

Changing the Landscape of Food & Beverage Advertising: The Children's Food & Beverage Advertising Initiative In Action

A Progress Report on the First Six Months of Implementation: July-December 2007



July 2008

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Council of Better Business Bureaus

I hope you will find this initial report of the Children's Food & Beverage Advertising Initiative informative and useful. It represents the first six months of the program's operation, and reflects pioneering work by the participants and the Council of Better Business Bureaus (CBBB) to develop, implement and enforce innovative approaches to advertising food products to children.

CBBB is the national arm of Better Business Bureau (BBB). With a mission to advance trust in the marketplace, for nearly 100 years BBB has helped consumers and businesses navigate that marketplace with honesty and fairness. Today, there are 126 BBB offices across the U.S. and Canada, providing more than 105 million instances of service to consumers and businesses annually. This food and beverage advertising program is a perfect illustration of how self-regulation can advance trust in the marketplace.

Even a casual reader of this report will be struck by the significant changes participants have put in place so quickly, and the seriousness with which they treat their obligations to the program, to parents, and most importantly of all, to children. The program is showing that self-regulatory measures can play an important role in addressing public needs effectively – in this case shifting the mix of food and beverage products advertised to children to healthier, better-for-you products.

It was natural for the food industry to turn to BBB – with its focus on advancing marketplace trust – to help devise a creative response to the mounting concerns about childhood obesity and to demonstrate that advertisers can band together to provide meaningful responses within their purview. The Initiative also grew out of the well recognized work of CBBB's Children's Advertising Review Unit, known throughout the nation as the premiere organization setting standards for and monitoring advertising to children to assure that it takes account of their unique needs.

We look forward to continuing our work with the participating companies in voluntary self-regulation. We intend to support their efforts to build on the progress they have made, while at the same time reporting objectively on the changes and commitments they have made to food and beverage advertising to children.

Steven J. Cole
President & CEO
Council of Better Business Bureaus

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Executive Summary

This report describes the progress that is being made under the Council of Better Business Bureaus' Children's Food and Beverage Advertising Initiative (CFBAI or "program") in changing the nutritional profile of food and beverage products in child-directed advertising and on the participants' compliance with their CFBAI pledge commitments.¹ Last July, the BBB announced the commitments or "pledges" of the then 11 (now 13) participants at a joint Federal Trade Commission (FTC) and Department of Health and Human Services (HHS) Forum, "Weighing In: A Check-Up on Marketing, Self-Regulation, and Childhood Obesity." Our review on the implementation of participant pledges during the first six months after the announcement (July-December 2007) shows that pledge compliance is excellent, that the landscape of children's advertising has already changed significantly, and that more positive changes lie ahead.

The BBB and leading food and beverage advertisers created the CFBAI in November 2006 to seek a balance in the types of food and beverage products that are advertised primarily to children under 12. This new voluntary self-regulation program reflected the participants' commitment to responsible advertising and was responsive to recommendations from the FTC and the Institute of Medicine (IOM). The FTC had recommended, in April 2006, that the BBB determine if advertising self-regulation could do more to address the concerns about child-directed food and beverage advertising and childhood obesity. Similarly, the IOM had recommended, in December 2005, that food and beverage companies shift their child-directed advertising emphasis to better-for-you foods and beverages.

In this report, the BBB explains the key principles and provisions of the program. It also provides a summary of the nutritional guidelines the companies are using as the basis for their better-for-you product designations for child-directed advertising. A chart summarizing the participants' guidelines shows that, although the details vary, they share many common characteristics that are in accord with prevailing government guidelines and recommendations.

The methodology the BBB used to assess compliance and change is also detailed. The methodology included careful review of detailed reports and documentation that the participants submitted regarding their compliance and BBB-conducted independent monitoring.

During July through December 2007, the six companies scheduled to implement during this period, Campbell Soup Company, The Coca-Cola Company, the Hershey Company, Kraft Foods Global, Inc., Mars, and Unilever, successfully implemented their pledges in which they committed either to not engage in child-directed advertising or to feature only better-for-you products in child-directed advertising.

- **No child-directed advertising.** Based on our review, Coca-Cola, Hershey and Mars did not engage in child-directed advertising as they had pledged.²
- **Advertising only for better-for-you products.** Based on our review, Kraft limited all, and Campbell and Unilever limited virtually all, of their child-directed advertising to better-for-you products as specified in their pledges.

¹In this report, "child-directed advertising" means "advertising that is primarily directed to children under 12." These terms are used interchangeably throughout.

²Mars initially committed to not advertise its traditional candy and snackfood products, and briefly advertised a line of better-for-you snacks on a company-owned website. It has now committed to not advertise any products directly to children, and has ceased all child-directed advertising.

- Campbell reported, and the BBB separately observed, that during the initial start up period, it had overlooked removing, primarily on its child-directed company-owned websites, a relatively small amount of content that referenced or displayed products that do not (or did not then) meet its nutrition guidelines. These problems have been remedied. Its television advertising, which represented a substantially larger amount of its media expenditures, was otherwise compliant with its pledge.
- The BBB found that Unilever, while otherwise fully in compliance, had overlooked removing a couple of products, out of many, from its child-directed company-owned website. It has corrected this issue.

During July through December 2007, Burger King Corp., Cadbury Adams, General Mills, Kellogg Company, McDonald's, and PepsiCo began the process of implementing their pledges.³ Many of them, ahead of schedule, implemented their pledges to a significant degree by limiting or changing what they advertised to children, or by early implementation of other parts of their pledges, such as product placement commitments.

For example, much of General Mills', McDonald's, and PepsiCo's child-directed advertising was for products meeting their better-for-you product nutrition guidelines. The meal that Burger King advertised to children during this period met some, but not all, of its nutrition criteria. It has now launched a "Kids Meal" that fully meets its nutrition criteria, which it states will be the focus of its advertising for the remainder of the year, thus implementing its pledge six months ahead of schedule.

The other two participants also made changes ahead of schedule. Kellogg made significant progress in reformulating its products to meet its nutrient guidelines, and implemented certain commitments regarding its child-directed websites. Cadbury did not engage in any product placements. It also has now pledged to not advertise Bubblicious gum to children under 12, and implemented that commitment at the beginning of 2008, several months before it was obligated to make any changes.

Through the actions of the participants the landscape of children's food and beverage advertising has begun changing. Because of the commitments the participants made, there were fewer child-directed ads and many of the child-directed ads that originated from the participants were for better-for-you products.

The CFBAI is committed to dynamic, effective and transparent self-regulation. In keeping with that goal, the program has four objectives for the coming year. First, the BBB looks forward to continuing to expand the number of participants, so that the program's reach, while already extensive, will be even broader. Second, the program will monitor developments in nutrition science and government recommendations to ensure that the participants' better-for-you standards will continue to be grounded in science. Third, the BBB will solicit informal feedback from others about whether they think the program is doing well and what it could do better. Finally, to support parents' efforts with regard to their children's health, the BBB will be working on expanding awareness of the program among parents, who are the primary gatekeepers of the products their children consume.

I. Introduction¹

This report describes the progress that is being made under the BBB's Children's Food and Beverage Advertising Initiative (CFBAI or "program") in changing the nutritional profile of child-directed food and beverage advertising.² Last July, the BBB announced the commitments or "pledges" of the then 11 (now 13) participants at a joint Federal Trade Commission (FTC) and Department of Health and Human Services (HHS) Forum, "Weighing In: A Check-Up on Marketing, Self-Regulation, and Childhood Obesity."³ One year later we are reporting on the first six months of the implementation of participant pledges. The BBB intends to report annually on the CFBAI publicly, and next year's report will cover January through December 2008.

During its first six months of operation, July through December 2007, six of the CFBAI's 13 participants implemented their commitments to advertise better-for-you food or beverage products or to stop child-directed advertising of their food and beverage products entirely.⁴ Many of the other participants, with implementation dates scheduled for January 1, 2008 or later, also began the process of implementing their pledges and changing what products they advertised during this period.

Our review of the six participants' compliance with their pledges found that they successfully implemented their pledges. Although we observed, and some companies self-reported, some instances of difficulties in achieving

100% compliance, the issues were relatively minor ones that have been resolved. The compliance issues primarily revolved around content on large company-owned websites directed to children that included some displays of, or references to, products that did not meet the participant's criteria for better-for-you products.

Through the commitments of the CFBAI participants, by the end of 2007 the landscape of children's advertising already had begun changing significantly. With the full implementation of six of the participants' pledges and the efforts of the other participants to start implementing their pledges two major shifts occurred. First, some companies stopped engaging in child-directed advertising for their food and beverage products entirely. Second, more better-for-you products were being advertised than before. As more of the participants fully implement their pledges, these positive changes will become even more significant.

Part II of this report provides a short history of the CFBAI and the CFBAI's core principles and requirements. Part III focuses on key areas of the pledges on which the participants had some discretion in formulating their pledges. It provides information about the basis for the nutrition criteria used by the participants, and how they share many common characteristics, even though they differ in their details. This part also explains the definitions of "advertising primarily directed to children under 12," and how the variations among the

¹The CFBAI Director, Elaine D. Kolish, prepared this report and the conclusions contained within are based on her analyses and monitoring she conducted. Ms. Kolish was assisted in this effort by the Program Coordinator, Kayla Villa. Questions or comments on the report can be directed to Ms. Kolish at ekolish@council.bbb.org or 703-247-9382.

