

# MCNER Webinar Series

## *Food Marketing and Children*

*Presented by:*

**Jennifer Pomeranz, JD, MPH**

Wednesday, April 30, 2025



Moderator:

Lisa Diewald, MS, RDN, LDN

Associate Director

MacDonald Center for Nutrition Education and Research

Villanova University M. Louise Fitzpatrick College of Nursing

# Today's webinar objectives




- Provide an overview of food marketing directed at children in the United States and its potential impact on eating habits and health.
- Gain a better understanding of confusing and misleading food labeling practices used in marketing to children..
- Learn about barriers to restricting food marketing and federal and state bills aimed at protecting children from the influence of food marketing.

# Continuing Education Credit



- Villanova University M. Louise Fitzpatrick College of Nursing is accredited as a provider of nursing continuing professional development by the American Nurses Credentialing Center's Commission on Accreditation. This activity awards 1 contact hour for nursing professionals.
- This activity awards 1 CPEU in accordance with the Commission on Dietetic Registration's CPEU Prior Approval Program
  - Level 2 activity
  - Suggested CDR Performance Indicators: 2.3.5, 12.4.1, 13.1.3, 13.1.
  - To receive CE credit, you must attend the entire program.

# Did you use your phone to access today's webinar?



If you are calling in today rather than using your computer to log on, and need CE credit, please email [mcner@villanova.edu](mailto:mcner@villanova.edu) and provide your name and the number you called in from and we will send you an online link for an evaluation and your CE certificate.

# Use the Q&A Box for Questions



- Questions are welcome!
- Please send through the Q&A Box during the presentation.
- Q&A session will follow the program.

Note: Slides will not be posted for today's program

# Disclosures



There are no relevant financial relationships with ineligible companies for those involved with the ability to control the content of the activity.

Planners will review participant feedback to evaluate for real or perceived commercial bias in any activity.

## Introducing our Speaker

### Food Marketing and Children



Jennifer L. Pomeranz, JD, MPH  
Associate Professor  
School of Global Public Health  
New York University



**NYU**

SCHOOL OF GLOBAL  
PUBLIC HEALTH

# Food Marketing and Children

Jennifer L. Pomeranz, JD, MPH (Associate Professor)

April 30, 2025

MacDonald Center for Nutrition Education and Research,  
Villanova University, M. Louise Fitzpatrick College of Nursing

