



June 22, 2010

Mr. Jim Skinner
Vice Chairman, CEO, and President
McDonald's Corporation
One McDonald's Plaza
Oak Brook, IL 60523

Ms. Jan Fields
President
McDonald's USA, LLC
One McDonald's Plaza
Oak Brook, IL 60523

Re: *Center for Science in the Public Interest v. McDonald's USA, LLC*

Dear Mr. Skinner and Ms. Fields:

The Center for Science in the Public Interest (“CSPI”) demands that McDonald’s USA, LLC (“McDonald’s”) immediately stop using toys to market Happy Meals to young children.

This letter details McDonald’s illegal practices and offers to discuss resolution before CSPI files a lawsuit.

Fast-food companies—with McDonald’s by far in the lead—spent over \$520 million in 2006 on advertising and toys to market children’s meals.¹ Toy premiums made up almost three-quarters of those expenses, totaling over \$350 million. According to data from The NPD Group, in 2006, fast food restaurants sold more than 1.2 billion children’s meals with toys to children ages 12 and under, accounting for 20% of all child traffic at those restaurants.²

By advertising that Happy Meals include toys, McDonald’s unfairly and deceptively markets directly to children. When McDonald’s bombards children with advertisements or other marketing for Happy Meals with toys, many children will pester

¹ Federal Trade Commission, *Marketing Food to Children and Adolescents* at ES-3 (2008), available at www.ftc.gov/os/2008/07/P064504foodmktngreport.pdf. The 2006 data are the most recent available to CSPI.

² *Ibid.*

their parents to take them to McDonald's. Once there, they are more than likely to receive a meal that is too high in calories, saturated fat, added sugars, and sodium, and devoid of whole grains. Developing a lifelong habit of eating unhealthy meals is likely to promote obesity, heart disease, diabetes, and other life-threatening or debilitating diet-related diseases.³

Through the Children's Food and Beverage Advertising Initiative of the Council of Better Business Bureaus, McDonald's pledged to advertise only Happy Meals that meet McDonald's nutrition standards for children. However, that pledge fails to address McDonald's insidious use of toys to market its products to children. Regardless of the Happy Meal combinations shown in advertising, the vast majority of possible Happy Meals are nutritionally inappropriate for children. Moreover, the default⁴ choice for the side dish tends to be the nutritionally poor French fries, not the healthier Apple Dippers.

- McDonald's Web site lists 24 Happy Meal combinations.⁵ Considering that a reasonable lunch for a young child would contain no more than 430 calories (one-third of the 1,300 calories that is the recommended daily intake for children 4 to 8 years old), not a single Happy Meal meets that target. The average of all 24 meals is 26 percent higher in calories than a reasonable lunch. In fact, one meal (cheeseburger, French fries, and chocolate milk) hits 700 calories — a *whopping 63 percent higher* (and more than half the calories for the entire day).
- In a study of 44 McDonald's outlets, CSPI found that the default Happy Meal usually included French Fries. In response to a request for a hamburger Happy Meal, the McDonald's employee, without asking customers which side dish they wanted, provided fries 93 percent of the time.⁶ (Beverage choices were usually offered, but a soft drink was the first option offered 78 percent of the time.)

McDonald's practice of dangling toys in front of children is illegal, regardless of what meal the child eventually gets. Not only does the practice mobilize "pester power," but it also imprints on developing minds brand loyalty for McDonald's. Because most of the company's options (for young children and others) are of poor nutritional quality, eating Happy Meals promotes eating habits that are virtually assured to undermine children's health.

McDonald's duplicitous approach to marketing directed to children can be seen in a recent press release that boasts that the company's Shrek-based promotion will "encourage kids to 'Shrek Out' their Happy Meals around the world with menu options like fruits, vegetables, low-fat dairy and fruit juices."⁷ In reality, though, the whole point

³ This demand is limited to toys and other premiums sold with Happy Meals, although we note that items for which consumers pay extra, like the since-recalled Shrek glasses, and the Mighty Meals aimed at older kids also contribute to the problem.