²In this report, "child-directed advertising" means "advertising that is primarily directed to children under 12." These terms are used interchangeably throughout.

³See BBB Press Release dated July 18, 2007, available at www.us.bbb.org/advertisers4healthychildren under "More Information."

⁴Six other participants with implementation dates scheduled for January 1, 2008 or later began working on implementing their pledges. One company's pledge was announced in March 2008 so we are not reporting on that participant at this time. The basis for the different implementation schedules for the participants' pledges is discussed below, in Part III, C.

³ConAgra Food's pledge was announced in March 2008 so this report does not include information about its pledge compliance.

definitions the participants use do not appear to result in any significant differences in application. Part III also includes information about the basis for the various implementation schedules that the participants are using.

Part IV contains an overall assessment of the participants' compliance with their pledge obligations and the compliance challenges that we identified and that have been resolved. It also provides a summary of each

participant's pledge, a report on the steps the participant took to implement its pledge and an evaluation of compliance and any issues that may have occurred. For companies with implementation dates after January 1, 2008, we provide a status report on each company's progress to date.

Part V is a report on next steps for the program, and Part VI contains our conclusions.

II. History of the Children's Food and Beverage Advertising Initiative

In November 2006, the BBB launched the new children's food and beverage advertising self-regulation program with 10 leading food and beverage companies that had joined with the BBB to establish the CFBAI.⁵ The goal of the CFBAI is to shift the mix of advertising messaging directed to children under 12 to encourage healthier dietary choices and healthy lifestyles. Accordingly, this program uniquely focuses on the nutritional profile of the food and beverage products featured in advertising primarily directed to children under 12.

On July 18, 2007, the BBB announced the commitments or "pledges" of the then 11 participants at a joint FTC/HHS Forum, "Weighing In: A Check-Up on Marketing, Self-Regulation, and Childhood Obesity."⁶ Since then two additional leading companies have joined the program and the BBB has approved and announced their pledges.⁷ Collectively, at the time the program began the participants represented a substantial portion of child-directed food and beverage advertising. Specifically, they represented at least two-thirds of the television advertising expenditures for food and beverage advertising to children in 2004.

A. BACKGROUND

The program grew out of a February 2006 BBB and National Advertising Review Council (NARC)-initiated review of the Children's Advertising Review Unit (CARU). CARU is a BBB-administered program whose operational policies are set by the NARC board of directors.⁸ Since 1974, CARU has promoted responsible children's advertising. In 1975, CARU issued Guidelines to help advertisers ensure that children's advertising is not deceptive, unfair or inappropriate for its intended audiences. CARU has updated these Guidelines periodically to reflect marketplace and media developments.

This review of CARU's Guidelines, while incorporating and continuing an already initiated review of certain issues, such as advergames, placed a special emphasis on an FTC/HHS recommendation that the BBB and industry determine whether existing advertising self regulation could do more to help address concerns about child-directed advertising and childhood obesity.⁹ The review also considered the recommendations in the December 2005 Institute of Medicine (IOM) report, "Food Marketing To Children and Youth: Threat or Opportunity" (IOM Report). Among other things, IOM recommended that

⁵See BBB Press Release dated Nov. 14, 2006, available at www.us.bbb.org/advertisers4healthychildren under "More Information." A copy of the CFBAI's "Core Principles" document that the BBB issued on November 14, 2006 is attached as Appendix A.

⁶See BBB Press Release dated July 18, 2007, available at www.us.bbb.org/advertisers4healthychildren under "More Information."

⁷See BBB Press Releases dated Sept. 12, 2007 and March 6, 2008, available at www.us.bbb.org/advertisers4healthychildren under "More Information."

⁸NARC is a strategic alliance of the advertising industry and the BBB. The board is composed of key executives from the BBB, the American Association of Advertising Agencies, the American Advertising Federation, and the Association of National Advertisers.

⁹The recommendation emerged from a joint FTC/HHS workshop conducted in July 2005 on "Perspectives on Marketing, Self-Regulation and Childhood Obesity," and a follow up report on the workshop that FTC/HHS jointly issued in April 2006. See <http://ftc.gov/os/2006/05/PerspectivesOnMarketingSelf-Regulation&ChildhoodObesityFTCandHHSReportonJointWorkshop.pdf> at 50-51. Subsequent to the July 2005 workshop the then President and CEO of NARC, James Guthrie, submitted a comment for the FTC record stating, among other things, that NARC would be establishing a task force to examine the CARU guidelines and new forms of digital marketing, the use of licensed characters in advertising, and product placement in children's programming. See Appendix D to the April 2006 FTC/HHS Report.

food and beverage companies shift their child-directed advertising emphasis to foods and beverages that have fewer calories, that are lower in fats, salt and added sugars, and that are higher in nutrient content. IOM also recommended that the food industry work with CARU (and others) to establish and enforce the highest standards for the marketing of foods, beverages and meals to children.¹⁰

This review was, at the BBB's request, led by Joan Z. (Jodie) Bernstein, a former Director of the FTC's Bureau of Consumer Protection and a noted national expert in consumer protection law and policy. More than 40 companies in various sectors that advertise to children participated in the review.

Based on the review, in November 2006, the BBB and NARC decided to update the CARU Guidelines. These updates included additional specific guidance on *how* food and beverages should be portrayed in child-directed advertising.¹¹ In addition, with industry support, the BBB and NARC created a new self-regulatory program, the CFBAI, which would focus exclusively on *what* food and beverage products are the subject of child-directed advertising.¹² The goal of the CFBAI would be to shift the mix of child-directed advertising

messaging so that it would include advertising for better-for-you foods and/or healthy lifestyle messaging at least half the time.

B. THE CFBAI'S CORE PRINCIPLES AND REQUIREMENTS

Under the CFBAI, participants commit to devote at least half of their advertising primarily directed to children under 12 on TV, radio, print and the Internet to better-for-you products and/or to messages that encourage good nutrition or healthy lifestyles.¹³ The CFBAI also requires that, in advertising primarily directed to children under 12, participants commit to the following:

- **Third-Party Licensed Character Use.** Reduce the use of third-party licensed characters in advertising primarily directed to children under 12, unless such advertising is for better-for-you foods or includes healthy lifestyle messaging. (Licensed characters are characters that a company obtains permission to use through a licensing agreement with, for example, a media company or film studio that owns the character. They do not include company-owned characters.)

¹⁰See IOM report at 12 and 382-83.

¹¹The revised CARU Guidelines clarified that children's food advertising should not depict over-consumption (i.e., the quantity being consumed in ads should not exceed the recommended labeled serving size), or discourage or disparage healthy lifestyle or healthy dietary choices. Additionally, the revised Guidelines state that ads that depict a mealtime should show products in the context of a nutritionally balanced meal. The Guidelines already had admonished against depicting snack foods as substitutes for meals. The CARU Guidelines also were expanded to:

- Provide new authorization for CARU to take action on advertising targeted to children that is "unfair," in addition to advertising that is misleading.
- Address specifically "blurring," or advertising that obscures the line between editorial content and advertising messages. A new provision, which applies across all media, prohibits advertising that "blurs the distinction between advertising and program/editorial content in ways that would be misleading to children." (This provision does not apply to the mere presence of a product or character in program or editorial content.)
- Address specifically the use of commercial messages in interactive games, sometimes referred to as "advergaming." The revised Guidelines require that "if an advertiser integrates a commercial message into the content of a game or activity, then the advertiser should make clear, in a manner that will be easily understood by the targeted audience, that it is an advertisement."

The CARU Guidelines can be viewed in their entirety at www.us.bbb.org/caru.

¹²How these two separate, but complementary, children's self-regulation programs work together to promote responsible advertising and healthy diets and lifestyles is explained in a fact sheet that is attached as Appendix B.

¹³The "Internet" includes advertising on third-party sites and company-owned sites that are primarily directed to children under 12.

- **Product Placement.** Cease paying for or actively seeking to place their food and beverage products in editorial/programming content that is primarily directed to children under 12 for the purpose of promoting the sale of those products.
- **Interactive Games.** Incorporate better-for-you foods or include healthy lifestyle messaging in interactive games that integrate a company's food or beverage products.¹⁴
- **Elementary School Advertising.** Stop advertising food and beverage products to children in elementary schools.¹⁵ The CFBAI's limitations do not apply to displays of food and beverage products, charitable fundraising activities, public service messaging, or items provided to school administrators. These activities fall outside the CFBAI's objective of restricting *advertising or commercial sales messages for food and beverage products directed to children* in elementary schools.¹⁶

C. THE CFBAI'S ENFORCEMENT PROVISIONS

By joining the CFBAI, participants agree to BBB oversight and monitoring of compliance with their pledges and to be held accountable for failure to comply with their pledges. The participants agree to submit to the BBB annually reports on compliance with their pledges, and to be subject to independent BBB monitoring of their compliance. The BBB has the discretion to expel from the CFBAI any participant that does not substantially comply with its pledge after giving the company notice and an opportunity to bring its conduct into compliance.

In the CFBAI principles document (see Appendix A), the BBB stated that it would develop procedures regarding expulsion and that it would provide notice of any expulsions to the FTC in appropriate circumstances. These procedures are contained in the BBB's contracts with the participants. The procedures address notice about compliance issues, termination of participation (with or without cause) and referral to a regulatory authority based on a failure to cure substantial noncompliance.¹⁷

¹⁴These games are commonly referred to as "advergaming," and often are part of the content of company-owned websites. This CFBAI provision does not apply to games sold as products by a third party that may include a company's brands through a licensing agreement.

