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Richard D. Olson, M.D., M.P.H.
Prevention Science Lead and Designated Federal Officer, 2015 DGAC
Office of Disease Prevention and Health Promotion, OASH
U.S. Department of Health and Human Services
1101 Wootton Parkway, Suite LL100 Tower Building
Rockville, MD 20852

Angie Tagtow, M.S., R.D.
Executive Director, Nutrition Guidance and Analysis Division
Center for Nutrition Policy and Promotion
U.S. Department of Agriculture
3101 Park Center Drive, Room 1034
Alexandria, VA 22302

Filed electronically at:

RE: CFBAI Comments on 2015 DGAC Report

Dear Dr. Olson and Ms. Tagtow:

I. Introduction and Summary

The Children’s Food and Beverage Advertising Initiative (CFBAI), an advertising self-regulation program administered by the Council of Better Business Bureaus (BBB), appreciates the opportunity to file a comment with the Department of Health and Human Services and the Department of Agriculture on the Report of the 2015 Dietary Guidelines Advisory Committee (DGAC). Because CFBAI was created to change the children’s food advertising landscape by using the power of a coalition and nutrition standards to limit the foods directly advertised to children to healthier ones, we are deeply interested in the DGAC’s statements regarding food marketing. We write to address three related points:

1. The Committee’s statement regarding the importance of macro-environmental influences such as food marketing, while acknowledging that it did not have sufficient time to address this issue.¹
2. Several Committee statements regarding the need for policies that “limit the exposure and marketing of unhealthy foods to children” (and all age groups), notwithstanding that it did not have time to address the issue.²
3. That CFBAI, through its standards-setting for food advertising directed to children under age 12, is already changing the children’s food advertising landscape,
including through sodium and sugar reductions (nutrients of special interest to the DGAC) in foods CFBAI participants advertise to children.

CFBAI agrees that macro-environmental influences need to be studied and addressed. In particular, while considerable data are available about children’s exposure to food advertising, there is little quality data available about its impact beyond what the Institute of Medicine reported in its 2006 seminal work, *Food Marketing to Children and Youth: Threat or Opportunity?* That report concluded there was insufficient evidence to show a causal relationship between food advertising to children and obesity (and to date such a relationship has not been established).

Food advertising to children is nevertheless an extremely important issue, and CFBAI was created largely in response to a government policy decision that self-regulation was the appropriate way to address concerns about food marketing to children. CFBAI’s participants, comprising many of the nation’s largest food companies that represent most of the advertising primarily directed to children under age 12 (“child-directed advertising”), have voluntarily embraced the important mission of transforming the children’s food advertising environment (i.e., advertising primarily directed to children, not all ads to which children may be exposed). CFBAI’s standards, requiring the use of meaningful nutrition criteria, have led to numerous reductions in calories, sugar, sodium and fats, and increases in nutrient density in foods featured within their child-directed advertising.

Competent and reliable evidence regarding the impact of child-directed food advertising on children (not just exposure data), however, is critical when government agencies are charged with providing dietary guidance to the public and with setting priorities for what governmental policies should be developed. As you consider the DGAC’s report and develop guidance and policy priorities we ask that you consider whether there are sufficient data to determine if government policies are necessary to address this issue. If you were to determine such policies were necessary, we ask that they represent a proportionate response to the issue based on data regarding the impact of food marketing relative to other macro-environmental issues, as well as individual factors. We hope your review also will take into account the positive role self-regulation is playing in improving the children’s food advertising environment.
II. Understanding the Role of Food Advertising to Children on Obesity is Critical to Determine Whether Government Policies are Necessary

IOM’s 2006 report on childhood obesity, *Food Marketing to Children and Youth: Threat or Opportunity?*, found that many factors influence children’s diets and related health outcomes such as obesity. It is important to note that the report specifically concluded that “…the current evidence is not sufficient to arrive at any finding about a causal relationship from television advertising to adiposity.” (And, to date, there is no reliable evidence showing a causal relationship.) The 2006 report found that food advertising affects children’s preferences, purchase requests and short-term consumption.

In a subsequent report, *Accelerating Progress in Obesity Prevention: Solving the Weight of the Nation* (2012), IOM reaffirmed that the influences on obesity are multifactorial, including cultural norms, the availability of sidewalks and affordable foods, and individual factors such as genetics. Screen time falls into this complex set of factors that may play a role in childhood obesity. Some studies have shown an association between screen time and childhood obesity, but disentangling the nature of this association has proven difficult. The link could be explained by many factors, including but not limited to the sedentary nature of screen time, the displacement of physical activity, and exposure within shows to depictions of foods. Of course, food advertising is a small part of overall screen time, and isolating its effect from screen time generally is even more challenging. Notably, since the 2006 IOM review, numerous reports point to early life and pre-natal factors that increase the likelihood of obesity in young children before they have been exposed to any marketing.

More than ever, the issue of food marketing to children needs careful review that goes beyond looking at children’s *exposure* to such marketing. The Committees on Advertising Practices (CAP), which are responsible for writing and maintaining the advertising codes in the United Kingdom, recently issued a report that speaks directly to the issue of marketing on obesity and the need for evidence and a balanced approach.

As the body that writes the food and soft drink advertising rules, it’s our responsibility to make sure we maintain a balanced approach in line with better regulation principles. This means basing our rules and guidance on evidence. It also means recognising the role advertising plays in the obesity debate, relative to other prominent factors such as parental or guardian choices and physical exercise. By taking this balanced approach, we guard against ineffective regulation that might nonetheless have unintended consequences, including for the media we read, watch and listen to.
The CAP’s response was focused on online marketing, but its analysis and the principles underlying its conclusions can apply to marketing reviews generally. CAP’s report stated:

The review found that the extent and quality of the evidence based around the impact of online food and soft drink marketing to children is limited. A significant proportion of the available evidence is based on content analysis which measures the number and types of online content. . . . There are, consequently, concerns that children might now be being exposed to more advertising for less healthy products. Whilst this type of analysis provides useful contextual insights, *it reveals little about how much of this advertising is actually seen by children, and says nothing about the impact of that exposure on behaviour or consumption levels* (emphasis added).