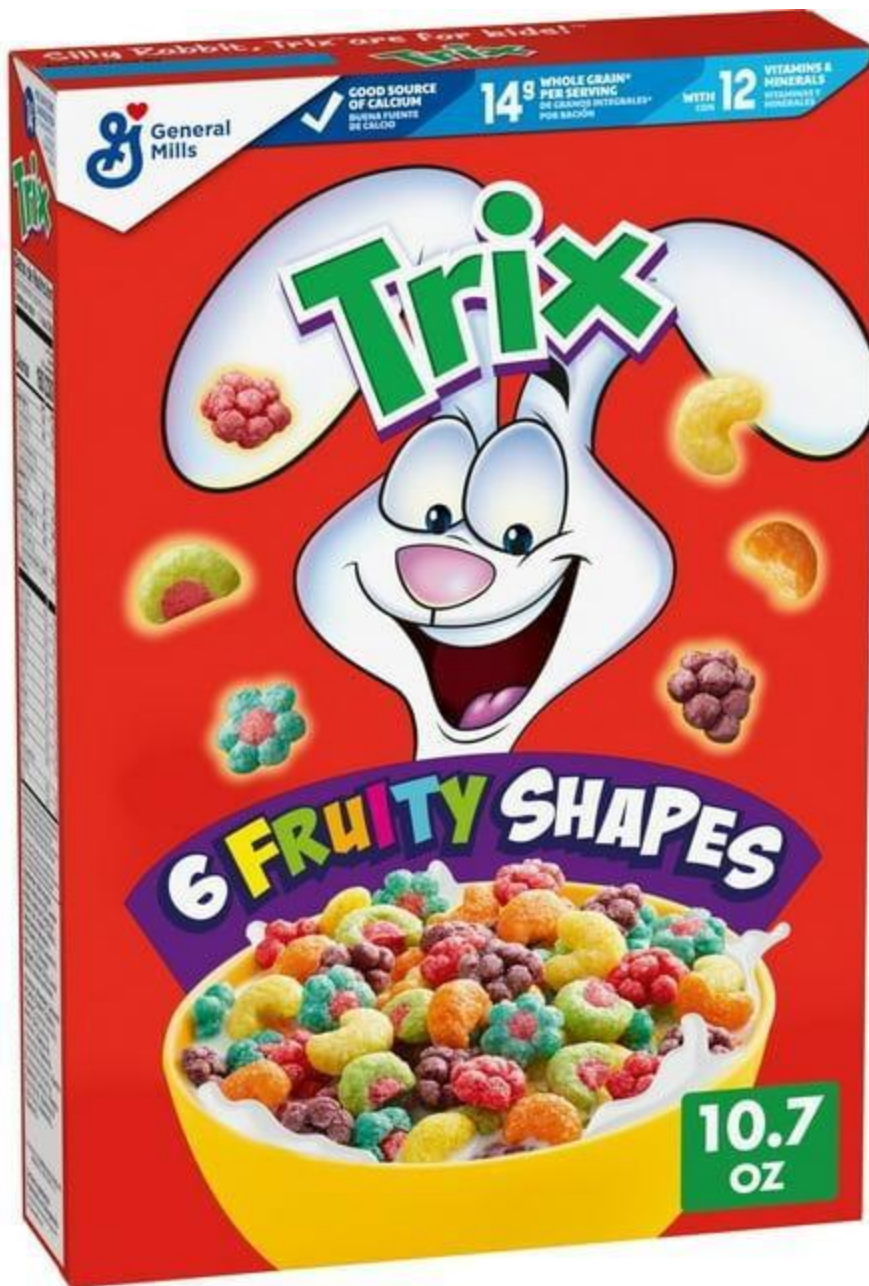


# Overview of Talk

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- Food Marketing to Children
- The First Amendment's protection for speech
- Food industry self-regulation
- Food labeling issues
- Questions

**Do You Think Marketing  
Impacts You? Others?**



# Contrast Marketing to Adults



# Food Marketing: It is fun and cool to eat unhealthy food, any where, any time!

- Food environment shapes food/beverage choices for everyone
- Marketing directed at youth is especially problematic
- Food preferences, norms, tastes, behaviors and portion sizes are established during childhood and adolescence and are difficult to change



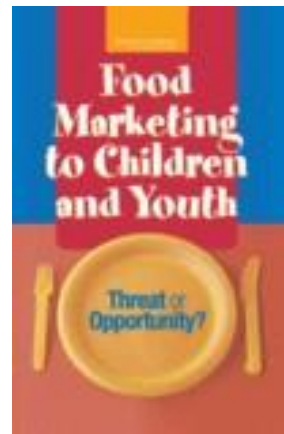


# Children $\leq 8$ yrs

- IOM: do not comprehend persuasive intent of marketing
- APA: accept commercial claims as truthful
- FTC: lack capacity to distinguish between persuasion and information
- Very young children cannot differentiate between cartoons and reality

# Data

- Institute of Medicine Report (2005)
  - Strong evidence that TV advertising influences the food and beverage preferences, purchase requests, and consumption by children ages 2–11 years
- Federal Trade Commission collected food marketing data; Reports 2008, 2012



# Most Marketed to Youth (2-17), 2006

- Sweetened beverages
- Restaurant food
- Breakfast cereal
- Snacks
- Candy



# FTC Most Marketed to Youth, 2009

1. Restaurant Food
2. Carbonated Beverages
3. Breakfast Cereals
4. Snacks
5. Juice and other sugary beverages

# Newer forms of marketing blur lines between entertainment/ads

- Social Media - Influencer communications



# Kid Influencers YouTube Study

- Videos featuring food and/or drinks were viewed 1 billion times.
- 90% food and/or drinks were unhealthy branded items (eg, McDonald's)
- 4% unhealthy unbranded items (eg, hot dogs)
- 3% healthy unbranded items (eg, fruit)
- 2% healthy branded (eg, Yoplait yogurt).

# FTC and Influencers

- Federal Trade Commission (FTC) guidelines all social media influencers' must disclose endorsements.
- #ad is not likely enough
- Written and/or oral disclosures may be disregarded or not understood by children

# FTC and Host-Selling

- Host-selling is when the “character” delivers the commercial content
- Host-selling is prohibited on television (by the FCC) but not prohibited by the FTC on YouTube
  - Goal separate commercial content and program material to aid children in distinguishing advertising from program
- The YouTube Kids app has been characterized as host-selling “on steroids.”