¹⁵The CFBAI is not involved in what products are *sold* in elementary schools. This is determined by the USDA and others. The USDA sets standards and policies for the National School Breakfast and Lunch programs. Additionally, schools or school districts may have policies regarding what types of products may be sold in schools. Finally, the Alliance for a Healthier Generation, a partnership between the William J. Clinton Foundation and the American Heart Association, has entered into Memorandums of Understanding with beverage and food companies regarding the nutritional profile of products that may be sold in schools. See <http://www.healthiergeneration.org/>.

¹⁶The program does not limit the ability of companies to communicate with administrators, school employees, parents or other adults. It also does not restrict participants from engaging in partnerships or arrangements that schools, school-based parent organizations or school booster clubs may seek with them to advance their educational or enrichment goals for the school's students. The CFBAI permits companies to engage in such partnerships or collaborations while at the same time prohibiting participants from promoting the sale of specific or branded food or beverage products in any materials prepared for or directed to elementary school students.

¹⁷Under the contracts, the BBB has committed to give participants at least 30 days prior written notice before termination for cause and 60 days prior written notice for termination without cause. (The participants also have the right to terminate their participation upon prior written notice.) Specifically, when appropriate, the BBB will notify a participant in writing of substantial noncompliance and give the participant a reasonable opportunity to bring its conduct into compliance. Upon termination the BBB may refer the matter to appropriate regulatory authorities. The BBB will give a participant notice prior to making the termination and referral public.

III. The Participants' Pledges

Each of the participants submitted a pledge for the BBB's review and approval.¹⁸ Each pledge stated the specific commitment that the company was making regarding its future child-directed advertising in measured media and on company-owned websites. Each participant also indicated to what extent it would be reducing the use of third-party licensed characters in advertising for food and beverage products. All of the participants also stated what their specific commitment would be regarding interactive games. As required, each participant pledged not to actively seek out or pay for placement of their food or beverage products in the entertainment or editorial content of child-directed media and not to advertise such products to children in elementary schools.

Each participant was required to submit proposed nutritional criteria to define what would constitute a better-for-you product for its company. As discussed below, such criteria are required to be grounded in established scientific and/or government standards. Each participant also was required to explain how it would define advertising primarily directed to children under 12. The definitions reflected, as explained further below, each company's longstanding criteria for defining children's audiences or avoiding such audiences. Finally, each participant submitted a proposed implementation schedule for review.

A. DEFINING BETTER-FOR-YOU PRODUCTS

Under the CFBAI, participants are allowed to use, subject to BBB approval, company-specific nutrition standards to define better-for-you foods as long as their criteria are consistent with established scientific and/or government standards and recommendations.¹⁹ Such standards include, but are not limited to:

- HHS/USDA 2005 Dietary Guidelines for Americans for overall limits on fats, sodium, and sugar, and foods and nutrients recommended for increased consumption.
- FDA standards for "healthy," "low," and "reduced."

Although the participants' criteria differ, they share many common characteristics. For example, the total fat guidelines are all within the recommendations of the Dietary Guidelines, and the sugar criteria are all within generally used and accepted limits. The differences involve exactly how a product qualifies as a better-for-you one. Some base better-for-you status on the contribution of certain nutrients, on whether a particular food group is present, and/or on its nutrient contribution in comparison to a reference product.

The individual pledges and supplemental pledges, which are posted on the CFBAI portion of the BBB's website, www.us.bbb.org/advertisers4healthykids, should be consulted for details and specifics about the criteria used. This is especially important for up-to-date information because from time to time participants change their

criteria to reflect ongoing product reformulation and development efforts.²⁰

A chart summarizing the BBB-approved nutritional criteria the participants are using appears on the following pages.

The BBB-prepared chart covers the major areas that the companies' criteria may cover: calories, fat, saturated fat, trans fat, sodium, sugar, and whether the company has an affirmative requirement for a specific positive nutrient (such as at least 10% DV of calcium), a functional benefit (such as more complete rehydration in circumstances where water may be insufficient), or a food group (such as a half serving of vegetable) for a product to qualify.²¹ The final column indicates whether a company's criteria permits a product to qualify as a better-for-you one if it has at least 25% fewer calories, or 25% less fat, sodium or sugar than a "reference" product (as defined in Food and Drug Administration regulations). In some instances, a company's criteria provides that a product may qualify as better for you either on the grounds that it meets its specific nutrient content requirements and/or is at least 25% reduced on a key nutrient compared to the reference product.

Many pledges set calorie limits that are derived from estimates of an average caloric requirement for sedentary to moderately physically active children. Calorie limits for meals are set at one third or less of the estimated total daily calorie requirement and individual items, such as snacks, at 10% or less.

Many participants set a total fat or saturated fat level that is consistent with the recommendations of the Dietary Guidelines of not more than 35% of calories from total fat and less than 10% of calories from saturated

fat. When a participant has established gram values for the total fat and saturated fat criteria (such as no more than 2 grams of saturated fat or 3 grams total fat), these values are low and the product would likely still meet the recommendations of the Dietary Guidelines of 35% of calories from total fat and less than 10% of calories from saturated fat. In addition, a number of participants do not allow trans fat or include trans fat in the overall saturated fat criteria.

Where fat standards are not established for certain products—for example, some beverages that are lower in calories do not have fat criteria—it is because these types of products either do not contain fat or contain only trace amounts. Therefore no fat criteria are necessary.

In most cases, sodium limits, when specified in pledges, are based on FDA's limits for "healthy" claims or "disclosure" limits,²² or are derived from the recommendation of the Dietary Guidelines to consume less than 2300 mg per day. For some food items, sodium limits are based on a reduction compared to the product category. When sodium limits are not specified, it is generally because sodium is not relevant for the product, for example, some beverages, or because the company chose not to specify a limit. However, in the latter cases, the products contain sodium levels below the relevant FDA requirement for "healthy" or FDA's nutrient disclosure levels.

Participants use various criteria for sugar content limits, for example, no more than 10% or 25% of calories from added sugar, no more than 35% total sugars by weight, or no more than 12 grams of sugar per serving (exclusive of naturally occurring sugars in fruits, vegetables and dairy). The Dietary Guidelines

¹⁸Part IV provides a summary of each participant's specific pledge. The summaries do not repeat the two non-discretionary, identical elements of each participant's pledge regarding product placement and advertising in elementary schools.

¹⁹The BBB also hired two Registered Dietitians as consultants who, when requested, assisted the CFBAI Director in evaluating the participants' nutrition criteria.

²⁰For example, Campbell Soup Company has already informed the BBB that it will submit a new pledge, for its 2009 fiscal year, that reflects its ongoing commitment to reducing the sodium content of its products, particularly soups.

²¹The fact that a company may not include any item in this column as a requirement for a product to qualify does not mean that the product lacks these qualities.

²²FDA requires a company to make a "disclosure" statement calling the consumer's attention to one or more nutrients in a food that may increase the risk of a disease or health condition that is diet related when the company is making a nutrient content claim for the product. The disclosure statement is required when a food contains fat, saturated fat, cholesterol or sodium in excess of specified levels (20% of the Daily Value for those nutrients for individual food products and higher amounts for main dishes and meal products) for the reference amount customarily consumed, per labeled serving, or for foods with small serving sizes, per 50 grams. The disclosure statement identifies the nutrient(s) at issue (e.g., "See nutrition information for sodium content").

BBB Children's Food and Beverage Advertising Initiative: Synopsis of Participants' Nutrition Guidelines

Participants	Calories ¹	Fat	Sat Fat	Trans Fat ²	Sodium	Sugar	Positive Nutrients/ Functional Benefit/ Food Group ³	≥ 25% Reduction vs. Reference Food ⁴
Burger King Kids Meal	≤ 560	< 30% kcal	< 10% kcal	No Added	Not Specified	≤ 10% kcal added	Not Specified	Not Used
Cadbury*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Campbell's Soup	≤ 150	Not Specified	Not Specified	Not Specified	25% less (except tomato soup)	Not Specified	Yes	Yes
Canned Pasta	Not Specified	< 35% kcal	Not Specified	Not Specified	25% less	Not Specified	Yes	Yes
Snack Crackers ⁵	Not Specified	< 35% kcal	< 10% kcal	0	Not Specified	"Modest"	Not Specified	Not Used
Coca-Cola*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ConAgra Foods** Meals	≤ 500	≤ 35% kcal	≤ 10% kcal	Labeled 0	≤ 760 mg	≤ 25% kcal added	Yes	Not Used
Canned Pasta	≤ 350	≤ 35% kcal	≤ 10% kcal	Labeled 0	≤ 750 mg	≤ 25% kcal added	Yes	Not Used
Pudding	≤ 100	≤ 35% kcal	≤ 10% kcal	Labeled 0	≤ 240 mg	≤ 25% kcal added	Not Specified	Not Used
Peanut Butter, Nuts and Seeds	≤ 200	Not Specified	Not Specified	Labeled 0	≤ 480 mg	≤ 25% kcal added	Yes	Not Used
General Mills⁶ FDA "healthy" ⁷	≤ 175 ⁶	≤ 3g	≤ 15% kcal & ≤ 1g	Labeled 0 ⁶	≤ 480 mg	≤ 12g ⁶ (exclusive of f/v/dairy) ^{***}	Yes	Not Used
General Mills Criteria	≤ 175 ⁶	Not Specified	≤ 2g	Labeled 0 ⁶	≤ 230 mg Cereal/snack ≤ 480 mg Side/Main dishes	≤ 12g ⁶ (exclusive of f/v/dairy) ^{***}	Yes	Not Used
Hershey's*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Kellogg Company	≤ 200	Not Specified	≤ 2g	Labeled 0	≤ 230 mg ≤ 460 mg Entrée items/leavening ⁸	≤ 12g (excluding f/v/dairy) ^{***}	Not Specified	Not Used
Kraft** Beverages	≤ 40	Not Specified	Not Specified	Not Specified	Not Specified	≤ 10g added sugar	Yes	Yes
Cereals ⁹	≤ 170	≤ 30% kcal	≤ 10% kcal from sat fat + trans fat	See Sat Fat	≤ 360 mg	≤ 25% kcal added	Yes	Yes