Regarding what the review showed in the online context, CAP stated:

Some studies suggest online marketing can influence children’s brand awareness and their short-term food preferences. . . . The literature, however, urges caution about the confidence with which these advergame results can be translated to the real world. This is because they arise from lab-based research and not ‘real world’ environments, the latter taking into account children’s wider behaviour online and moderating influences such as the role of parents.

Importantly, CAP acknowledged the difference between children’s preferences and consumption.

As Professor David Buckingham says, ‘an expressed preference for ‘unhealthy’ foods – let alone things like brand recognition or brand preference – among children cannot on its own be taken to result in (or be equated with) obesity’. Moreover, studies have tended to rely on children’s self-reporting of product requests, rather than parental interviews or, crucially, longer-term monitoring of a child’s actual preferences and consumption. There is an over-arching need for more and better evidence, including more long-term ethnographic and longitudinal research on the actual impact of online advertising on children’s diets.

The DGAC, of course, is charged with basing its recommendations on the “preponderance of scientific and medical knowledge current at the time of publication . . . .” and CFBAI agrees that such evidence (among other things) is critical when the government determines to set policy or write rules. The DGAC stated that it did not have time to address food marketing. Further information is needed to determine whether a government policy on food marketing to children is advisable and, if so, how to develop an effective government policy that is enforceable, does not run afoul of the First Amendment and is balanced in relationship to other macro-environmental factors, including the existence of an effective children’s food advertising self-regulation program.⁹
III. CFBAI is Improving the Children’s Food Advertising Landscape

CFBAI’s goal is to be part of a multi-faceted solution to the complex problem of childhood obesity by using advertising to help promote healthier dietary choices and lifestyles among children under age 12. CFBAI has 17 participants representing some of the nation’s largest food manufacturers and quick serve restaurants. Under CFBAI’s Core Principles, they commit to limit their child-directed advertising to healthier or better-for-you food or to not engage in such advertising. As of December 31, 2013, “healthier food” means food that meets CFBAI’s category-specific uniform nutrition criteria (See Appendix A).

A. Background

BBB created CFBAI in 2006, to respond to calls to action from the Federal Trade Commission (FTC), the Department of Health & Human Services (HHS) and the Institute of Medicine (IOM) for industry self-regulation and food companies to do more to address food advertising to children because of the rise in childhood obesity. At the time, BBB already was administering a children’s advertising self-regulation program, the Children’s Advertising Review Unit. This program focuses on how advertising to children is conducted (i.e., it must be truthful, non-deceptive and appropriate). BBB created CFBAI to focus primarily on what foods are advertised to children, largely to respond to the governmental policy decision that self-regulation was the appropriate way to address concerns about food marketing to children.

Historically, U.S. government regulation and self-regulation have focused on children under age 12. Although studies suggest various ages at which children begin to understand the persuasive intent of advertising, it is generally agreed that by age 12 children do have that ability. CFBAI’s focus on child-directed advertising means the participants’ commitments apply to advertising that is designed to be appealing and persuasive to children, and avoids unnecessary encroachment into ads on adult or family-oriented programming. CFBAI participant advertising represents a substantial majority (~70 to 80%) of child-directed food advertising on television, which is the key medium used to reach children. Appendix B describes how CFBAI robustly defines “child-directed” advertising.

Since 2007, when CFBAI participant commitments began to launch, there have been important changes in the children’s food advertising landscape in terms of what is advertised and what is no longer advertised. For example, the nation’s leading confectionery companies (representing about 60% of U.S. confectionery sales) all participate in CFBAI and no longer engage in child-directed advertising of their confections. Other participants have
improved the nutritional composition of numerous foods they advertise to children, as IOM had recommended, and stopped advertising other foods (and stopped selling some foods).

**B. CFBAI Requires Foods in Child-Directed Ads Meet Robust Nutrition Criteria**

At the outset, CFBAI permitted participants to use company-specific nutrition criteria if they were meaningful and science-based. These standards and the subsequent implementation of CFBAI’s stronger category-specific uniform nutrition criteria have resulted in CFBAI participants developing new, healthier foods and making hundreds of recipe improvements in foods they advertise to children. The DGAC specifically recommended that foods advertised to children (and adults) contain less sodium and sugar.\(^{20}\) CFBAI’s criteria were set to accomplish that purpose (for foods advertised to children) based on an extensive review of government and third-party standards, and bearing in mind the functional role these nutrients play as well as the need for a step-wise approach to gain consumer acceptance of reformulated foods.

Importantly, changing the recipes of popular foods and creating new food recipes with improved nutrition content is challenging and typically requires significant time and resources. Even then, whether the changed or new food will succeed in the marketplace is unpredictable. While consumers often say they want “healthier” foods, they do not necessarily buy them routinely. Taste and price are still the top two factors determining consumers’ food purchases.\(^ {21}\) Whatever the reason, some new or improved foods added to the list CFBAI maintains of foods that may be advertised to children have failed in the marketplace (including at least one food that involved a seven-figure investment) and been taken off the list.