# Other Countries

## Chile packaging



## UK Television Time Restrictions





# U.S. Constitution First Amendment: Freedom of Speech

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- “Congress shall make no law ... abridging the freedom of speech”

# U.S. Constitution First Amendment: Freedom of Speech

- Core speech (political, religious)
  - Protect ideas and free debate
  - Government cannot suppress or require.





# First Amendment: Commercial Speech

- Commercial speech (advertising, labeling)
  - Not possible to restrict truthful advertising



# Commercial Speech Can Undermine Public Health



# Restricting Commercial Speech

# Pivotal Commercial Speech Case

- Tobacco Marketing
- Even to protect children, MA could not prohibit tobacco ads:
  - in stores from being placed lower than 5 feet
  - or
  - outdoor billboards within 1,000 feet of schools or playgrounds
    - Cut off substantial communication to adults

# Legal Products for Children



# The First Amendment Does Not Protect

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- Commercial speech that is false, deceptive, or misleading



# Federal Trade Commission

- Advertising (TV, internet, mobile)
- False, deceptive, unfair acts or practices
- State attorneys general have the same power
- KID-VID Rulemaking 1978
  - FTC Improvements Act of 1980

# Federal Trade Commission





# Examples Federal and State Bills to Protect Children from Food Marketing

U.S. SENATE COMMITTEE ON

Health, Education  
Labor & Pensions

CHAIR

RANKING MEMBER

HEARINGS

COMMITTEE ACTIONS

ABOUT

04.19.2024

## **NEWS: Sanders and Booker Take on Food and Beverage Industry with New Legislation to Address Childhood Diabetes and Obesity Epidemics**

WASHINGTON, April 19 — Sen. Bernie Sanders (I-Vt.), Chairman of the Senate Committee on Health, Education, Labor, and Pensions (HELP), and Sen. Cory Booker (D-N.J.), along with Sen.

- Any junk food advertisement directed towards children 12 and under shall be treated as an unfair and deceptive practice by the Federal Trade Commission (FTC).

# Examples Federal and State Bills to Protect Children from Food Marketing

FoodNavigator  
USA

≡ 🏠 News Sectors Trends Resources Events

## Protecting children from deceptive food advertising: The scope of NY's S213-B bill

By Deniz Ataman

21-Feb-2024 Last updated on 21-Feb-2024 at 14:58 GMT



- Children are inherently vulnerable
- Marketing unhealthy foods to children is inherently misleading
- State can regulate false, unfair and deceptive marketing to children

# Interagency Working Group on Food Marketed to Children

Preliminary Proposed Nutrition Principles  
to Guide Industry Self-Regulatory Efforts

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ages 2-17  
(2011)





# GMA: There is no middle ground on kids marketing proposals

By Elaine Watson, 14-Oct 2011

**Food manufacturers will not support a controversial government proposal on food marketing to kids - even with the promised 'significant' revisions - because it is not supported by evidence, says the Grocery Manufacturers Association (GMA).**

The GMA was speaking to FoodNavigator-USA after the interagency working group (IWG\*) behind the proposal told a Congressional committee on Wednesday it was prepared to make "*significant revisions*" to its original recommendations, which were published in April.

**Can we meet the IWG half way? 'The short answer is no'**

Asked whether the industry could find some middle ground with the IWG given its apparent willingness to address industry concerns, GMA vice president of federal affairs Scott Faber said: "*The short answer*



If implemented, the IWG proposals could make a 'substantial contribution to the obesity epidemic', claims the American Dietetic Association

# Children's Food and Beverage Advertising Initiative (CFBAI)

- Self-Regulatory = Voluntary
- Youth 2-11 years old
- Implemented 2007
- Originally 10 companies
- Each company's own internal nutrition criteria
- Percent of audience originally  $\geq 50\%$  then 35%

# Change: Cereals Marketed to Youth

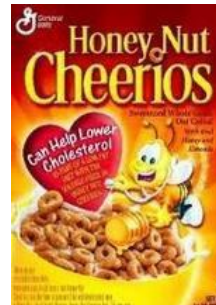
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#5



#6



#7



#8



#9



#10



## 2011 Top 10

# CFBAI Companies (2024)



*Campbell's*

*Coca-Cola*



**FERRERO**



**HERSHEY**  
THE HERSHEY COMPANY

*Kellogg's*



**Kraft Heinz**

**MARS**



**Mondelēz**  
International



**Hostess**  
BRANDS

# CFBAI

- Less than 12 years old
- Coca-Cola and Hershey say they do not market to children <12 years old
- Effective 2021, programming audience  $\geq 30\%$  children is “child-directed”
- Second uniform category-specific nutrition criteria effective January 1, 2020.



