



# “VOLUNTARY” FOOD MARKETING LIMITS: A HAZARD TO PHILANTHROPY’S HEALTH

by  
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Last May, the Interagency Working Group on Food Marketed to Children released its *Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulation* (“IWG Proposal”). In a nutshell, the IWG Proposal advocates sweeping nutritional standards and marketing restrictions on the food and beverage industries. Though well-intentioned, the proposal would, among other things, severely hinder a company’s ability to provide consumers of all ages with constitutionally-protected information about their products. What the public has largely overlooked, however, is how the IWG Proposal would hamper or eliminate the many worthwhile philanthropic and community activities that the food and beverage industries have long sponsored. In recent congressional testimony, a senior Federal Trade Commission official pledged that the final IWG Proposal would account for the concerns described below. It remains to be seen, however, whether the entire Working Group would embrace such changes.

The proposal defines “marketing” so broadly as to encompass virtually every conceivable form of promotional activity. The definitions found in the IWG Proposal include twenty different categories of marketing, ranging from Internet, television, radio, and print advertising to packaging and point-of-purchase displays, as well as product placement in movies, videos, and video games. Also included in the definition of marketing is “sponsorship of events, sports teams, and individual athletes” and “philanthropic activity.”

The proposal recommends that *no* food be marketed to children unless it “make[s] a meaningful contribution to a healthful diet,” which is defined as “contribut[ing] a significant amount of at least one of the following food groups – fruit, vegetable, whole grain, fat-free or low-fat milk products, fish, extra-lean meat or poultry, eggs, nuts and seeds, or beans.” See IWG Proposal at 8. The proposal also recommends that no food be marketed to children if it contains more than specified, approved levels of saturated fat, trans fat, added sugars, or sodium. *Id.* Among the foods that the federal government believes threaten the nation’s youth are cereal, oatmeal, milk, yogurt, bread, waffles, cheese, apple and orange juice, canned soup, and virtually all food served in any restaurant. *Id.* at 7, n.17.

The proposal expressly covers sponsorships of, and donations to, philanthropic organizations, programs, or events that involve the use of a trade name, brand, or logo in connection with the sponsorship or donation. Unless a company’s trade name represents only products that meet IWG’s nutrition criteria, such a company would not be able to include its name “in connection with” charities, clubs, public parks, activities, community programs, or other events that benefit children or adolescents. Some company trade names or brand names may include products that do not satisfy the IWG’s nutritional principles, and thus neither the company nor its trade name could be used in connection with philanthropic activities.

Ironically, the IWG Proposal’s definitions would jeopardize countless public service programs and healthy lifestyle initiatives for children and teens, especially if those campaigns feature company names, brands, or logos. A sample of just some of the types of programs that would be seriously affected by the proposal include:

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- The Dannon Company funds *Dannon Next Generation Nutrition Grants*, which in turn funds non-profit organizations that provide community-based childhood nutrition education programs. To date, Dannon has awarded over \$580,000 in grants to programs that help children develop life-long habits for good nutrition and exercise. But since Dannon is a trade name, this program would be affected by the IWG Proposal.
- Campbell Soup Company's Pepperidge Farm brand has developed *Fishful Thinking* a program that provides parents resources to help their children develop emotional well-being. The *Fishful Thinking* Internet website provides tips for parents to help keep their kids active. Because the website features animated characters and images of product packaging, it could fall under the IWG's definition of marketing.
- Kellogg Company provides monetary grants to *Action for Healthy Kids*, a program that provides resources and assistance to foster participation in school breakfast programs in an effort to help combat childhood obesity. The program likely falls under the IWG's definition of in-school or philanthropic marketing activities, which cover the use of trade names.

Likewise, under the IWG Proposal, many philanthropic activities sponsored by food and beverage companies or their brands would have to be curtailed or completely eliminated. Some of the philanthropic endeavors that would be called into question under the IWG's definition of "philanthropic marketing" include:

- Ronald McDonald House Charities has provided a "home away from home" for the parents and families of hospitalized children since 1974. In addition, Ronald McDonald Care Mobiles operate in vulnerable communities to provide cost-effective, high-quality medical, dental, and health education services to thousands of children. McDonald's raises money for this charity by way of food-related promotions. These promotions would be prohibited unless the company's food met the IWG's nutritional criteria.
- For 30 years the Hershey Company has sponsored the *HERSHEY'S Track and Field Games*, which have introduced more than 10 million children in 3,000 communities in the U.S. and Canada to the rewards of physical fitness. Under the IWG's definition of "philanthropic marketing," this event is covered.
- PepsiCo, Inc. funds the *Pepsi Refresh Everything* program, which awards up to \$1.125 million each month in grants to fund consumer projects in areas such as arts and music, education, and community development. PepsiCo, Inc. also funds the *Food for Good* program which provides free meals during the summer months to underserved children and teens in low income areas of Dallas and Chicago. Because this activity involves the distribution of food, it falls under the IWG's definition of "packaging and labeling marketing."

As these examples reveal, the IWG Proposal's marketing definitions are extraordinarily broad and difficult to measure. Under the IWG Proposal, many philanthropic activities sponsored by food and beverage companies or their brands would be significantly curtailed and, in some cases, eliminated. Not only will the IWG's definitions have a dramatically negative effect on many charities and philanthropies; but they are actually highly counterproductive to the cause of children's health, since they will deter funding for the very philanthropies and initiatives that are designed to *improve* children's health and well-being. Many industry leaders and policy analysts have noted that the cost of acquiescing to the IWG proposal would be measured in the billions of dollars. But any cost/benefit analysis of the proposal's impact must also include the threat posed to philanthropy. If measured through the eyes of the countless children these charitable initiatives help, the cost is immeasurable.