In setting sugar limits, CFBAI took into account how the use of modest amounts of sugar can make nutrient dense foods (e.g., whole grain cereals and dairy) more palatable, particularly to children. The *2010 Dietary Guidelines for Americans (2010 DGA)*\(^ {22}\) also recognized the role sugar can play in enhancing the palatability of nutrient-dense foods as does the recent American Academy of Pediatrics policy statement, *Snacks, Sweetened Beverages, Added Sugars, and Schools.*\(^ {23}\) Because reducing sugar consumption was of particular interest to the DGAC, Table 1 below (adapted from CFBAI’s [White Paper on the Nutrition Criteria](#)) is included to show the bases for the total sugar limits CFBAI set for each category. CFBAI recognized that, except for products that contain dairy, fruit, and/or vegetable ingredients, most or all of the sugars in foods are added. We set total sugars limits that generally capture the concerns associated with added sugars.
<table>
<thead>
<tr>
<th>Product Category</th>
<th>Total Sugars (per amount)</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Juices</td>
<td>No added Sugars</td>
<td>Only naturally occurring sugars in fruits and vegetables allowed</td>
</tr>
<tr>
<td>2. Dairy products</td>
<td></td>
<td></td>
</tr>
<tr>
<td>– Milk and milk substitutes</td>
<td>≤ 24 g (8 fl oz)</td>
<td>Ready to Drink milk: Derived from IOM School Foods report recommendation; adjusted slightly to reflect formulation and marketplace challenges</td>
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<tr>
<td></td>
<td>≤ 25 g (8 fl oz)</td>
<td>Powder/syrup flavoring mixed with 8 fl oz non-fat milk are allowed ≤ 25 g total sugars as prepared; based on naturally occurring lactose and added sugars</td>
</tr>
<tr>
<td>– Yogurts and yogurt-type products</td>
<td>≤ 23 g (6 oz)</td>
<td>Based on IOM School Foods report recommendation (≤30 g/8 oz); scaled down to 6 oz (170 g) serving</td>
</tr>
<tr>
<td>– Dairy-based desserts</td>
<td>≤ 20 g (½ c)</td>
<td>Based on minimum amount needed to control ice crystal formation</td>
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<tr>
<td>– Cheese and cheese products</td>
<td>≤ 2 g (LSS)</td>
<td>Naturally occurring lactose content</td>
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<tr>
<td>3. Grain, fruit and vegetable products, and items not in other categories</td>
<td>≤ 10 g (LSS)</td>
<td>Group 1 (foods with &lt;150 k/cal): Derived from the IWG added sugars proposal for individual foods</td>
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<td></td>
<td>≤ 12 g (LSS)</td>
<td>Group 2 (foods with &gt;150 to 200 k/cal): Derived from the IWG added sugars proposal for individual foods; consistent with WIC requirements for breakfast cereals</td>
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<tr>
<td>4. Soups and meal sauces</td>
<td>≤ 6 g (LSS)</td>
<td>Based on IWG added sugars proposal for individual foods</td>
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<tr>
<td></td>
<td>≤ 12 g (LSS)</td>
<td>Products containing tomato–based ingredients; allows for naturally occurring sugars as well as added sugars to balance product pH</td>
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<tr>
<td>5. Seeds, nuts, and nut butters/spreads</td>
<td>≤ 4 g (1 oz or 2 tbsp)</td>
<td>Based on IWG added sugars proposal for individual foods with small RACC and standard peanut butter formulations</td>
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<tr>
<td>6. Meat, fish, and poultry products</td>
<td>≤ 2 g (LSS)</td>
<td>Based on the functional and flavor role sugars play in these products, primarily as a component of carrier systems for flavorings</td>
</tr>
<tr>
<td>7. Mixed dishes</td>
<td>≤ 10 g (LSS)</td>
<td>Derived from the IWG added sugars proposal for individual foods; intermediary to soups &amp; meal sauces and main dishes</td>
</tr>
<tr>
<td>8. Main dishes and entrées</td>
<td>≤ 15 g (LSS)</td>
<td>Derived from the IWG added sugars proposal for individual foods adjusted for main dishes (1.5x individual foods)</td>
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<tr>
<td>9. Small meals</td>
<td>≤ 17/12 g (LSS)</td>
<td>Intermediate amount between criteria for main dishes and meals; Sugars from one qualifying milk/milk substitute, or qualifying yogurt/yogurt-type product, or qualifying fruit (i.e., without added sugars) or qualifying F/V juice are not counted in the 17 g total sugars limit When two qualifying items are present, the sugars from both items are not counted in the total sugars limit, but the limit (to account for all other items) is reduced to 12 g All other criteria for small meals must be met</td>
</tr>
<tr>
<td>10. Meals (entrée and other items including beverage)</td>
<td>≤ 20/15 g (Meal)</td>
<td>Derived from the IWG added sugars proposal for individual foods adjusted for meals (2x individual foods); Sugars from one qualifying milk/milk substitute, or qualifying yogurt/yogurt-type product, or qualifying fruit (i.e., without added sugars) or qualifying F/V juice are not counted in the 20 g total sugars limit When two qualifying items are present, the sugars from both items are not counted in the total sugars limit, but the limit (to account for all other items) is reduced to 15 g All other criteria for meals must be met</td>
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(i) “IWG” means the Interagency Working Group on Food Marketed to Children Tentative Proposed Voluntary Guidelines (2011), available [here](#). CFBAI’s comments to IWG explaining why the guidelines, as proposed, were not workable are available [here](#).

“Qualifying” means foods that meet CFBAI’s criteria for the relevant category.

“LSS” means labeled serving size.

For sodium, in general, CFBAI set limits that are reflective of the sodium limits in FDA’s definition of “healthy.” An exception is the criterion for meals. Although CFBAI’s 740 mg sodium criterion is higher than the “healthy” level, it is considerably lower than the disclosure limit FDA set for meals (960 mg), and the limits contained in respected third-party standards, which then ranged from 770 to 1,000 mg. For your convenience we have included the table from CFBAI’s White Paper showing the sodium limits CFBAI set for each category. The reference amounts are the same as in Table 1 above. (See also Appendix Table A10 of CFBAI’s White Paper).

<table>
<thead>
<tr>
<th>Table 2: CFBAI Criteria for Sodium</th>
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<tbody>
<tr>
<td><strong>Product Category</strong></td>
</tr>
<tr>
<td>1. Juices</td>
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<td>2. Dairy products</td>
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<tr>
<td>– Milks and milk substitutes</td>
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<td>– Yogurts and yogurt-type products</td>
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<td>3. Grain, fruit and vegetable products, and items not in other categories</td>
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<tr>
<td>4. Soups and meal sauces</td>
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<td>5. Seeds, nuts, and nut butters/spreads</td>
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<td>6. Meat, fish, and poultry products</td>
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<td>8. Main dishes and entrées</td>
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<tr>
<td>9. Small meals</td>
</tr>
<tr>
<td>10. Meals (entrée and other items including beverage)</td>
</tr>
</tbody>
</table>

In addition, to be consistent with and to promote the 2010 DGA, the criteria include requirements for “nutrition components to encourage” for all categories, filling gaps that existed in some company-specific criteria. Foods must contain (i) at least a ½ serving of fruit, vegetables, whole grains or non/low-fat dairy²⁴ (“food groups to encourage”), (ii) at least one “essential nutrient” at the 10% Daily Value (DV) level,²⁵ or (iii) a combination of
both. These requirements increase as calories increase and as the role of the food in the diet takes on greater importance (e.g., entrées).26

C. Under Self-Regulation Foods in Child-Directed Advertising Have Fewer Calories and Less Sugar and Sodium Content than Before

While participants have made reductions for all the nutrients for which CFBAI set limits, the most notable improvements concern calories, sugars, and sodium. Below we focus on those.

