regulatory systems and addressed governance issues, with sufficient history to draw conclusions about impact.

We propose 8 standards for self-regulation that we believe the food industry must follow if their pledges (1) are to be considered good-faith efforts, (2) hold out hope for protecting the public's health, and (3) can be considered

Self-Regulatory History In Various Industries

Declining Reputation, Products Questioned

Alcohol
Tobacco

Products Fine, Depleted Resources

Forestry
Marine Fisheries

A Reasonable Default

Industry & public health interests differ
Industry protects status quo
Industry fights or preempts government action

Has Self-Regulation Worked?

No

What Does This Mean for Government?

It must regulate industry behavior

Gaming the Self-Regulation System

Lax definition of “healthy”

Lax definition of “children’s media”

Good canceling out bad

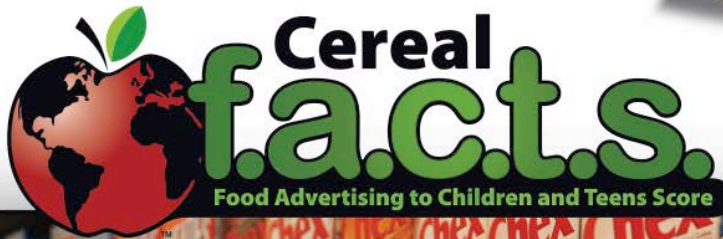


**An analysis of the
regulatory and voluntary landscape
concerning the marketing and promotion
of food and drink to children**



What is the Evidence?

Full report at:
www.CerealFacts.org



Nutrition and Marketing Ratings of Children's Cereals



Jennifer L. Harris, Ph.D., M.B.A.
Marlene B. Schwartz, Ph.D.
Kelly D. Brownell, Ph.D.

<http://www.cerealfacts.org/>

The Best Dozen

TV
Advertising

Adver-
gaming

Other Youth
Websites

Bunnies

EnviroKids Organic

Puffins

Cheerios

Kix

Life

Hannah Montana

Clifford Crunch

Mighty Bites

Honey Sunshine

Organic Wild Puffs

Mini Wheats

None

The Worst Dozen

TV
Advertising

Adver-
gaming

Other Youth
Websites

Reese's Puffs

X

X

X

Corn Pops

X

X

X

Lucky Charms

X

X

X

Golden Grahams

Cinnamon Toast Crunch

X

X

X

Cap'n Crunch

X

Count Chocula

Trix

X

X

X

Froot Loops

X

X

X

Smorz

Fruity/Cocoa Pebbles

X

X

X

Cocoa Puffs

X

X



Evaluating Fast Food Nutrition and Marketing to Youth



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Kelly D. Brownell, Ph.D.

Fast Food Marketing

- Average teen sees 5 ads per day
- Average *preschooler* sees > 1000 ads/yr
- 12 of 3039 kids' meals meet IOM standards
- Unhealthy defaults in restaurants
- African American children see 50% more ads
- There is more, not less marketing



**Who Are The
Change Agents
And What Will It Take
To Activate Them?**

Is Change Possible?



Federal Actions



FEDERAL TRADE COMMISSION

Marketing Food to Children and Adolescents

A Review of Industry Expenditures,
Activities, and Self-Regulation

A Report to Congress

Federal Trade Commission
July 2008



Interagency Working Group on Food Marketed to Children

Preliminary Proposed Nutrition Principles
to Guide Industry Self-Regulatory Efforts

Request for Comments



State & Local Actions

Toys in Kids Meals



Ken Yeager
County Supervisor
Santa Clara County, CA



Eric Mar
San Francisco
Board of Supervisors

A Key Distinction: Speech Vs. Conduct



speech or conduct?

Pomeranz JL. "Government Regulations to Address Poor Nutrition Related Behaviors in Children: A Strategy to Withstand First Amendment Scrutiny." Report to Robert Wood Johnson Foundation funded through National Policy and Legal Analysis Network to Prevent Childhood Obesity (NPLAN) 2009.

Two Attorneys General

Vermont Attorney General

Connecticut Attorney General

Vermont Attorney General



William Sorrell



**Attorney General's
Vermont Healthy Weight Initiative**



**Report of
Vermont Attorney General
William H. Sorrell**

November 2010

Connecticut Attorney General



Richard Blumenthal



TM



Key Dates

Critical <i>NY Times</i> article	Sept 4, 2009
Conn. Atty General Investigation	Oct 14, 2009
FDA Call	Oct 20, 2009
Smart Choices Closed Down	Oct 23, 2009

Advancing Public Health Obesity Policy Through State Attorneys General

Jennifer L. Pomeranz, JD, MPH, and Kelly D. Brownell, PhD

Obesity in the United States exacts a heavy health and financial toll, requiring new approaches to address this public health crisis. State attorneys general have been underutilized in efforts to formulate and implement food and obesity policy solutions. Their authority

lies at the intersection of law and public policy, creating unique opportunities unavailable to other officials and government entities.

Attorneys general have a broad range of authority over matters specifically relevant to obesity and nutrition policy,

including *parens patriae* (parent of the country) authority, protecting consumer interests, enacting and supporting rules and regulations, working together across states, engaging in consumer education, and drafting opinions and amicus briefs.

Significant room exists for greater attorney general involvement in formulating and championing solutions to public health problems such as obesity. (*Am J Public Health*. 2011;101:425–431. doi:10.2105/AJPH.2010.198697)

March 2011, Vol 101, No. 3 | American Journal of Public Health

Pomeranz and Brownell | Peer Reviewed | Government, Politics, and Law | 425

Amer J Public Health, 2011

Arresting Realities

Marketing must change

**Industry will not change
on its own**

Potential Change Agents

Needed For Activation?

Parents

Outrage

NGOs

Public Support, Funding

Legislators

Public Support

AGs

Support & Legal Grounds

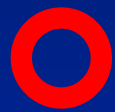
Courts

Creative Legal Theory

Litigators

Opportunity

**RWJF \$100
million/yr
vs.
Child
Marketing**



January 4!

January	February	March
April	May	June
July	August	September
October	November	December



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