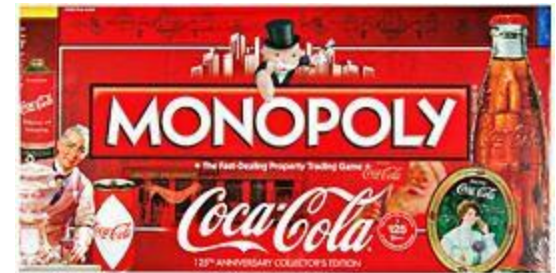
# But Nutrition Standards Largely Irrelevant

# Coca-Cola Says It Does Not Market to Youth

12 and up



8 and up



All ages



5 and up





*Coca-Cola*<sup>®</sup>

open happiness<sup>™</sup>



# CFBAI Applies to:

- TV
- Radio
- Print
- Internet/digital media, including websites, video and computer games, open-access platforms that have child-directed content like YouTube, mobile apps or mobile media
- Influencer communications
- Product placements and product integrations
- Licensed characters, celebrities, and movie tie-ins in covered media
- No ads in Elementary Schools

# Where Does CFBAI NOT Apply?





*presents*  
The Super Bowl  
Halftime Show  
*featuring*  
**BEYONCÉ**





# Branding, Toys



# Retail/Packaging





# Retail/Packaging



4 out of 45 Qualify



(Not These) ~8 year old





# Middle or High Schools

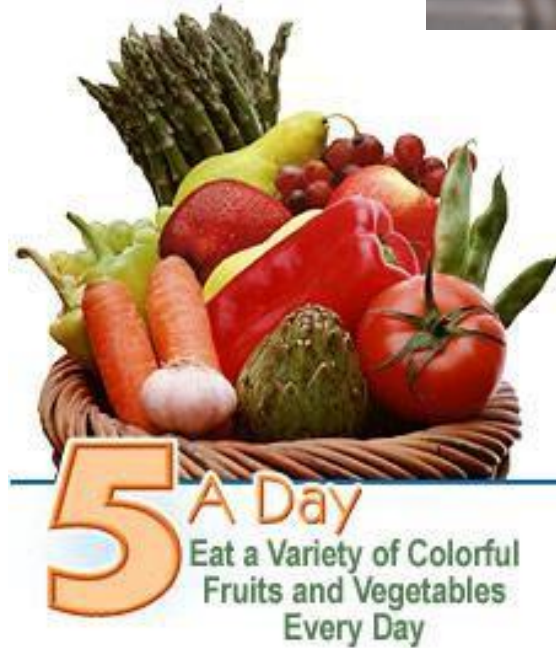


**Note: Government Speech and  
School Marketing Different**



# \*Government Speech\*

## Not Subject to First Amendment



# Schools and Speech

- Children captive audience
- Non-Public Forum (government property that is not open to the public like a park)
- Government can reserve the property for its lawfully dedicated purpose = Education







# Federal School Marketing Rules

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- Smart Snack rules
- Schools are prohibited from allowing any marketing of foods that do not meet the smart snack standards

# “Look-alike” Smart Snacks in schools

Look-alike Smart Snacks sold in schools	Regular versions sold in stores
	
	
	



# Schools and Speech

- School can still ban all marketing or
- Contract with vendors for limited marketing
  - E.g., only advertise Dasani not Coca-Cola



# Misleading and Deceptive Food Labels



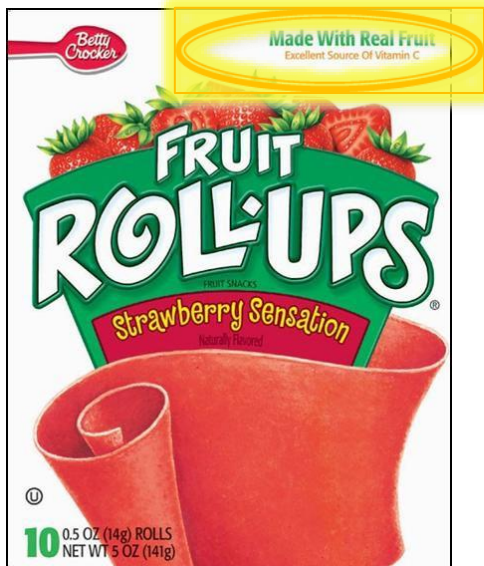
# No FDA Regulation for Structure Function Claims on Food