**Calories.** Under CFBAI’s criteria, all foods in an individual food category, for example, may contain no more than 210 calories. Main dishes may not exceed 350 calories, and meals may not exceed 600 calories. Our review of participant ads from a 33 hour sample of programming that aired on Nickelodeon during April 2014 (2014 Nickelodeon Snapshot)27 showed that the foods they advertise to children may and often do contain fewer calories than permitted. See Table 3.

| Table 3: Maximum Calories, Sugars & Sodium by Food Type in CFBAI 2014 Nickelodeon Snapshot |
|---------------------------------|------|-----|-----|------|------|------|------|
|                                  | Beverage (Exempt) | Snack | Yogurt | Cereal | Waffle | Small Meal | Meal |
| Calories                         | 30   | 90  | 100  | 130   | 180   | 370         | 440  |
| Total sugars (g)                 | 8    | 10  | 13   | 10    | 9     | 23          | 25   |
| Sodium (mg)                      | 15   | 55  | 50   | 180   | 230   | 600         | 570  |

1 Beverages that are "low" in calories as defined by FDA (i.e., contain no more than 40 calories per 8 oz serving) are “exempt” from CFBAI’s uniform nutrition criteria.
2 Most of the sugars (17 g) are naturally occurring from a fruit smoothie (containing no added sugars).
3 These sugars are from flavored fat-free milk (22 g) and apples (3 g).

**Sugars.** Significant sugar reductions have occurred in a variety of foods CFBAI participants advertise to children, including yogurts,28 meals29 and most notably, cereals,30 which are the most frequently advertised foods to children. Before CFBAI started, some cereals advertised to children had 14-15 grams of sugar per serving. Now all cereals with a standard one-ounce serving size that participants advertise to children may contain no more than 10 grams per serving. Many contain less and the percentage of cereals with 9 or fewer grams per serving has been steadily growing.31 Table 3 shows the highest amount of total sugars of the participant foods in 2014 Nickelodeon Snapshot.

**Sodium.** Our participants have reduced the sodium content in many foods they advertise to children, and often have general portfolio-wide sodium reduction goals. Reductions have
occurred in foods popular with children such as canned pastas, cereals, crackers, meals, and waffles.

Quick serve restaurant calorie highlights. CFBAI’s participants include two of the nation’s largest quick serve restaurants, Burger King Corporation and McDonald’s. While CFBAI’s nutrition criteria allow up to 600 calories for meals, Table 3 shows that advertised meals contain less than that amount. Both companies, through their CFBAI commitments, promote fruit and 100% juice, non- or low-fat white milk or non-fat chocolate milk as part of their children’s meal bundles. Both also have adopted in-restaurant practices that may reduce calories in the meals consumers purchase.

D. Foods in Child-Directed Advertising Include and Promote Nutrition Components to Encourage (NCTE)

Many foods CFBAI participants advertise to children contain fruits, vegetables, non- or low-fat dairy, and whole grains, and all meet minimum requirements for NCTE, which may be fruits, vegetables, dairy, whole grains or essential vitamins and minerals. Over the years, the nutrient density of foods CFBAI participants have advertised to children has steadily increased. Now about 80% of the ads are for foods that contain, either as a component or an ingredient, fruits, vegetables, whole grains or dairy.

Fruits and Vegetables. Many foods advertised to children contain fruit or vegetables, as a component of a meal or an ingredient, or in a beverage.

Dairy. Non- or low-fat white or non-fat chocolate milk typically are advertised to children as part of CFBAI quick serve restaurant participants’ meals (100% juices also are sometimes advertised). In addition, yogurt and yogurt-drinks were the third most frequently advertised food in CFBAI’s 2013 and 2014 Nickelodeon Snapshots.

Whole Grains. The use of whole grains, or a larger amount of whole grains, and their use in a larger number of foods have grown since CFBAI started. For example, the cereals category, in particular, is notable for its whole grain content. Significant whole grain content (at least 8 grams per serving) also is found in many other foods.

E. The Government and Third-Parties Recognize CFBAI is Making a Significant Difference

The progress CFBAI is making in changing the children’s food advertising landscape has been recognized by the FTC, the First Lady, and others. In its December 2012 Review of
Food Marketing to Children and Adolescents (FTC Report), which looked at foods advertised in 2009 and 2006, the FTC recognized the progress that had been made toward improving the foods marketed to children.

The encouraging news is that we’re seeing promising signs that food companies are reformulating their products and marketing more nutritious foods to kids, especially among companies participating in industry self-regulatory efforts.\textsuperscript{44}

The FTC Report also noted that CFBAI’s “new uniform criteria . . . will likely lead to further improvements in the nutritional quality of foods advertised to children. . . .”\textsuperscript{45} (CFBAI issued the criteria before the FTC Report but they were implemented after the Report was issued.)

Similarly, the First Lady recognized the significance of competitors successfully creating uniform nutrition standards, and their potential impact. During the September 18, 2013 White House Convening on Food Marketing to Children, the First Lady stated,

I was so pleased that 17 major American companies came together on their own as part of the Children’s Food and Beverage Advertising Initiative to adopt new standards for marketing to kids. And I know this wasn’t easy. Forging consensus among fierce competitors is a challenge to say the least. But these new standards are beginning to have an impact, and I commend all of these companies for taking action.\textsuperscript{46}
IV. Conclusion

CFBAI is a dynamic program that has been a driving force in creating positive change in the children’s advertising landscape. Since 2007, CFBAI’s participants have developed new, healthier foods and have made hundreds of recipe improvements, initially as a result of the implementation of their company-specific nutrition criteria and later as a result of the implementation of CFBAI’s category-specific uniform nutrition criteria. We hope our comments help you with your important responsibility to develop sound, science-based Dietary Guidelines for Americans, and in addressing the recommendations of the DGAC on food marketing to children. This is an important issue that needs to be carefully evaluated in the overall macro-environmental context.