BBB Children's Food and Beverage Advertising Initiative: Synopsis of Participants' Nutrition Guidelines

Participants	Calories ¹	Fat	Sat Fat	Trans Fat ²	Sodium	Sugar	Positive Nutrients/ Functional Benefit/ Food Group ³	≥ 25% Reduction vs. Reference Food ⁴
Kraft** Cookies	≤ 100	≤ 30% kcal	≤ 10% kcal from sat fat + trans fat	See Sat Fat	≤ 290 mg	≤ 25% kcal added	Yes	Yes
Crackers	≤ 100	≤ 30% kcal	≤ 10% kcal from sat fat + trans fat	See Sat Fat	≤ 290 mg	≤ 25% kcal added	Yes	Yes
Convenient Meal Products ¹⁰	≤ 600	≤ 35% kcal	≤ 10% kcal from sat fat + trans fat	See Sat Fat	≤ 910 mg	≤ 25% kcal added	Yes	Yes
Mars*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
McDonald's Kids Meal	≤ 600	≤ 35% kcal	≤ 10% kcal	Not Specified	Not Specified	≤ 35% total by weight	Not Specified	Not Used
PepsiCo. ** Snacks	Not Specified	≤ 35% kcal	≤ 1g	0	≤ 270 mg	≤ 25% kcal added	Yes	Not Used ¹¹
Beverages	Not Specified	≤ 3g	≤ 1g	0	≤ 480 mg	≤ 25% kcal added	Yes	Not Used ¹¹
Unilever Popsicles	≤ 100	Not Specified	≤ 10% kcal from sat fat or ≤ 33% of total fat	< 2% kcal Excluding CLA ¹²	≤ 1.6 mg/kcal or ≤ 100mg/serving	≤ 17g/100g added	Not Specified	Not Used
Peanut Butter	Not Specified	Not Specified	≤ 10% kcal from sat fat or ≤ 33% of total fat	< 2% kcal Excluding CLA ¹²	≤ 1.6 mg/kcal or ≤ 100mg/serving	≤ 25% kcal total or ≤ 7g/100g of added sugars	Not Specified	Not Used

*N/A-Not applicable because these companies are not engaging in child-directed food and beverage product advertising.

**Criteria based only on advertised products, not all categories for which a company may have established nutrition criteria.

***Excluding f/v/dairy means excludes sugars naturally occurring in fruits, vegetables and dairy.

¹Calories and other limits are per serving or meal, as applicable.

²Trans fat occurs naturally in trace amounts in meat and dairy products. "No added" trans fat means no trans fat from non-animal sources. "Labeled 0" trans fat means less than 0.5g trans fatty acids per serving. Under FDA's regulatory scheme, naturally occurring trans fat and added trans fat from partially hydrogenated fat are not distinguished.

³Some guidelines require that a product provide at least a good (10% DV) or excellent (20% DV) source of one or more nutrients, or a functional benefit and/or contain at least a half serving of fruits, vegetables, or fat free or low fat dairy, in addition to meeting limitations on fats, sugars or sodium. In some cases, products may qualify because they contain a full serving of vegetables. See pledges for details.

⁴Instead of meeting specific nutrition criteria, as outlined in the other columns, some products qualify by being "reduced" or at least 25% less in calories, sugar, fats or sodium than a reference food. Some companies subject these foods to additional scrutiny by their nutritionists to qualify and the BBB also carefully reviews the overall nutritional qualities of products that are submitted for approval under this criterion.

⁵A snack cracker can also qualify if it is a portion control pack of 100 calories or less.

⁶Under General Mill's criteria, products must meet either FDA's criteria for "healthy" or General Mills' own guidelines for Healthy Dietary Choices. Although not addressed in FDA's criteria for "healthy," General Mills also applies restrictions on calories, trans fat and sugar.

⁷FDA's definition for "healthy" also requires the following (which are not listed on this chart) 60 mg or less of cholesterol, and at least 10% DV of one of the following: vitamin A, vitamin C, calcium, iron, protein or fiber.

⁸This includes items such as frozen waffles and pancakes.

⁹This guideline is based on cereals with a smaller serving size (30g) as served with a 1/2 cup of fat free milk.

¹⁰The guideline for this category also includes a requirement for no more than 90 mg cholesterol.

¹¹Under PepsiCo's Smart Spot nutrition criteria, products may qualify as Smart Spot if they are "reduced." The PepsiCo products that are currently in child-directed advertising do not, however, rely on the "reduced" criteria to qualify. One product, Baked! Cheetos, meets PepsiCo's affirmative nutrition criteria and is "reduced" compared to the reference product.

¹² FDA excludes conjugated linoleic acid (CLA) from its definition of trans fat.

do not set a sugar limit and there is no Dietary Reference Intake (i.e., Upper Level) for added sugars. However, the IOM does suggest a maximal intake of 25% or less of calories from added sugars based on concerns about a reduction in micronutrient intake. Using 35% total sugars by weight or setting a limit of 12 grams total sugars per serving also are reasonable approaches; these criteria are viewed as acceptable for most products and address concerns about micronutrient dilution when added sugars are more than 25% of calories.²³

A complete list of the products, for the period July 2007 through July 2008, that meet the participants' criteria and that have been or may be in child-directed advertising is attached as Appendix C.

B. DEFINING ADVERTISING PRIMARILY DIRECTED TO CHILDREN UNDER 12

The CFBAI permits participants to specify individually how they will define advertising primarily directed to children under 12.²⁴ The CFBAI did not seek to set a uniform standard because the participants generally had long-

standing corporate policies and procedures defining or guiding how to target or avoid targeting children under 12.²⁵

This issue was, nevertheless, carefully examined. For example, one possible concern was that some programming would be considered child-directed by one advertiser and not by another, leading to ads for only better-for-you products from one participant but ads for another participant's regular products in the same program.

As illustrated in the table below, many of the participants' definitions are tied primarily to audience composition percentages (e.g., only better-for-you foods will be advertised on programming that has at least x% children 2-11 (or K2-11) in the audience). Those audience composition percentages range from 25% to 50%.²⁶ After reviewing the participants' pledges and discussing the definitions each participant proposed to use and their marketing plans, we concluded, however, that there were unlikely to be any significant problems arising from the use of different definitions.

²³Because Nutrition Facts Panels identify only "total" sugar, not "added" sugar, a 35% total sugars by weight standard is viewed as an appropriate surrogate for meeting IOM's suggestion. The requirement that a product not exceed 12 grams of sugar per serving (excluding naturally occurring sugars in dairy, fruits, and vegetables) is based on a way of applying government guidelines to individual foods rather than the entire diet. Using IOM's suggestion that added sugars intake be no more than 25% of calories and applying it to a 2000 calorie diet means no more than 125 grams of added sugar per day. Several reasonable approaches for applying this limit to individual foods support a 12 gram per serving limit. For example, FDA's disclosure requirements for nutrient content claims is based on 20% of the Daily Value per serving; if one conservatively halves that amount to 10% and applies it to the 125 grams added sugars, the result is 12.5 grams per serving.

²⁴In contrast, some other voluntary programs have chosen to establish a definition of advertising directed to children that is based on a 50% minimum audience composition. For example, while very similar to the CFBAI overall, the European Pledge program, announced in December 2007, differs from the CFBAI by setting a definition of advertising primarily directed to children under 12. Specifically, it states that "for the purpose of this initiative, 'advertising to children under 12 years' means advertising to media audiences with a minimum of 50% of children under 12." See www.eu-pledge.eu. Similarly, a pledge program adopted in May 2008 in Thailand also uses a 50% standard. For its program, "advertising to children under 12 years" means advertising that intentionally targets children under 12 and advertising to media audiences with an intended minimum audience of 50% of children under 12. See "Thailand Children's Food and Beverage Advertising Initiative," at www.responsible-advertising.org/news/onenews.php?Lib_ID=2125.

²⁵Many of the participants are also long-time CARU supporters, who are explicitly committed to engaging in responsible and ethical advertising to children. Leading children's advertisers, ad agencies, media outlets and others who are committed to ethical and responsible marketing practices provide annual contributions to support CARU (i.e., CARU supporters). CARU has had few, if any, disputes about what programming and what ads are primarily directed to kids under 12 in its over 30 years of experience dealing with and monitoring child-directed advertising.