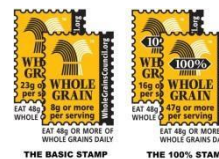
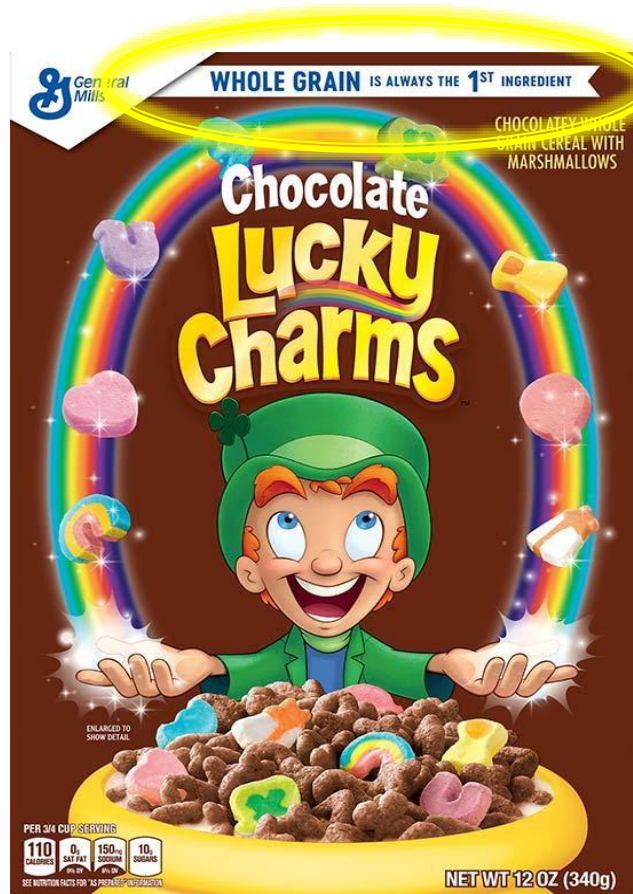


# Nutrient Content Claims

“Health  
Halo”



# No Standards for Whole Grain Junk Food







# Fruit Drink Issues



# Weak Standards for Fruit Drinks

- The most common drink marketed for and consumed by young children in the U.S.
- Parents and caregivers have difficulty differentiating among drinks.
- The only way is to read and understand (!) the ingredient lists
  - acesulfame potassium, sucralose



# Weak Standards for Fruit Drinks

- Study of 1603 U.S. parents of children 1-5 years
- FOP or FOP nutrition/ingredient information.
- Majority could not identify drinks with non-nutritive sweeteners (53%-58%)
- Many incorrectly believed that:
  - unsweetened juices contained added sugar (38%-43%)
  - sweetened flavored waters had no added sugar (24%-25%)
  - 100% juice contained less than 100% juice (37%)

# Difficult to identify fruit drink v healthier juice/water blend



# Juice Issues

99.4% apple, grape  
0.3% pomegranate  
0.2% blueberry  
0.1% raspberry



# Summary

- Difficult to regulate truthful marketing in the United States except in schools
- Update to food labeling regulations needed
- Consumer/patient difficulty identifying healthier foods/drinks
- Reduce reliance on highly processed food/drinks but cost is a real issue

THANK YOU  
Questions?

[jl284@nyu.edu](mailto:jl284@nyu.edu)




# To Receive Your CE Certificate



- A link to an evaluation will be sent within a day or two.
- RNs must complete the evaluation to receive CE certificate.
- RD/RDNs: Although completing an evaluation is not required, we truly appreciate your feedback.  
**If you do not see the evaluation, look in your spam folder.**
- CE certificates for RDs/RDNs/DTRs will be emailed within 1-2 days after the program.

# MCNER Webinar Series for Health Professionals



## Fiber and Health: Updates and Innovations for Meeting Needs

*Nicola McKeown, PhD  
with Rodney Wallace, PhD and  
P. Stephen Baezinger, PhD*



Save the Date!

**Wednesday, 6/11/25  
12-1 PM ET**

**Registration Opens Soon!**

# Q&A



Moderator:  
Lisa Diewald, MS, RDN, LDN  
[mcner@villanova.edu](mailto:mcner@villanova.edu)

*If you are an RD or RDN and have any questions or concerns about this continuing education activity, you may contact CDR directly at [QualityCPE@eatright.org](mailto:QualityCPE@eatright.org).*