For more information, contact Elaine Kolish at ekolish@council.bbb.org or 703-247-9382.

Respectfully submitted,

Brittany Oberdorff, RDN, Program Manager, CFBAI

Maureen Enright, Deputy Director, CFBAI

Elaine D. Kolish, Director, CFBAI, Vice-President, Council of Better Business Bureaus
### Appendix A: CFBAI Category-Specific Uniform Nutrition Criteria

<table>
<thead>
<tr>
<th>Product Category</th>
<th>Unit</th>
<th>Nutrients to Limit (NTL)</th>
<th>Nutrition Components to Encourage (NCTE)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Juices</strong></td>
<td>LSS</td>
<td>≤ 160</td>
<td>≥ ½ c F/V juices</td>
<td>A serving must contain &gt; 4 fl oz of 100% F/V juice  - Sugars limited to those naturally occurring in F/V</td>
</tr>
<tr>
<td><strong>2. Dairy products</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>– Milks and milk substitutes</td>
<td>8 fl oz</td>
<td>≤ 150</td>
<td>1 c dairy</td>
<td>For LSS &lt; 8 fl oz, NTL &amp; NCTE to be scaled proportionately  - Powder/syrup flavorings mixed with 8 fl oz non-fat milk are allowed ≤ 25 g total sugars as prepared</td>
</tr>
<tr>
<td>– Yogurts and yogurt-type products</td>
<td>6 oz</td>
<td>≤ 170</td>
<td>≥ ½ c dairy and ≥ 10% DV calcium</td>
<td>For LSS &lt; 6 oz, NTL &amp; NCTE to be proportionately lower  - 6 oz (170 g) is most common single serving size</td>
</tr>
<tr>
<td>– Dairy-based desserts</td>
<td>½ c</td>
<td>≤ 120</td>
<td>≥ ¼ c dairy and ≥ 10% DV calcium</td>
<td>Serving sizes limited to ½ c  - For LSS &lt; ½ c, NTL &amp; NCTE to be scaled proportionately</td>
</tr>
<tr>
<td>– Cheese and cheese products</td>
<td>LSS</td>
<td>≤ 80</td>
<td>≥ ½ c dairy equivalent (provides ≥ 10% DV calcium)</td>
<td>For LSS &lt; 1 oz, NCTE to be scaled to ≥ ½ c dairy equivalent and ≥ 10% DV calcium</td>
</tr>
<tr>
<td><strong>3. Grain, fruit and vegetable products, and items not in other categories</strong></td>
<td>LSS</td>
<td>≤ 150</td>
<td>≥ ½ serving of F/V/D/WG or ≥ 10% DV of any essential nutrient</td>
<td>Subcategories differentiate, on a calorie basis, among products that have a small RACC (i.e., ≤ 30 g or ≤ 2 tbsp) and/or are lighter in density (e.g., g/cup) from those with a larger RACC and/or higher density  - Examples of ≤ 150 calorie products: most children’s breakfast cereals, crackers, &amp; pretzels  - Examples of &gt; 150-200 calorie products: denser breakfast cereals (e.g., shredded wheat), waffles, &amp; vegetable products with sauces</td>
</tr>
<tr>
<td></td>
<td>&gt; 150-200</td>
<td>≤ 2 g</td>
<td>≤ 12 g</td>
<td></td>
</tr>
<tr>
<td><strong>4. Soups and meal sauces</strong></td>
<td>LSS</td>
<td>≤ 200</td>
<td>≥ ½ serving of F/V/D/WG or ≥ 10% DV of any essential nutrient</td>
<td>Tomato-based products allowed ≤ 12 g of total sugars/LSS to include sugars naturally occurring in tomatoes &amp; those added to balance product pH</td>
</tr>
<tr>
<td><strong>5. Seeds, nuts, and nut butters and spreads</strong></td>
<td>1 oz or 2 tbsp</td>
<td>≤ 220</td>
<td>≥ ½ oz protein equivalent</td>
<td>For LSS &lt; 1 oz or 2 tbsp, NTL &amp; NCTE to be scaled proportionately</td>
</tr>
<tr>
<td><strong>6. Meat, fish, and poultry products</strong></td>
<td>LSS</td>
<td>≤ 120</td>
<td>≥ 1 oz equivalent of meat, fish, or poultry, and ≥ 10% DV of any essential nutrient</td>
<td>For LSS ≤ 1 oz, NTL reduced to ≤ 60 kcal, ≤ 1 g sat fat, ≤ 240 mg sodium and ≤ 1 g total sugars</td>
</tr>
<tr>
<td><strong>7. Mixed dishes</strong></td>
<td>LSS</td>
<td>≤ 280</td>
<td>≥ ½ serving of F/V/D/WG or ≥ 10% DV of two essential nutrients</td>
<td>Products include casseroles, burritos, pizzas, &amp; sandwiches that do not meet FDA/USDA definition for main dishes  - Items that contain ≤ 200 kcal and meet NTL criteria may qualify if they contain ≥ ½ serving of F/V/D/WG or ≥ 10% DV of any essential nutrient</td>
</tr>
</tbody>
</table>
### Appendix A: CFBAI Category-Specific Uniform Nutrition Criteria