²⁶The 50% audience composition standard is often used as a key way to define children's programming. In addition to the EU and Thai pledge programs, discussed above, the FTC has considered shows with at least 50% children as children's shows. See, e.g., "Children's Exposure to TV Advertising in 1977 and 2004" at ES-4 (June 1, 2007) available at www.ftc.gov. Some of the CFBAI participants, however, historically have used a lower percentage and have committed to continuing to do so. Some participants expressly supplement the percentages in their definitions with additional factors (others, as seen in Part IV, below, also do so though their definitions may not expressly state that they do so). Some participants explicitly use a multi-factorial definition like the one that CARU uses to define national advertising primarily directed to children under 12. See CARU Guidelines at Part II, A. I, at www.us.bbb.org/caru.

Participants' Definitions of Advertising Primarily Directed to Children Under 12

Company	Definition ²⁷
Burger King Corp.	For all media: 30% or more of the audience is composed of children under 12.
Cadbury Adams, USA, LLC	For all media: 50% or majority of the audience is composed of children under 12.
Campbell Soup Company	For all media: Audience composition that is approximately two times the proportion of that age group in the general population (composition index of 200 or more).
The Coca-Cola Co.	For all media: 50% or more of the audience is composed of children under 12.
ConAgra Foods, Inc.	For all media: 35% or more of the audience is composed of children under 12.
General Mills, Inc.	For all media: 35% or more of the audience is composed of children under 12.
Hershey Company	For all media: 30% or more of the audience is composed of children under 12.
Kellogg Company	For TV: 50% or more of the audience is composed of children under 12; when 35%-49% of the audience is made up of children under 12 company will review facts and circumstances surrounding the show, and will advertise only products that meet its nutrient criteria if it determines the show is specifically targeted to, or is designed specifically to appeal primarily to children under 12. For Radio or non-Kellogg/third-party internet: 50% or more of the audience is composed of children under 12. For Print: Will not advertise products that do not meet company nutrient criteria in publications that are specifically designed to appeal to, or which are targeted primarily to, children under 12.
Kraft Foods Global, Inc.	For TV and Internet: 35% or more of the audience is composed of children under 12, and, for TV, any program that falls within time periods traditionally regarded as kids viewing time regardless of the size of the child viewing audience. For Print and Radio: Will advertise only those products that meet its <i>Sensible Solution</i> nutrition criteria in publications and on radio directed primarily to children under 12, based on MRI-reported readership data for publications and Radio Disney for radio.
Mars, Inc.	For all media: 25% or more of the audience is composed of children under 12.
McDonald's	For all media: 30% or more of the audience is composed of children under 12; or Media purchased according to Nielsen standard demographics for audiences under 12 for TV and internet.
PepsiCo, Inc.	Based on an analysis of the following factors, no single one of which will be controlling: <ul style="list-style-type: none"> ■ Whether the content of the media is designed for children under 12 ■ Whether the advertised product or service is intended for use by, or is of interest to, children under 12 ■ Where the media in which the advertising appears is promoted and advertised; ■ Available projections, at the time the advertising is placed, of audience demographics; and ■ For television programs, whether they are aired during what is generally understood to be children's programming.
Unilever	Based on an analysis of the following factors, no single one of which will be controlling: <ul style="list-style-type: none"> ■ Whether the specific medium in which the ad is placed is used primarily by children under 12 ■ Whether the ad was intended/created to appeal primarily to children under 12; and ■ For TV ads, whether the ad appears during, or just before or after, a program generally understood to be children's programming, considering the time of day during which the ad appears and the media outlet, or which is counted towards the broadcaster's or cablecaster's Children's Television Act obligations.

²⁷Audience composition figures refer to projected audience at the time the media is purchased.

As explained in Part IV, below, our review of the participants' compliance reports and our independent monitoring did not reveal any significant problems that were attributable to participants' different definitions of advertising primarily directed to children under 12. Nevertheless, this is an issue that we will continue to be sensitive to and to monitor closely.

C. SETTING IMPLEMENTATION SCHEDULES

When the BBB created the CFBAI, it recognized that the participants' ability to make and execute robust commitments would be enhanced if they were permitted some discretion in determining how much time they would have to make necessary changes to implement their pledges. Accordingly, the CFBAI does not impose one specific implementation date or time period for implementation. Instead, the CFBAI requires participants to propose an implementation schedule for each of their commitments under the pledges.²⁸

The varying implementation schedules reflect the different needs of each participant. These needs could include the amount of time it could take to reformulate existing products or create new ones to meet new nutritional guidelines that it might be committing to under its pledge (including testing new or reformulated products), to prepare and place new advertising, and to withdraw, as needed, existing advertising or to let already-placed advertising or other commitments run their course. The amount of time a company proposed also could be affected by whether it had many or only a few products that it advertised to children and/or the extent of the effort necessary for its products to meet committed-to nutritional guidelines.

The CFBAI's director discussed with each participant its proposed implementation schedule to determine the basis for it. The longer implementation schedules generally reflect that a company's pledge requires it to engage in significant new product development or product reformulation. The specific implementation schedules can be found in the pledge summaries in Part IV, C and D, below.

IV. Pledge Compliance Evaluation

To assess participants' compliance the BBB used a combination of independent monitoring and in-depth review of detailed reports each participant submitted. This section explains more specifically how the BBB assessed participants' compliance with their pledges, provides a compliance overview, and reports on each participant's status in meeting its pledge obligations or in preparing to meet its future obligations.

A. METHODOLOGY

During the period July through December 2007, six companies were scheduled to complete implementation of their pledges and another six partially implemented their pledges or began preparing for implementation. The BBB asked each participant to submit a detailed report on its initial compliance activities or on the steps it had taken to ensure compliance when its future implementation date became effective, as appropriate.²⁹

All of the participants submitted comprehensive reports that responded to the BBB's requests. They generally included extensive documentation regarding what products they had advertised to children under 12 and where those ads had run. Others provided detailed summaries, and offered more information upon request. All of the participants cooperatively responded to requests for clarification and supplemented their reports, as requested. As needed, the participants also made their internal or outside media buyers available to validate and/or explain data that had been provided.

The BBB also independently assessed compliance by monitoring company-owned, child-directed websites and by reviewing samples of advertising primarily directed to children under 12 (sometimes, as noted earlier, also referred to as "advertising 'targeting' or 'directed' to children under 12" or "child-directed advertising"). Our monitoring plan also included review and follow up on any inquiries we might receive from the public. We had invited members of the public and interested parties to submit questions or comments to us about possible concerns or breaches.³⁰ The BBB received no complaints from members of the public regarding pledge compliance for the July through December 2007 period.³¹ We did, however, follow up with companies regarding press stories that possibly related to pledge obligations to determine whether there were any breaches, and concluded there were none. All participants diligently provided information to respond to issues that we flagged through our monitoring.

1. Participant-Submitted Compliance Reports

The BBB asked the participants to report, for the period July through December 2007, on whether and how they had met their pledge commitments for pledges that were or became effective during this period. For participants whose pledges were to become effective after December 31, 2008, we asked the companies to report on what steps they had taken to prepare for compliance and on any progress they may have made in achieving compliance.

²⁸For example, a participant might need a longer period of time to implement a commitment to advertise only better-for-you foods to children in measured media than it needs to stop engaging in new product placements in child-directed program/editorial content.

²⁹ConAgra Foods joined the CFBAI in the fall of 2007 and the BBB announced that it had approved ConAgra's pledge in March 2008. Accordingly, we did not ask it to submit a report for the 2007 period.

³⁰The public is welcome to send comments directly to the program director at ekolish@council.bbb.org, or to the program's general inquiry email box, kidsinitiative@council.bbb.org. These addresses were publicized on the BBB's website and in numerous presentations about the program.

³¹We received a number of inquiries, mostly from academics and members of the media, requesting additional information about the program. The other messages generally were not relevant to the program.

Specifically, we asked the participants to do the following:

- State how the company's pledge obligations were communicated to relevant company personnel and outside partners, vendors and agencies, such as media buyers, as applicable
- Identify which products, if any, that they had featured in advertising in measured media (TV, radio, print, third-party Internet sites) and on company-owned websites that were primarily directed to children under 12 in accordance with their pledge definition of this term³²
- Provide documents or information sufficient to show that only products meeting their pledge-approved nutrition criteria were featured in advertising primarily directed to children under 12 or that no advertising primarily directed to children under 12 was conducted³³
- Identify any discrepancies between their commitment and actual advertising
- Provide a dissemination schedule or other information showing where each product was advertised
- Provide representative copies of ads
- Identify what steps they had taken to reduce or limit the use of third-party licensed characters in child-directed advertising as specified in their pledges
- Identify what child-directed interactive games incorporated the company's food or beverage products, and whether the games included, or were accompanied by, pledge-approved products and/or

healthy lifestyle messaging, as specified in their pledges

- Describe how and when they implemented their commitments not to engage in product placement of their food or beverage products in the program or editorial content of any child-directed media (e.g., movies and television programs)
- Describe how and when they implemented their commitments not to advertise their food and beverage products to children in elementary schools³⁴
- State whether they had received any complaints concerning compliance with their pledge and, if so, a description of the complaint and how it was resolved. (Each company listed a contact in its pledge, including an email address and/or a telephone number that members of the public could use.)

2. BBB-Conducted Monitoring

The BBB independently assessed measured media by examining samples of advertising primarily directed to children under 12 from television programming, print publications, and third-party websites. We also comprehensively monitored the companies' child-directed websites. During 2007 our monitoring did not include radio and focused instead on other media, particularly television, which is the dominant media used to advertise to children.³⁵ Our 2008 monitoring includes radio.

