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McDonald's Unfair and Deceptive Use of Toys to Sell Happy Meals

CSPI has long been concerned about the marketing of unhealthy foods to children. That's why in 1978 we petitioned the Federal Trade Commission to set limits on the nutritional quality of foods marketed to kids.

1978 was just before the obesity epidemic hit America. Since then, rates of overweight and obesity in children (2 to 19 years old) have *tripled*. Everything from school buses to video games to less PE in schools—contributed to the epidemic, but one indisputable factor is the ubiquity of inexpensive, high-calorie foods.

In 2006 CSPI told the Kellogg Company that we would sue the company if it did not stop advertising unhealthy foods to kids. That led to a lengthy negotiation that resulted in a landmark settlement agreement that committed Kellogg not to advertise cereals and other products that contained more than specified amounts of calories, trans fat, sodium, sugar, and other problem nutrients. The Kellogg agreement helped spur more than a dozen other companies to adopt their own voluntary nutrition standards in the Children's Food and Beverage Advertising Initiative. That's a program run by the Council of Better Business Bureaus.

One of those companies is McDonald's, possibly the biggest advertiser to children. We praise McDonald's for pledging to advertise only Happy Meals that meet its nutrition standards. However, that pledge fails to address all forms of marketing to children, including the use of toys.

This morning we are focusing on McDonald's use of toys to attract kids' attention and get them and their parents into restaurants. McDonald's has marketed its Happy Meals for young children nationally since 1979. According to the Associated Press, in 2003 sales of Happy Meals amounted to \$3.4 billion and made up about 20 percent of McDonald's overall sales. The toy promotions have featured Shrek, Barbie, Beanie Babies, Star Trek, Star Wars, Batman, and countless other kiddie-culture characters.

For good reason, the toy-containing Happy Meal and similar products are increasingly under attack. In March 2008 Consumers International, a global alliance of 220 organizations, and the International Obesity Task Force, called for bans on the "toys or collectable items, which appeal to children to promote unhealthy foods."¹ Months later, Liverpool, England, considered such a ban. One city council member said, "By offering these toys, they are preying on the needs and desires of children in order to cash in on the sale of junk food."² McDonald's successfully fought off that ban, but last year the Health

¹ http://consint.live.rss-hosting.co.uk/files/100063/FileName/FriedTstSumENG_FINAL.pdf; accessed June 19, 2010.

² <http://www.commercialfreechildhood.org/news/liverpool.htm>; accessed June 19, 2010.

Ministry in Spain advocated a ban, and the City of San Francisco also is exploring such an action. And just this spring, Santa Clara County, California, did *ban* the inclusion of toys in unhealthy restaurant meals for children.

This morning, CSPI notified McDonald's that we will file a lawsuit unless the company agrees to stop using toys to beguile young children. We contend that tempting kids with toys is unfair and deceptive—both to kids who don't understand the concept of marketing and to parents who have to put up with their nagging offspring.

Adding to the perniciousness of tempting-kids-with-toys is the use of promotions that urge kids to make repeat visits to “collect them all.” One memorable gambit in that category was in the 1990s when McDonald's offered 101 different dogs—plus, of course, Cruella De Vil—in a promotion linked to the movie “101 Dalmatians.” That effort was out-done in 2000 when the movie and Happy Meal toys based on “102 Dalmatians” were unleashed on America. A huckster in clown's clothing is still a huckster.

To make matters worse, the nutritional quality of Happy Meals ranges from mediocre to miserable. While we're pleased that McDonald's offers apple slices and lowfat milk, every single one of the 24 Happy Meal configurations on McDonald's Web site is *not* what the doctor ordered.³ Every meal is too high in calories—that is, it provides more than a third of a child's recommended 1,300 calories per day, with the most caloric meals providing half a child's calories. Meals that include soft drinks provide about twice the daily recommended sugar intake and accustom kids to drinking soft drinks with their meals. And every Happy Meal provides too much sodium, which can increase blood pressure even in young children. The cheeseburger meals provide about three-fourths of a day's worth of sodium.

Furthermore, in a survey of 44 McDonald's outlets around the country, we found that the default choice for the side item in Happy Meals was usually the nutritionally poor French fries instead of the healthier Apple Dippers. More than 90 percent of the clerks did not ask which side dish the customer wanted, but automatically provided fries. Clerks usually did offer a choice of beverages, but three-fourths of the time a soft drink was the first option offered.

Two years ago, McDonald's Chief Marketing Officer, Mary Dillon, said that their clever advertising “shows that something like a Happy Meal at McDonald's can make everything better.”⁴ Everything, perhaps, except your child's health.

But I want to emphasize that our concern about the marketing of Happy Meals goes beyond nutrition. The very practice of using toys or other premiums to get kids to pester their parents to buy a food—junky or nutritious—is unconscionable.

³ http://nutrition.mcdonalds.com/nutritionexchange/Happy_Meals_Nutrition_List.pdf; accessed June 19, 2010.

⁴ <http://www.commercialexploitation.org/news/interviewwith.htm>; accessed June 19, 2010. (BrandWeek interview, May 4, 2008)

Michael Brody, a Washington-area psychiatrist who chairs the television and media committee of the American Academy of Child and Adolescent Psychiatry, has no patience for those predatory marketing practices. He said: “These marketers are very similar to pedophiles. They are child experts. If you’re going to be a pedophile or a child marketer, you have to know about children, and what children are going to want.”⁵

McDonald’s claims to be “proud of our long heritage of responsible communication with our customers, especially children...”⁶ And its Happy Meals Web site states: “You want the very best for your kids, and so do we.” That’s McNonsense. McDonald’s wants your money—and it will go behind your back and manipulate your kids to get it. Unless the company changes its ways, CSPI will file a lawsuit.

Let me now turn the microphone over to CSPI’s director of litigation, Steve Gardner. As an Assistant Attorney General in Texas, Steve worked with other state attorneys general to force McDonald’s and other fast-food chains to give out the nutrition and ingredient brochures—the first time that information was publicly available. He followed that with a second investigation that forced McDonald’s to stop a series of ads claiming that its food was nutritious.

⁵ <http://www.valleyadvocate.com/article.cfm?aid=9416>; accessed June 19, 2010.

⁶ http://www.bbb.org/us/storage/0/Shared%20Documents/FOOD_PLEDGE_CBBB.pdf; accessed June 19, 2010.