<table>
<thead>
<tr>
<th>Product Category</th>
<th>Unit</th>
<th>Calories</th>
<th>Sat Fat</th>
<th>Sodium</th>
<th>Total Sugars</th>
<th>Nutrition Components to Encourage (NCTE)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Main dishes and entrées</td>
<td>LSS</td>
<td>≤ 350</td>
<td>≤ 10% kcal</td>
<td>≤ 600 mg</td>
<td>≤ 15 g</td>
<td>≥ 1 serving of F/V/D/WG or ≥ ½ serving of F/V/D/WG and ≥ 10% DV of two essential nutrients</td>
<td>– Items must meet FDA/USDA definition for main dishes</td>
</tr>
</tbody>
</table>
| 9. Small meals                                 | LSS        | ≤ 450    | ≤ 10% kcal | ≤ 600 mg | ≤ 17/12 g (See notes) | ≥ 1½ servings of F/V/D/WG or ≥ 1 serving of F/V/D/WG and ≥ 10% DV of three essential nutrients | – Small meals contain multiple items but do not meet FDA/USDA definition for meals
  – Meals must meet FDA/USDA definition for meals
  – Sugars from one qualifying milk/milk substitute, or qualifying yogurt/yogurt-type product, or qualifying fruit (i.e., without added sugars) or qualifying F/V juice are not counted in the 17 g or 20 g total sugars limits
  – When two qualifying items are present, the sugars from both items are not counted in the total sugars limit, but the limits (to account for all other items) are reduced to 12 g (small meals) and 15 g (meals)
  – All other NTL criteria for small meals and meals (calorie, sat fat, and sodium limits) must be met |
| 10. Meals (entrée and other items including a beverage) | Meal       | ≤ 600    | ≤ 10% kcal | ≤ 740 mg | ≤ 20/15 g (See notes) | ≥ 2 servings of F/V/D/WG or ≥ 1½ servings of F/V/D/WG and ≥ 10% DV of three essential nutrients | –                                                                 |

**Trans fat.** The criteria for trans fat is 0 g labeled for all categories. For foods in the meat and dairy categories served as individual foods or as part of composite dishes or meals (e.g., soups, mixed dishes, entrees, meal-type products), naturally occurring trans fats are excluded.

**Exemptions**
- Sugar-free mints and gum.
- The following products also are exempt from the nutrient criteria specified above, except as indicated in notes to Categories 9 & 10:
  - Fruit products without added sugars;
  - Vegetable products without added fats and which meet FDA regulations for “very low sodium;”
  - Beverages, including bottled waters, that meet FDA regulations for ”low calorie” and ”very low sodium” (diet sodas are excluded from this exemption).

**Abbreviations and Glossary**

- **DV:** Daily Value.
- **Essential Nutrients:** Those occurring naturally in foods (or that are added to foods to meet standards of identity or to restore nutrients lost in processing), and for which a DV has been established. If fortification is used to meet the criteria, the nutrient must be a DGA 2010 nutrient of concern (calcium, fiber, potassium, vitamin D) or a nutrient that is required to be listed on the Nutrition Facts Panel (iron, vitamins A & C).
- **F/V/D/WG:** Any combination of fruits, vegetables, non/low-fat dairy, and/or whole grains.
- **LSS:** Labeled serving size.
- **NA:** Not applicable.

- **NCTE:** Nutrient components to encourage are F/V/D/WG or Essential Nutrients.
- **NTL:** Nutrients to limit are calories, saturated (sat) fat, trans fat, sodium and total sugars.
- **Qualifying F/V Juice:** Any fruit or vegetable juice or blend that contains no added sugars and meets the requirements of Category 1.
- **Qualifying Flavored Milk/Milk Substitute/Yogurt/Yogurt-type Product:** These are products that meet the Category 2 criteria for milk/milk substitutes, or yogurt/yogurt-type products.
- **RACC:** Reference amount customarily consumed.
- **Serving(s):** See USDA Food Group Serving Equivalents.
- **Total Sugars:** Include naturally occurring and added sugars.
Appendix B: CFBAI Robustly Defines “Child-Directed” Advertising

CFBAI’s goal is to be a part of the solution to childhood obesity by transforming advertising that is designed to be appealing and persuasive to children under age 12. CFBAI is not designed to address all ads in venues children might visit or might see in media, such as ads on prime time programs. Children tend to be a very small portion of the audience in prime time programs, even in those that are popular with children. Primetime ad buys are costly so advertisers craft advertising messages that target the demographic groups that are a significant portion of the audience, which are not children. CFBAI’s approach is responsive to concerns about the impact of advertising to kids on food preferences and short-term consumption patterns, but does not unduly affect advertising that is directed at adults and teens.

For television (and other measured media), since 2010 CFBAI has considered food advertising to be child-directed if it is on programs where at least 35% of the audience are children under age 12. CFBAI’s definition of “child-directed advertising” serves well to address advertising on the medium most popular with children. (Analysts continue to find that U.S. children use TV far more than any other medium and spend more time with this medium than with others.) CFBAI’s 35% threshold means that CFBAI’s nutrition standards apply virtually always to its participants’ advertising on cable TV children’s networks devoted to children’s programming. CFBAI participants’ advertising is generally regarded as representing a substantial majority (from ~70 to 80%) of child-directed food advertising on this key medium. CFBAI’s standard therefore has a broad impact where children spend most of their screen time.

While television indisputably remains the medium of choice for kids, CFBAI also comprehensively covers digital media, which children consume in growing quantities. CFBAI’s commitments apply to child-directed company-owned sites, third-party sites, and interactive games ("advergames") the participants may provide. CFBAI requirements also apply to child-directed ads on cell phones, smart phones, tablets and word-of-mouth advertising. In the evolving online world, a 35% visitor threshold, by itself, may not necessarily fully encompass child-directed sites. Consequently, CFBAI considers multiple factors, and based on its analyses, may conclude a site is child-directed even if fewer than 35% of the visitors or an unknown percentage of visitors are children.
Endnotes