For television advertising we relied on three sources to assess compliance. First, BBB staff directly monitored advertising on children's programming periodically. Second, we reviewed the results of monitoring that CARU independently conducts on an ongoing basis. Third, we reviewed a random sample of advertising on programming popular with children during 2007 that we obtained from The Nielsen Company.

For magazines we reviewed a sample of 24 issues of nine different children's publications distributed between July and December 2007. The sample we reviewed was drawn from a list of magazine titles we assembled that includes the magazines that CARU historically has monitored, all of the magazines individual companies stated they used for children's advertising, and our own research into magazines targeted to children. We also assembled an extensive list of third-party websites directed at children under 12 based on media and research reports, and periodically monitored sites on this list.³⁶ Finally, we reviewed the participants' own sites, and monitored extensively the ones that are primarily directed to children under 12.³⁷ A list of company-owned websites that are primarily directed to children under 12 is included in this Report as Appendix D.

This year we relied on academic and media reports as an independent back-up to information the participants provided regarding their in-elementary school advertising activities and covered product placement activities. We are looking into supplementing our monitoring of product

placements through an independent media service in the future. To our knowledge there are no reliable independent monitoring sources for in-school marketing. We are, however, considering ways to disseminate information about the CFBAI to parents and elementary schools. By educating the elementary school community about the program, we can raise awareness about the CFBAI and potentially create a helpful feedback mechanism.³⁸

B. ASSESSMENT

This assessment is based on the implementation period that directly followed the BBB's announcement of the participants' pledges. Our expectation was that compliance would be excellent as the companies voluntarily founded and were embracing the program. At the same time, we anticipated that there would be start-up issues and difficulties that occur whenever a new program is launched.

Based on our extensive review of the companies' reports and accompanying documentation, and our own monitoring, we have concluded that the six companies that implemented their pledges last year were substantially in compliance with their pledges. In all instances where the BBB or the participant flagged an issue, appropriate steps were taken to remedy the situation. Our review also indicates that all of the participants with future implementation dates achieved a considerable degree of compliance with their pledge commitments ahead of schedule.

³²The request asked the participants to include in their responses information on any child-directed advertising disseminated in the United States in any foreign language, not just English. No such foreign language advertising was reported.

³³We also asked the participants to explain and/or document the basis for their determinations about what advertising was primarily directed to children under 12.

³⁴See Part II, C, above, for a description of the activities that are excluded from the program's restrictions on advertising in elementary schools.

³⁵It is generally agreed that Radio Disney is the only radio programming primarily directed to children under 12.

³⁶During 2008, based on further research, we have been expanding our monitoring to include additional publications and third-party websites.

³⁷To determine whether a company-owned website was directed primarily to children under 12 we assessed the net impression of the site, including the overall effect of the content, language, graphics, pictures, games, and limitations on activities (i.e., did the user have to be over 13 to participate). We also considered, as a key factor, whether there was any child-directed advertising for the participant's products or the website itself that would drive children under 12 to the site. We do not consider the use of animation, cartoon characters, licensed characters, or fantasy as features that inherently make a site a child-directed one because these same features are routinely used in websites that are directed to teens and adults. Similarly, the inclusion of games, even seemingly simple ones, does not in our view necessarily make a site a child-directed one. Where we had questions regarding the possible target audience for a site we solicited further information from the company, including registration or third-party data, if it was available. Occasionally we also consulted with CARU to solicit its opinion regarding the target audience of certain sites. We recognize that sites that are not directed to children under 12 may sometimes attract younger visitors but such occurrences do not mean they are the target audience for the site.

³⁸See also n. 85, below, regarding current program awareness levels among Moms of school-age children.

Our review did not indicate any compliance issues with advertising on television, which represented the vast majority of the advertising that was conducted. As explained below and in the company-specific sections, there were some initial implementation issues, primarily on child-directed company-owned websites, most of which were self-reported by the participants. In no instance did we find or conclude that there were willful or egregious breaches.

The reports show that all of the participants engaged in extensive efforts to educate and/or train company staff and outside partners on their pledge obligations, and thereby embed adherence to their pledges into the companies' business procedures and processes. The compliance reporting process allowed participants to determine the success of their educational efforts and/or whether further refinements were needed to perfect their compliance procedures, and to identify areas needing further attention.

The companies' reports and the BBB's monitoring identified some compliance issues, primarily involving a small amount of content on company-owned websites directed to children, "equity" advertising issues that we attribute to understandable confusion regarding how to interpret and apply pledge commitments, and technical reporting issues.³⁹

- **Company-owned websites primarily directed to children under 12.** The companies reported or the BBB found that, in a handful of instances, some companies did not timely remove all displays of all products that did not meet their nutrition criteria (i.e., non-qualifying products), references to non-qualifying products or links to ads for non-qualifying products that had aired on television prior to their pledge implementation date. These sites are very extensive and dense with content and completely eliminating non-qualifying

products and references was a complex, challenging task. The requirement to report on compliance generally allowed the participants to self-identify where additional scrubbing was needed and to tighten further their website compliance procedures.

- **"Equity" advertising.** This issue concerned the use of logos for brand or product lines that include both SKUs that meet and do not meet the participant's nutrition criteria and primarily occurred through their appearance on child-directed company-owned website pages outside the specific product promotion context.
- **Technical reporting issues.** In implementing or preparing to implement their pledges, the BBB discovered or the companies learned that, on some occasions, products were advertised to children that had not been submitted to the BBB for review in advance. We concluded this was a technical, not a substantive, issue because the advertising itself had been limited properly to products that met the company's previously-approved nutrition criteria. The companies responded by tightening up their reporting controls and/or engaging in additional training.

Nothing in the compliance reports suggested there was any reason to question or to be concerned about adherence to pledge commitments on in-school advertising or product placements. For example, many of the companies voluntarily provided information regarding product placements for movies that had premiered during the reporting period, but had been arranged before they had joined the CFBAI or before their pledge implementation dates. Some also provided data on product placements to show that their placement was or is not on media primarily directed to children under 12.

Additionally, only one company reported receiving, during the reporting period, complaints from members of the public about its pledge commitment. We had reviewed the situation that was the subject of the complaint with the company and had concluded it did not involve a breach of the pledge.⁴⁰

Part C reports on the following six companies that completed implementation during this period:

- Campbell Soup Company
- Coca-Cola Company
- Hershey's
- Kraft Foods Global, Inc.
- Mars
- Unilever

Part D reports on the steps that six other participants took to prepare for full implementation of their pledges and how, in some instances, they implemented portions of their pledges. The companies covered in this part of the report are:

- Burger King Corp.
- Cadbury Adams
- General Mills Inc.
- Kellogg Company
- McDonald's USA, LLC
- PepsiCo, Inc.

C. COMPANIES THAT IMPLEMENTED THEIR PLEDGES BETWEEN JULY AND DECEMBER 2007

This group of six companies includes two companies that were reaffirming prior individual corporate commitments regarding advertising to children and now were committing to independent third-party oversight of those commitments (Coca-Cola and Kraft). This group also includes two companies (Hershey's and Mars) that had completed or begun implementing their

commitments in 2007, even before they were announced publicly on July 18, 2007 at the FTC/HHS Forum, "Weighing In: A Check-Up on Marketing Self-Regulation and Childhood Obesity." Finally, two companies (Campbell Soup and Unilever) began and completed implementation of their pledges in the second half of 2007.

As noted, the compliance reporting process proved extremely useful both in testing how well the company's pledge plans had been implemented and in identifying areas where there were misunderstandings about what was required. For example, in some instances the compliance reporting process identified technical problems with timely submission of supplemental pledges to maintain with the BBB an up-to-date list of approved products. These problems have been remedied.

These companies met or substantially met their obligations under their pledges. In no instance did we find willful or egregious problems. Instead, the issues related more to transition difficulties and confusion about the interpretation and application of principles and commitments to advertising.

As explained further in the company-specific pages, two companies acknowledged in their reports that some mistakes had occurred in implementing their pledges. The BBB's review of the reports also identified some additional areas that needed addressing. This resulted in compliance obligations being more thoroughly understood and in further changes to procedures and advertising to try to avoid future problems and ensure complete compliance.

Finally, the BBB's independent monitoring of advertising on television found some instances where it facially appeared that non-approved products had appeared on child-directed television programming (as defined by each participant). We comprehensively followed up with each of the relevant companies and

³⁹These issues arose in both groups: participants that fully implemented last year and those that have been implementing since then. For the latter group, the reports and monitoring allowed us to detect and address issues now, rather than after the receipt of 2009 reports on compliance during 2008.

⁴⁰See Part D, 5, below.

concluded that there were not, in fact, any compliance issues. We learned that there were two primary reasons accounting for these issues: unpredictable variations in audience demographics between time of purchase and time of airing, and insufficiently detailed product coding.

In conducting the follow-up, one challenge we faced in reconciling data revolved around the fact that we looked at ad occurrences retrospectively, based on programs with a certain average percentage of children ages 2-11, *at time of airing*, while the participants bought media on a different basis. Specifically, the participants generally bought media based on audience composition at *time of purchase* (based on historical data) for a “run of schedule” (ROS) for particular *dayparts*, e.g., 10 pm to 4 am, Monday-Friday, not particular programs. Buying media on a ROS basis is commonplace, as is making decisions based on audience composition at time of purchase, which the CFBAI principles expressly acknowledged (see Appendix A). Nevertheless, for each company we successfully matched up all or a significant sample of the data.