⁴ A "default" item is one that the McDonald's employee includes in a Happy Meal without asking.

⁵ http://nutrition.mcdonalds.com/nutritionexchange/Happy_Meals_Nutrition_List.pdf.

⁶ Twenty-seven health and nutrition professionals visited 44 restaurants in 14 states. They purchased 41 Happy Meals inside of restaurants and 34 through drive-throughs, for a total of 75 assessments.

⁷ www.aboutmcdonalds.com/mcd/media_center/recent_news/corporate/Press_Release__McDonalds_Launc hes_Shrek_Themed_Happy_Meal_to_Motivate_Kids_to_Eat_More_Fruits_Vegetables_and_Dairy.html.

of the Shrek promotion is to get kids into McDonald's where they most likely will end up being served unhealthy default options and eating unhealthy meals.

Consider the Happy Meal composed of a cheeseburger, French fries, and Sprite. That meal has 640 calories (half a day's worth for young children), 7 grams of saturated fat (half the 14-gram recommended limit), 940 milligrams of sodium (about three-fourths of the 1,200-milligram limit), and 35 grams of sugar (about two days' worth). Moreover, the bun is made with white, not whole wheat, flour. Although the Dietary Guidelines for Americans recommends diets centered on vegetables, fruits, whole grains, low-fat dairy, and lean protein, McDonald's Happy Meals consist largely of white flour, fried meat, fried potatoes, salt, and refined sugars.

Although McDonald's promotes its health *bona fides* by talking about the healthier versions of the Happy Meal, the reality is that most of what McDonald's actually dishes out to kids is simply inconsistent with the Dietary Guidelines for Americans and other authoritative nutrition advice.

In short, McDonald's is deliberately marketing directly to unsuspecting little children by offering appealing toys—usually ones related to popular movies or television shows. McDonald's marketing has the effect of conscripting America's children into an unpaid drone army of word-of-mouth marketers, causing them to nag their parents to bring them to McDonald's.

McDonald's practices are predatory and wrong. They are also illegal, because marketing to kids under eight is (1) inherently deceptive, because young kids are not developmentally advanced enough to understand the persuasive intent of marketing,⁸ and (2) unfair to parents, because marketing to children undermines parental authority and interferes with their ability to raise healthy children.

Therefore, unless we can resolve this matter in the near term, CSPI will bring a lawsuit that seeks an injunction preventing McDonald's from providing toys with purchases of any or all Happy Meals.

More specifically, and for purposes of our notice of intent to sue, McDonald's has engaged in unfair and deceptive acts and practices by advertising and including toys with purchases of Happy Meals. McDonald's practices violate state consumer protection laws, such as Massachusetts G.L. c. 93A, Texas Business & Professions Code § 17.41 *et seq.*, District of Columbia Code § 28-3905 *et seq.*, New Jersey Statutes Ann. 56:8-1 *et seq.*, and California Business & Professions Code Section 17200.

CSPI will postpone filing suit if it can obtain McDonald's agreement to stop its use of toys to market Happy Meals.

This offer of settlement will remain open for 30 days from the date of this letter, after which it shall be automatically withdrawn and become null and void.

⁸ Institute of Medicine, *Food Marketing to Children: Threat or Opportunity?* (2006); Kunkel *et al.*, *Psychological Issues in the Increasing Commercialization of Childhood: Report of the APA Task Force on Advertising and Children* (2004).

Please have your own counsel contact me if your company is willing to discuss settlement or needs additional information about this lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Stephen Gardner". The signature is written in a cursive style with a large initial "S".

Stephen Gardner
Litigation Director

cc: Michael F. Jacobson, Ph.D.
Executive Director

Margo G. Wootan, D.Sc.
Nutrition Policy Director