1 Part D, Chapter 4, p.2, lines 69-73.
2 Part B, Chapter 2, p.8, line 292; Part B, Chapter 2, p.10, lines 338-339; Part D, Chapter 6, p.28, lines 1008-1010.
4 See IOM Report, n.3 above, at 8-9.
5 While some reports have purportedly shown a causal relationship between television advertising and childhood obesity, the scientific literature review, Television Advertising and Childhood Obesity (2010), found that such studies do not provide sufficient evidence to conclude that the relationship is a causal one. Author Howard Beales, PhD (and a member of the IOM committee that published Food Marketing to Children and Youth, see n.3), identified significant limitations to such studies such as failing to account for plausible alternative explanations for the association between television viewing and adiposity (e.g., television viewing may reflect a preference for a more sedentary lifestyle).
6 For example, a recent study of children and teens found that having a TV in the bedroom is associated with a significantly higher risk of childhood obesity, controlling for physical activity and diet. The study also found, "There was a stronger association between having a TV in the bedroom versus TV viewing time, with the adiposity and health outcomes. A bedroom TV may create additional disruptions to healthy habits, above and beyond regular TV viewing. For instance, having a bedroom TV is related to lower amounts of sleep and lower prevalence of regular family meals, independent of total TV viewing time." Multiple studies have shown an association between lower amount of sleep and weight gain in children, according to the Harvard School of Public Health.
7 These studies look at individual factors, such as whether a child is delivered by cesarean section, maternal smoking during pregnancy, and breastfeeding. Another recent study found that maternal health during pregnancy predicts childhood obesity. The researchers examined five early life obesity risk factors: short duration of breastfeeding; and obesity, excess weight gain, smoking and low vitamin D status during pregnancy. They found that 8 by age 4, children whose mothers had at least four factors were four times more likely to be overweight or obese and fat mass was 19% higher, independent of the children's diet quality and physical activity.
9 For example, food deserts have been cited as an environmental factor that can affect children's diets and weights and making full service supermarkets available an important objective. A recent study, however, observed "no appreciable differences" in children's diets after the opening of a supermarket in a low-income neighborhood. The study analyzed caregivers' shopping and children's dietary intake data prior to, five weeks after and one year after a government-subsidized supermarket opened in a "food desert." According to the authors, while increasing the accessibility of healthful foods may be a first step toward improving diets, these findings suggest more research is needed to determine how other factors influence food choice and dietary intake. CFBAI supports the goal of having healthy food widely available and affordable. This research suggests, however, that even the most well-intentioned policies and objectives may not work as planned, and having impact data can help policy makers better identify effective interventions and prioritize among them.
11 CFBAI's Core Principles also require other commitments, including participants agreeing to not advertise their foods, even their healthier ones, to children in elementary schools (pre-K through 6th grade).
12 Some participants choose this option even though they make foods that meet CFBAI's nutrition criteria.
13 The bases for these criteria are set forth in CFBAI's White Paper on CFBAI's Uniform Nutrition Criteria.
14 The Council of Better Business Bureaus, a non-profit 501(c)(6) membership organization, is the umbrella organization for local Better Business Bureaus, which are grassroots organizations that foster a fair and honest marketplace and an ethical business environment. BBB also administers respected self-regulation programs including the National Advertising Division, the Children's Advertising Review Unit and CFBAI.
16 See IOM Report, n.3, above.

Self-regulation and government regulation of advertising directed to children (see, e.g., Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, 16 C.F.R. Part 308) historically have focused on children under age 12. See also n. 17 above. By age 12, the literature shows that most children understand the persuasive intent of advertising (see, e.g., IOM Report, n.3 above at 9). Thus, CFBAI also is focused on children under age 12.

For television (and other measured media), since 2010 child-directed advertising has meant ads on programming where at least 35% of the viewers are ages 2-11 (some participants use a threshold of 30 or 25%).

We defer to others to address the merits of the sodium and sugar targets the DGAC recommended.

See, e.g., the International Food Information Council Foundation’s 2014 Food and Health Survey (May 2014), which shows taste and price consistently are the top two factors that influence consumers’ food purchases (90% and 73%, respectively); healthfulness ranked third. See also Sullivan Higdon & Sink FoodThink’s “Our Plight to Eat Right” white paper (Feb. 2015), which found Americans are trying to eat healthier, but less than half are committed to a healthy diet, a double-digit decline from previous FoodThink data (44% in 2014 vs. 61% in 2012).


The dairy requirement is adjusted proportionately for yogurts with labeled serving sizes (LSS) less than 6 oz, cheese with LSS less than 1 oz, and dairy-based desserts with LSS less than ½ cup.

Essential nutrients include protein, fiber, and vitamins and minerals for which a DV has been established, including those occurring naturally in foods (or that are added to meet standards of identity for foods that have an enrichment requirement or to restore nutrients lost in processing). If the essential nutrient requirement is met through fortification, it must be a nutrient of public health concern as specified in the 2010 DGA (i.e., fiber, potassium, calcium, and vitamin D) or a nutrient required to be listed on the Nutrition Facts Panel (i.e., iron, vitamin A, and vitamin C in addition to dietary fiber and calcium). These same nutrients also are included in FDA’s definition of “healthy.”

In lower-calorie foods, it may not always be feasible to include a meaningful amount of a food group to encourage. Yet lower-calorie foods, through their essential nutrient content, may contribute meaningfully to a healthy diet. For several of 10 categories, foods must meet minimum food groups to encourage requirements (in two instances including protein). These categories are comprised of foods that are a larger contributor to caloric intake (main dishes and entrées; small meals; and meals) as well as foods in certain other categories (juices; dairy products; seeds, nuts, and nut butters/spreads; meat, fish and poultry products).

Of the 1,274 ads we identified, 23% were food ads.

For example, General Mills reduced the amount of sugar in its Yoplait Go-Gurt yogurts by 10% in 2013 and in April 2013, the Dannon Company cut sugar by 25% (to 10 from 14 grams) in its Danimals Smoothie yogurt drink.

Both Burger King Corp. and McDonald’s stopped offering caramel dipping sauces for apple slices (consisting largely of added sugars) in their kids’ meals in 2012.

For example, since 2007 General Mills has reduced the sugar content in Trix to 10 from 13 grams per serving; Kellogg reduced the sugar in Frosted Flakes to 10 from 11 grams per serving in December 2013; and Post has reduced the sugar content of Fruity Pebbles to 9 from 11 grams per serving since 2011.

Additional information about sugar reductions in cereals can be found in CFBAI’s May 2014 Cereals Snapshot.

For example, in 2013-2014 ConAgra Foods lowered sodium by 8% in five Chef Boyardee canned pastas.

For example, General Mills, since 2011, has reduced the sodium in its Cinnamon Toast Crunch by 18% (to 180 from 220 mg per serving), and Post has reduced the sodium in its Fruity Pebbles by 18% (to 140 from 170 mg).