For several companies, for a handful of ads, we found that a particular program within a daypart had obtained a higher than normal K2-11 audience, at the time of airing, than that daypart as a whole was expected to generate at the time it was purchased. For example, at time of purchase, the average K2-11 audience composition in a particular daypart on a particular network may have been 18%, but unexpectedly was much higher on a particular program on which the ad appeared within the daypart at the time of airing.⁴¹ The particular K2-11 audience compositions at that point in time then fell into several participants’ definition of advertising primarily directed to children. Because the participants had reasonably relied on audience composition based on information at time of purchase to direct ads to teen or adult audiences, not children 2-11, and the actual audience at time of airing was not a result of inadequate media buying controls, we concluded that these were just unavoidable occurrences and not breaches of any pledge.⁴²

In other instances, we determined that, for several products, the product coding was not sufficiently detailed and thus it erroneously appeared some non-approved products were advertised.

⁴¹The media plan may have been, for example, to purchase time on a particular daypart because that daypart delivered the “rating” that the advertiser wanted (i.e., the percentage of a particular demographic, such as women 25-54 or young men 18-24, watching was high).

⁴²We also viewed the ads and based on our review of the creatives (e.g., the product, actors, graphics and messaging used), concluded that they were not child-directed ads.

1. Campbell Soup Company

Pledge Summary⁴³

- Committed that 100% of advertising in measured media and on company-owned websites primarily directed to children under 12 would be for better-for-you foods
 - Adopted new nutritional criteria for “sound” food choices (i.e., better-for-you products)
- Committed to limit use of Licensed Characters in advertising to sound food choices
- Committed that interactive games primarily for children that include a depiction of a food or beverage product variety or product packaging for a product variety would depict only sound food choices⁴⁴

Implementation Date

- August 2007⁴⁵

Implementation Actions

To educate all necessary staff on its obligations under the pledge, Campbell reported that it held briefing sessions with and provided materials to appropriate advertising and marketing personnel of Pepperidge Farm, the Campbell USA division that is responsible for marketing soups and pasta, the North American Food Service business that has responsibility for the marketing and sale of products to schools, and its Advertising Services department. It also briefed its ad agency and the media buying agency for Campbell USA and Pepperidge Farm. Campbell also reported that it conducts legal

and policy training to ensure compliance. In addition to the regular legal review conducted by trained staff for all Campbell and Pepperidge Farm advertising, Campbell subjects all advertising to children under 12 to review by senior executives who are familiar with the pledge.

Evaluation

Based on our review of its compliance report and our own monitoring, we concluded that Campbell worked diligently and responsibly to implement its pledge and was substantially successful. Campbell’s follow-up on the few issues that the BBB identified in print and online media was prompt and responsive.

Measured and Online Media, Including Company-Owned Websites. Campbell’s advertising in measured media met its pledge obligations with the following exceptions noted below.

In print advertising, which was not extensive, and in online media (company-owned and third-party websites) the BBB’s review revealed that there was confusion concerning “equity” advertising and the use of the brand logo for Pepperidge Farm Goldfish crackers, which is a product line that includes both products that meet and do not meet its sound food choice criteria. In the company’s view, this equity advertising was permissible and was consistent with the language of its pledge commitment because it only showed the brand logo and did not explicitly promote a product or depict product packaging. In the BBB’s view, because this logo-only advertising did not explicitly identify a sound food choice

⁴³For complete information on this pledge see www.us.bbb.org/advertisers4healthykidscampbell.

⁴⁴As noted previously, all of the pledge summaries are limited to items on which the participants had some discretion. We do not repeat in the individual pledge summaries two nondiscretionary provisions that are included in every pledge: (i) committing not to pay for or actively seek out placing their food or beverage products in the program/editorial content of any medium primarily directed to children under 12 for the purpose of promoting the sale of those products and (ii) committing not to advertise their food or beverage products in elementary schools.

⁴⁵The Campbell’s pledge was for its 2007-2008 fiscal year. Campbell has informed the BBB that it will submit a new pledge for its 2009 and following fiscal years that will include updated nutritional standards for soups. This reflects its ongoing commitment to formulating nutritionally sound products and, in particular, to reducing the sodium content of soups. It has stated that it anticipates that, by January 2009, all or many of the soups that it advertises to children will meet FDA’s “healthy” standard.

variety, it could be construed as advertising for all varieties of Pepperidge Farm Goldfish crackers, both those that meet Campbell's sound food choice criteria and those few varieties that do not. Therefore, we advised that such open ended logo-only advertising should not be used in the future.⁴⁶

We have concluded that there was a mutual misunderstanding of what the pledge language would allow or disallow *in practice*. The compliance report and review of actual advertising allowed us to identify and address this misunderstanding. Specifically, Campbell has agreed to revise its advertising going forward to take the BBB position into account.

Campbell reported that it discovered that certain pre-existing ads and product depictions shown on Campbell's child-directed websites, myslurp.com and pfgoldfish.com, had not been timely removed during its initial pledge implementation period. It reported that it corrected three oversights on pfgoldfish.com and myslurp.com, described below, immediately upon their discovery. First, it found that it had inadvertently failed to remove two commercials showing a package of Goldfish Flavor Blasted crackers from the episodes available for viewing on the Goldfish

Films area of "Goldfish Central" on the pfgoldfish.com site. These cracker varieties did not qualify as sound food choices at that time,⁴⁷ and the commercials were removed from the site. Second, it reported that it found and removed package images of a handful of products that do not qualify as sound food choices that were included in a myslurp.com "shopping list" activity. Third, it removed references to non-qualifying products from an interactive feature called "personality profile" on myslurp.com. This activity involved choosing a particular soup as your favorite and then receiving a horoscope-like report speculating on your personality and including suggestions that you might like certain other products (including products that do not qualify as sound food choices).

In addition, the BBB informed Campbell that two page views of the "Rule the Park" sweepstakes on the myslurp.com website included a picture of a can of Chicken Noodle Soup. This product does not currently meet its sound food choice criteria (the site also includes depictions of qualifying products, 25% Less Sodium Chicken Noodle Soup and SpagettiOs pasta). This promotion has now ended.

In discussing these issues with Campbell, we concluded that they occurred even though the company was acting in good faith to ensure complete compliance. Campbell now has remedied these issues and we are confident that going forward it will be even more rigorous in preventing products that do not qualify as sound food choices from being featured in advertising directed to children under 12.

Licensed Character Use. Campbell reported that it used third-party licensed characters on some soups and canned pasta products that are positioned as appropriate for children. Although these products would qualify as sound food choices, it did not engage in advertising primarily directed to children under 12 for these products during the reporting period.

Interactive Games. As noted above, Campbell reported that it revised a shopping list activity on myslurp.com to bring it into conformance with its pledge.

Product Placement. Campbell voluntarily disclosed information about product placement in a movie that was arranged before it had joined the CFBAI. It stated that it had sought to reach women ages 25-54 in the movie "Alvin and the Chipmunks." Recognizing on its release that this movie was perceived as being particularly appealing to children under 12, it has now directed its agency to place products only against adult properties and to avoid any that may be perceived as being primarily directed to an audience of children under 12. Additionally, it has discontinued entirely all product placement activity for the Goldfish brand as the brand focus is on providing wholesome snacks for children. We commend Campbell for its initiative in this area and for going beyond what is required by the CFBAI or its pledge.

Advertising in Elementary Schools. Campbell reported that its compliance review audit resulted in the removal of a small number of branded promotional items from its inventory for distribution to school foodservice personnel.

⁴⁶We do not have the same view regarding the use simply of Goldfish characters (e.g., Finn, Brooke, Xtreme, Gilbert and Swimmington) in advertising. Although these characters may have some mild association with various flavors of Goldfish, including ones that do not currently meet Campbell's sound food choice criteria, we do not believe their presence in an ad (for example, the various characters often engage in a playful scenario together) *that is otherwise explicitly for a sound food choice* such as Baked Cheddar Goldfish or Whole Grain Goldfish as constituting advertising for the other flavors too. Similarly, we do not view the use of the name "Goldfish Central" on the pfgoldfish.com site, or in online advertising which links to the site, by itself as constituting advertising for all varieties of Goldfish.

⁴⁷Campbell recently submitted and the BBB approved a supplemental pledge for these crackers, which now qualify as sound food choices because their fat content has been reduced.

2. The Coca-Cola Company

Pledge Summary⁴⁸

- Committed to not advertising any products in measured media primarily directed to children under 12

Implementation Date

- Pre-2007

Implementation Actions

The company reported that it engaged in extensive efforts to communicate its pledge obligations to all relevant employees, agents and key bottlers. It disseminated information about its pledge commitment to its internal associates, external bottling partners and its media agencies through executive memos, online newsletter posts, emails and a morning message that was on the log-on desktop of its associates. It also communicated its commitment via employee town hall meeting, voice mail and meetings with bottlers.

Evaluation

Based on our review of Coca-Cola's report and our independent monitoring, we have concluded that the company has met its pledge obligations.

Measured and Online Media. The company primarily uses a 50% K2-11 audience composition benchmark at time of purchase to determine what media is primarily directed to children under 12 so it can avoid placing advertising in that media. However, the company went beyond the 50% metric in its pledge and avoided entire networks (e.g., Radio Disney) that skew primarily to K2-11, even though it is possible that certain programs or dayparts may not meet its 50% benchmark. It also worked with its media buying agencies to ensure that it did not purchase space in publications or on digital media (e.g., games, banners) specifically targeted to K2-11. The company also does not maintain any websites that are primarily directed to children under 12.

