



Limiting Food Marketing to Children

The Federal Government

Almost 30 years have passed since the last public debate on food marketing aimed at children. In 1977, two nonprofit organizations, Action for Children's Television and the Center for Science in the Public Interest, petitioned the Federal Trade Commission (FTC) to halt television commercials for candy and sugary snack foods directed at young children. That triggered an in-depth and controversial FTC examination of the issue.

In 1978 the FTC issued a staff report that concluded that "television advertising for any product directed to children who are too young to appreciate the selling purpose of, or otherwise comprehend or evaluate, the advertising is inherently unfair and deceptive." They wrote that "it is hard to envision any remedy short of a ban adequate to cure this inherent unfairness and deceptiveness."

The FTC commenced a public hearing on the issue and invited comments on its staff's proposal to ban all (not just junk-food) television advertising aimed at young children, ban commercials for sugary snack foods aimed at older children, and other measures. The FTC also asked the public to comment on other approaches, such as requiring health information within ads, restrictions on the techniques used to advertise to young children, and restricting the number of commercials directed at young children.

Broadcasters, ad agencies, and food and toy companies vehemently opposed the FTC's proceedings. They worked to stop the FTC from holding hearings, lobbied Congress to prevent the FTC from using its funding to address children's television, and filed a lawsuit against the Commission. Advertisers also began a voluntary effort to improve food advertising. Although the FTC did hold hearings, before it could act Congress passed the cynically named Federal Trade Commission Improvements Act of 1980 that barred the FTC from issuing industry-wide regulations to stop unfair advertising practices. As a result, the FTC now regulates advertising aimed at children only on a case-by-case basis.

In 1981, the FTC acknowledged that "child-oriented television advertising is a legitimate cause for public concern" because young children do not understand the persuasive intent of advertising and indiscriminately trust ads. But the FTC concluded that "the only effective remedy would be a ban on all advertisements oriented toward young children, and such a ban, as a practical matter, cannot be implemented," because then there would be no way to fund children's television programs. With that, the FTC's bold initiative to regulate children's television advertising sputtered to an end.

One gauge of the times is the FTC's posture when it (together with the Department of Health and Human Services) held a 2005 workshop on marketing practices that might promote obesity in children. FTC chairwoman Deborah Platt Majoras reassured industry by announcing at the beginning of the workshop that the FTC would not take any regulatory action related to such marketing and stating that "a government ban on children's food advertising is neither wise nor viable."

Self Regulation: Foxes Guarding the Hen House

Today, with broad federal regulation off the table, the only protection of children from inappropriate food marketing is occasional FTC enforcement actions and voluntary industry self-regulation regarding unfair or deceptive advertising. The Children's Advertising Review Unit (CARU), a program of the Council of Better Business Bureaus, runs industry's main self-regulation program. CARU is funded by such food producers as Burger King, Frito-Lay, Hershey, Kellogg, and McDonald's, along with toy manufacturers, National Geographic Kids (which is filled with food advertising), and food and toy trade associations.

CARU's "Self-Regulatory Guidelines for Children's Advertising" gives the appearance of protecting children from deceptive advertising, but those guidelines are not enforceable and depend on voluntary action by a company. Typically, companies withdraw objectionable ads, but replace them with new ads that are little different. The major flaw is that the guidelines focus on narrow advertising techniques and not on the nature of the products being advertised. For instance, advertisers are not supposed to actively prod kids to pester their parents to buy a brand of candy, but are permitted without restriction to advertise candy or other junk food.

On the corporate front, Kraft voluntarily does not advertise to children under 6 and in 2005 started limiting to healthier foods its television, radio, and print advertising directed to children 6-11. Also, the soft drink industry continues to refrain from advertising its products on television to young children.

Food Marketing Directed to Children, 2005

If Rip Van Winkle went to sleep in the 1970s and woke up in 2005, he would see little difference in the amount and type of advertising on children's television. There is still a lot of advertising, notwithstanding a 1990 law that limits commercials to 10½ minutes per hour on weekends and 12 minutes per hour on weekdays during children's programming. (That law did not reduce the amount of TV advertising, but simply codified what was already the industry norm.) Many of the ads are still for sugary cereals, salty snacks, candy, fast foods, and the like; programs like *SpongeBob SquarePants* are essentially program-length commercials for foods whose labels feature the licensed characters; and many of the advertisers, such as Kellogg and McDonald's, are the same. The major differences are that cable companies, like Nickelodeon and the Cartoon Network, provide many more hours of children's programming than did Saturday morning broadcast networks in the 1970s, and food manufacturers and restaurants have new marketing venues like Channel One in schools and the Internet.



Recently, industry executives have expressed concern about the childhood obesity epidemic and have mounted modest programs aimed at addressing the problem, but, if history is any indication, as soon as public outcries quiet down, the industry programs will die out and efforts to reduce junk-food marketing voluntarily will fade.

For more information see www.cspinet.org/nutritionpolicy.