For example, Campbell Soup has reduced sodium in its Flavor Blasted Goldfish baked snack crackers to 250-280 from 300-320 mg. Mondelēz International has reduced sodium by 7 to 13% in many of its Honey Maid Grahams.

For example, McDonald’s has reduced sodium in the Chicken Nuggets included in its 4-piece Chicken McNuggets Happy Meal by 20% (to 360 from 450 mg). ConAgra Foods also has reduced the average sodium content by more than 10% in the Kid Cuisine meals that it may advertise to children.

Kellogg reduced the sodium in its Eggo Waffles over the years by more than 16% (to 360 from 430 mg).
In 2011, Burger King Corp. changed its point-of-purchase practices. Now, customers who order BK Kids Meals are asked what drink and side item they want, instead of automatically being served French fries and soda. In 2012, McDonald’s Happy Meal customers automatically began receiving both a smaller kid-size fry and apple slices instead of having to choose either a small size fry or apple dippers with caramel dip. The kid-size fries are about a 1.1 ounce or ~100 calorie portion, down from the 230 calories in the prior “small” portion (the apple slice portion also was changed to ¼-cup from a ½-cup serving). Now McDonald’s also offers clementines (as a seasonal offering) and low-fat yogurt as side options. Also, McDonald’s and Burger King Corp. now promote only milk and 100% fruit juice as a beverage choice for children’s meals on menu boards in their respective restaurants. McDonald’s also offers water as a kids’ beverage choice.


For example, ConAgra Foods’ Chef Boyardee canned pastas provide between ½ and 2 servings of vegetables. In addition, nine (of 10) ConAgra Foods Kid Cuisine meals that may be advertised to children contain at least one serving of vegetables. Both Burger King Corp. and McDonald’s also advertise fruit with their children’s meals. Fruits and vegetables also are in 100% fruit juice (or 100% juice with water), fruit/vegetable juice blends, and fruit smoothies (with no added caloric sweeteners) that are (or may be) advertised to children (either individually or as part of a meal).

As of May 2014, two-thirds of CFBAI participant ready-to-eat cereals that may be advertised to children list whole grains as the first ingredient. Most (71%) contain at least 8 grams of whole grains, 50% contain at least 12 grams (a 44% increase from May 2013), and nearly 30% contain more than 12 grams. See CFBAI’s May 2014 Cereals Snapshot.

According to the 2010 DGA, foods with at least 8 grams of whole grains per ounce-equivalent are examples of foods that contain “a substantial amount of whole grains” and can help people meet the whole grain recommendation. 2010 DGA at 37.

For example, Campbell Soup Company and Mondelēz International graham crackers and certain other crackers they may advertise to children contain at least 8 grams of whole grains per serving. In addition, components in certain entrées or meals contain at least 8 grams of whole grains (e.g., certain ConAgra Foods Chef Boyardee canned pastas, and sub rolls and pizza crust in Kraft Lunchables with Smoothie).

For example, the Interfaith Center on Corporate Responsibility (ICCR) in 2014 led a coalition of 40 institutional investors in sending letters to more than 30 food, restaurant, retail and media companies urging them to join CFBAI. The letter urged these companies to join CFBAI “as an initial yet critical step companies can take in confronting the childhood obesity epidemic.”


See n.10, above.

For example, published reports indicate that children ages 2-11 represent a very small percentage of the overall audience (~4-6%) even in family or adult-targeted shows popular with kids such as The Voice and America’s Got Talent. See, e.g., Adweek, the LA Times, and TheWrap.

See IOM Report at n.3, above.

In its October 2013 report, Zero to Eight: Children’s Media Use in America 2013, Common Sense Media determined that 58% of children watch TV at least once a day, compared to 17% on mobile devices, 14% on computers, and 6% on video games. Moreover, 50% of the nearly two hours of total screen time children log each day is spent watching TV.

The FTC Report found that CFBAI participants accounted for 89% of the children’s ad spend in 2009. See n.44 above at 56. CFBAI’s own annual analyses of advertising in children’s programming generally have found that CFBAI participants represent ~80% of the advertising.

Using a different definition of “advertising to children” that sweeps in food ads that are not directed to children can lead to misleading conclusions regarding the impact of advertising self-regulation. If the foods in those ads are part of a data set used to evaluate the nutritional makeup of foods purportedly “advertised to children,” the resulting conclusions do not accurately describe self-regulatory efforts that actually focus on advertising directed to
children. See, e.g., Dembek CR, Harris JL, Schwartz MB, *Trends in Television Food Advertising to Young People: 2013 Update* (May 2014) (conclusions regarding the impact of self-regulation based on an analysis of food ads viewed by children rather than ads that are targeted to them). Even research looking at all ads kids see find that CFBAI's definition captures a substantial amount of the ads children see. See Harris JL, Sarda V, Schwartz MB and Brownel KD, *Redefining “Child-Directed Advertising” to Reduce Unhealthy Television Food Advertising*, Am J Prev Med 2013; 44(4):358-364. At the same time, it is important to recognize that ads on programs not directed to children could be for non-child-appealing foods, such as coffee or mayonnaise, or use themes designed to appeal to the adult viewers.

53 Some sites do not receive enough traffic to be tracked by third-party services and, if the sites do not require visitors to register and give their ages, the site owners will not know how many visitors are children.

54 These factors include:

- The target audience based on the participant’s media plan;
- Whether there are child-directed ads in other CFBAI-covered media (e.g., ads in child-directed TV) for the participants’ foods that would drive children to the site;
- Actions taken to restrict child access, such as age screening;
- The overall net impression of the site’s content (an analysis of the overall effect of the content, language, graphics, pictures, games and age limitations on activities). We note that animation, cartoon or licensed characters, fantasy and games are often used in sites directed to teens and adults and thus do not necessarily make a site child-directed. For example, online gaming demographics indicate that the percentage of children under 12 visiting online gaming sites is much lower than older age brackets. *2013 Essential Facts about the Computer and Video Game Industry* at 2-3, available at http://igea.wpengine.com/wp-content/uploads/2013/06/ESA_EF_2013.pdf.