

Statement of Dr. Robert Post

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Before the Subcommittee on Commerce, Manufacturing, and Trade, and

the Subcommittee on Health

Committee on Energy and Commerce

Thank you, Madame Chairman, Mr. Chairman, and members of the Subcommittees, for this opportunity to discuss the Interagency Working Group (IWG) on Food Marketed to Children. I represent the U.S. Department of Agriculture (USDA) on the IWG and brought to it nearly 30 years of experience in food and nutrition policy, and food production, from within and external to the Federal sector, as well as years of experience as a professor of nutrition and food science. My role of reviewing the technical basis that served as the foundation for the IWG's nutrition principles was supported by many other highly qualified nutritionists in the USDA. Many of these individuals supported my role as USDA's policy official leading the development of the 2010 *Dietary Guidelines for Americans*, which USDA released jointly with Department of Health and Human Services (HHS) in January of this year.

The *Dietary Guidelines for Americans* is the key element that brings USDA into this forum. The 2010 *Dietary Guidelines for Americans* were released at a time of rising concern about the health of the American population. Its recommendations accommodate the reality that a large percentage of Americans are overweight or obese and/or at risk of various chronic diseases. The current epidemic of overweight and obese children in the United States is a major concern for USDA. Today, too many children are consuming diets with too many calories and not enough nutrients, and are not getting enough physical activity. Approximately 32 percent of

children and adolescents ages 2 to 19 years are overweight or obese, with 17 percent of children being obese. Risk factors for adult chronic diseases, such as cardiovascular disease and type 2 diabetes, are increasingly found in younger ages. Eating patterns established in childhood often track into later life, making early intervention on adopting healthy nutrition and physical activity behaviors a priority. The USDA supports a number of food and nutrition policies and programs that aim to improve not only the nutrition, but also the overall health and well-being of America's youth. This includes the *Dietary Guidelines for Americans*, as well as MyPlate, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) the Supplemental Nutrition Assistance Program (SNAP), and the National School Lunch and Breakfast programs.

The *Dietary Guidelines*, which are developed jointly by the USDA and HHS every five years, establish the scientific and policy basis for all Federal nutrition programs, including research, education, nutrition assistance, labeling, and nutrition promotion. The *Dietary Guidelines* offer advice for healthy Americans ages 2 years and over about making food choices that promote health and reduce disease risk. The *Dietary Guidelines* provide a consistent, science-based foundation for nutrition efforts by the various Government agencies. All federally-issued dietary guidance for the general public is required by law to be consistent with the *Dietary Guidelines for Americans*. For the 2010 *Dietary Guidelines for Americans*, children were a particularly important focus because of the growing body of evidence documenting the vital role that optimal nutrition plays throughout the lifespan.

The 2010 edition of the *Dietary Guidelines* comes at a critical juncture for America's health and prosperity. The 2010 *Guidelines* included two overarching principles, the first of which focuses on "maintaining calorie balance over time to achieve and sustain a healthy weight." The second principle focuses on "consuming nutrient-dense foods and beverages." By adopting the recommendations in the *Dietary Guidelines*, Americans can live healthier lives.

A review of scientific evidence that supported the 2010 *Dietary Guidelines* found that the overall environment in which many Americans now live, work, learn, and play has contributed to the obesity epidemic. Specifically, moderately strong evidence indicates that the food environment is associated with dietary intake, especially the under-consumption of vegetables and fruits and higher body weight. Ultimately, individuals choose the type and amount of food they eat and how physically active they are. However, choices are often limited by what is available in a person's environment, including stores, restaurants, schools, and worksites. Environment affects both sides of the calorie balance equation—it can promote the consumption of too many calories and discourage physical activity. Many children have a usual calorie intake that exceeds their daily needs, and they are not physically active enough to compensate for the calories they consume. The combination sets them on a track to gain weight.

Primary prevention of obesity and related risk factors is the single most powerful public health approach to reversing America's obesity epidemic over the long term. Lifelong habits are developed throughout childhood, and every opportunity should be provided to build healthy habits at the earliest stages of life. Therefore, a coordinated systems-wide approach is needed—an approach that engages all sectors of society, including individuals and families, educators,

communities and organizations, health professionals, small and large businesses, and policymakers.

For example, parents and caregivers serve as important role models for children and are responsible for providing them with nutritious foods and opportunities for physical activity. At the same time, outside influencers (e.g., policymakers, educators, health professionals, and the food industry) should build upon existing systems and infrastructures to support parents, caregivers, schools, and communities in facilitating positive eating and physical activity choices throughout life. Some examples of strategies that can be used to help create and promote healthy lifestyles for children include reducing children's television and computer screen time and developing and supporting effective policies to limit food and beverage marketing of unhealthy products to children.

In light of these concerns regarding the current childhood obesity epidemic in the United States, the 2009 Omnibus Appropriations Act called for the formation of an IWG to address the issue of food and beverage marketing to children. The working group was to be made up of Federal nutrition, health, and marketing experts from USDA, the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention (CDC), and the Federal Trade Commission (FTC). As part of this effort, the USDA, represented by the Center for Nutrition Policy and Promotion, in collaboration with the CDC and FDA, contributed their expertise related to nutrition policy and regulations, as well as public health and science. The FTC representation was needed to provide leadership and expertise in food marketing trends and definitions.

Since May 2009, the IWG, led by the FTC, has met regularly to study and assess the science, examine the components of voluntary efforts already being employed by various organizations, and work through scenarios of applying different criteria to individual foods and foods marketed as meals. In developing a set of proposed recommendations, the IWG was guided primarily by dietary recommendations developed by USDA and HHS, as delineated in the 2010 Dietary Guidelines for Americans, and by regulations promulgated by the FDA and USDA governing nutrient content and health claims in food labeling. To satisfy the directive of the 2009 Omnibus Appropriations Act accompanying statement, which called for the creation of the IWG, the Working Group reviewed the Dietary Guidelines for Americans, the Dietary Guidelines Advisory Committee's report on nutrition research, regulations promulgated by the FDA and USDA governing nutrient content and health claims in food labeling, relevant IOM reports, and nutrition standards developed by industry groups and various public and private entities prior to developing recommendations. The recommendations represent "voluntary recommendations" that might inform and guide industry efforts to voluntarily change the promotion of foods and beverages to children.

In April 2011, the IWG released for public comment a draft set of proposed nutrition principles for food marketed to children and solicited public comment on the draft recommendations between April and July 2011. Soliciting comments was intended to gain insights on the practicality and feasibility of the proposed recommendations that would be in a report to Congress. About 29,000 comments were received, a number of which provided substantive discussion of the proposed nutrition recommendations.

Also, during this period, in July 2011, the Children's Food and Beverage Advertising Initiative (CFBAI) of the Council of Better Business Bureaus (BBB) and its participants released a new set of food category-specific, uniform nutrition criteria that are being adopted by all members of the CFBAI.

The CFBAI is a voluntary self-regulation program comprising many of the Nation's largest food and beverage companies, which was designed to encourage the advertising of healthier dietary choices and lifestyles to children under the age of 12. There are 17 food manufacturers and restaurant chains that have signed onto the CFBAI effort. Prior to July 2011, the CFBAI criteria consisted of company-specific nutrition standards that each participating company developed and adopted independently. This lack of uniformity limited the success of this voluntary effort in getting healthier products marketed to children. Therefore, the newly released CFBAI uniform nutrition criteria represent a significant change in how the program operates, as each participating company has now agreed to follow a unified set of nutrition criteria. The goal is that the participating companies will fulfill their pledges and adopt these new criteria by December 31, 2013. According to the CFBAI, the unified set of nutrition criteria impose significant challenges on the participants and require reformulation of many of their products that they currently advertise if they wish to continue advertising them after the criteria go into effect. The CFBAI estimates that one-third of the products currently advertised to children do not meet the new CFBAI criteria.

On review, it appears that, with the new uniform CFBAI criteria, the food industry has made considerable efforts to design and reformulate its products closer to the principles proposed by

the IWG. The new uniform CFBAI nutrition criteria appear to be a step forward in changing the food advertising landscape, while also taking into consideration the feasibility of manufacturers making meaningful changes to the nutrient content of food products. In particular, there are several aspects of the CFBAI criteria that are helpful in simplifying the IWG's proposed approach.

- The CFBAI sets criteria for 10 product categories that were developed based on grouping foods with similar nutrient profiles and, in some cases, similar processing methods. Therefore, nutrition criteria can be created and tailored to each category, accounting for differences in naturally occurring levels of food components and nutrients, such as sugar or sodium; and the challenges posed by processing techniques in reformulating the foods.
- The CFBAI uses *labeled serving size* combined with calorie limits as the basis to apply the criteria. The IWG's proposal uses the Reference Amount Customarily Consumed concept as the basis for applying nutrition criteria, which is a concept that is part of the Federal nutrition labeling regulations. It ensures uniformity in declaring nutrients on Nutrition Facts across similar foods and standardizes the basis for nutrient content claims. However, the use of *labeled serving size*, in combination with proposed limits on the calories per serving, provides a mechanism to simplify the application of the nutrition criteria to foods as packaged.
- The CFBAI criteria include limits for saturated fat, trans fat, total sugar, and sodium, which are the same nutrients and food components targeted by the IWG's proposed criteria. While there are some differences between the IWG and CFBAI in the thresholds for these nutrients and food components, these differences are, for the most part, not critical.

- Other aspects of the CFBAI criteria are still under review.

Overall, the CFBAI standards present, in many respects, a reasonable set of criteria to consider for revising the IWG draft proposal. However, while the CFBAI criteria represent a very good start towards the marketing of healthier foods to children, food manufacturers should continue to work at improving the nutritional content of foods that they intend to market to children. Additional changes to the nutrition principles for advertising can be considered over time in order to strengthen the criteria and better align them with Federal policies, including the 2010 *Dietary Guidelines* (and future editions); FDA and USDA regulations governing nutrient content and health claims in food labeling; the Dietary Reference Intakes; and other child-focused Federal nutrition programs. It is USDA's expectation and that of the IWG members that food manufacturers will make earnest progress in reformulating products that are advertised to children.

Thank you, Madame Chairman and Mr. Chairman, and members of the Subcommittees, for this opportunity to provide USDA's views on the IWG's proposed voluntary nutrition principles to guide industry self-regulatory efforts for marketing foods to children.