The Coca-Cola Company voluntarily reported data on its review of television audience data at time of *airing*, which it was not obligated to provide.⁴⁹ Based on this review, it reported that an extremely small number of ads, especially compared to the number of ads it runs, occurred on programs or dayparts that, at the time of airing, but not at the time of purchase, had a K2-11 audience composition greater than 50%.

We carefully examined and discussed the specific data Coca-Cola obtained regarding these ad airings and concluded that they were aberrations outside its control or its media buyer's control and do not reflect inadequate media buying procedures or safeguards. Based on our review of the data, the variations in demographics from time of purchase and airing did not appear to be predictable or avoidable. Specifically, the ad airings were spread out over various brands, networks and programs/dayparts and generally involved only one out of many paid-for or bonus airings on a particular program or daypart. For example, in one instance Coca-Cola purchased two units on a program that had a K2-11 composition of 17% at the time of purchase. The network provided the company with ten bonus units within the program and one of those units achieved an actual K2-11 composition of just over 50%. Accordingly, because the company carefully considered audience demographics at the time of its media purchases to select venues that did not have more than 50% K2-11 composition, we have concluded that it has met its pledge obligations.

Product Placement. The company reported that it did not feature any products within the editorial content of any medium primarily directed to children under 12.

Advertising in Elementary Schools. The company reported that it did not advertise its products in elementary schools.⁵⁰

3. Hershey Company

Pledge Summary⁵¹

- Committed to not advertise any products in measured media primarily directed to children under 12

Implementation Date

- January 1, 2007

Implementation Actions

The company reported that its Global Marketing Principles incorporate the CFBAI pledge, and the company disseminated its Global Marketing Principles to all media planning and buying personnel. It also published them on the company's corporate website. Additionally, the company charged its multi-discipline Communications/Advertising Review Board, which reviews all advertising and communications materials prior to distribution, with ensuring compliance with its pledge and Global Marketing Principles, as well as legal and regulatory requirements.

Evaluation

Based on our review of the company's report and our own monitoring, we have concluded that Hershey has met its pledge obligations.

Measured and Online Media, Including Company-Owned Websites. Our extensive review of the media plans the company submitted for 2007 for all the brands it advertised indicates that it had not placed advertising in media (TV, radio, print or third-party websites) primarily directed to children. We also confirmed that the company does not maintain any websites primarily directed to children under 12.⁵²

Product Placement. The company reported that it had a pre-existing policy of not actively seeking out or participating in paid product placement in media primarily directed to children under 12, and that it has continued this policy.

Advertising in Elementary Schools. Hershey reported that it did not engage in any advertising of its products in elementary schools. The company does make available to school and recreation center coaches a teaching kit that provides a way to present fundamental skills in track and field in a fun way. This kit also includes, for children, baseball-like cards with pictures of famous athletes and tips from them on how to excel in a sport. The kit materials contain the name of the program, "Hershey's Fast Track to Sports," but they do not advertise any products.

⁴⁸For complete information on this pledge see www.us.bbb.org/advertisers4healthykidscoca-cola.

⁴⁹As noted previously, the CFBAI's principles document refers to the assessment of media impressions at the time the advertising is purchased.

⁵⁰The company also noted that it uses the American Beverage Association's School Beverage Guidelines to guide the beverage choices that it offers in elementary, middle and high schools.

⁵¹For complete information on this pledge see www.us.bbb.org/advertisers4healthykidshershey.

⁵²The company revised its website in 2006 and eliminated child-directed interactive games.

4. Kraft Foods Global, Inc.

Pledge Summary⁵³

- Committed that 100% of advertising in measured media and on company-owned websites primarily directed to children under 12 would be for better-for-you foods
 - Using its “*Sensible Solution*” nutrition criteria as basis for its better-for-you foods
- Committed to limit use of Licensed Characters in advertising to *Sensible Solution* food and beverage products
- Committed that interactive games primarily for children would depict only *Sensible Solution* products

Implementation Date

- Pre-2007

Implementation Actions

Kraft reported that it communicated its pledge obligations to its business units, Corporate Affairs department and Legal Department, including Sector Counsel, who are the attorneys most closely involved with the business units, through presentations, meetings, memos and emails. It also briefed its media buying agency and other external partners on its pledge requirements. Additionally, Kraft charged its existing Copy Review Boards (which include, among others, Sector Counsel and a Corporate Affairs representative), with ensuring that advertising complies with its pledge.

Evaluation

Based on our review of Kraft’s compliance report and our own monitoring, we have concluded that Kraft has met its pledge obligations.⁵⁴

Measured and Online Media, Including Company-Owned Websites. Kraft’s report and accompanying documentation showed that its child-directed advertising was limited to *Sensible Solution* products (i.e., when the programming or daypart had more than 35% children under 12, or was a *traditional* kids viewing time, as designated by the media provider, it advertised only *Sensible Solution* products). Its strict adherence to its pledge meant that if the network *sold or designated a daypart as a kids slot*, whether or not it is a time of day that is likely to command a significant child audience (e.g., M-Su 12a-3a on The N), it limited its advertising to *Sensible Solution* products.

Licensed Characters. Kraft limited its use of third-party licensed characters in advertising to children to *Sensible Solution* products (e.g., Spiderman on *Cheese Nips* crackers). Kraft explained that although it may use licensed characters for products other than *Sensible Solution* ones for short term promotions, all child-directed advertising of such promotions may only feature *Sensible Solution* products. Long-term use of Licensed Characters is also always limited to *Sensible Solution* products.⁵⁵

Interactive Games. Two Kraft child-directed websites included interactive games during the reporting period (lunchables.com and postopia.com). Many, but not all, of the games on the sites featured a food or beverage product or showed one incidentally. In accordance with its pledge, the products used in the games were *Sensible Solution* products. Additionally, Kraft’s games featured an introductory sequence that promoted physical activity. Kraft also placed an advergame on a third-party child-directed website, and this game featured Spiderman *Cheese Nips*, a *Sensible Solution* and pledge-approved product.

Product Placement. Kraft reported that it did not pay for or actively seek out any product placement in the program/editorial content of any child-directed medium.

Advertising in Elementary Schools. Kraft reported that it did not conduct any advertising of its food or beverage products in elementary schools.

⁵³For complete information on this pledge see www.us.bbb.org/advertisers4healthykidskraft.

⁵⁴We identified one minor, non-substantive issue concerning the submission of a supplemental pledge to reflect a product that it had begun advertising to children in 2008. Kraft’s existing procedures ensured that the product met its *Sensible Solution* criteria, but it had inadvertently overlooked updating its pledge paperwork to keep the BBB’s list of approved products up to date. It has tightened its reporting procedures at the brand level further to ensure timely reporting of changes to its approved product list.

⁵⁵Kraft also reported that, although not a pledge requirement, it does not license characters primarily intended for children under six years old.

5. Mars

Pledge Summary⁵⁶

- Committed to not advertise “traditional candy and snack”⁵⁷ products in measured media and on company-owned websites primarily directed to children under 12
- Committed that any advertising, including on company-owned sites directed to children under 12 or with content developed for children under 12, would be limited to better-for-you snacks
 - Provided nutrition criteria defining “better-for-you” snacks

Implementation Date

- March 31, 2007 for measured media
- June 30, 2007 for interactive games originally designed for children under 12

Implementation Actions

The company reported that it advised relevant associates and advertising and promotional staff of its pledge obligations and it required that they participate in a teleconference training session. Mars also has a review committee that evaluates snackfood and candy advertising for adherence to its pledge.

Evaluation

Based on our review of Mars’ compliance report and our own monitoring, we have concluded that Mars has met its pledge obligations.

Measured and Online Media, Including Company-Owned Websites. Mars did not engage in advertising for its “traditional candy and snackfood” products in venues that offered child-oriented content as well

as in venues where more than 25% of the anticipated audience at the time of the media buy was expected to include children under 12. As permitted by the terms of the pledge, Mars advertised a line of better-for-you snacks. This advertising occurred exclusively online on its KIDDITITS® website, which included content intended to appeal to children over age 6. It took this website down on August 30, 2007.⁵⁸

The company also reported that during the reporting period it had eliminated the “MINIS Zone” from the M&M’S® website because the MINIS® characters, a new set of characters separate from the M&M’S® characters, were developed to appeal to children 6 and older (in contrast, Mars stated the original M&M’S® characters were designed to appeal to adults).

Interactive Games. In addition to eliminating the KIDDITITS® site, which included games, and the “MINIS Zone,” Mars reported that it removed several interactive games from the Skittles® website that were developed originally to appeal to audiences including children under 12.

Product Placement. The company reported that it did not engage in any product placement in child-directed programs/editorial content, with the exception of a contract that pre-dated membership in the CFBAI. Specifically, Mars stated that a child-directed movie released in November 2007 contained a Mars product placement as a result of pre-pledge agreement.

Advertising in Elementary Schools. Mars reported that it did not conduct any advertising of its food or beverage products in elementary schools.

6. Unilever

Pledge Summary⁵⁹

- Committed that 100% of advertising primarily directed to children under 12 would be for better-for-you foods⁶⁰
- Using its “Eat Smart, Drink Smart” nutrition criteria as basis for its better-for-you foods
- Committed that company-owned websites directed to children under 12 will only feature products that are eligible for its Eat Smart, Drink Smart logo
- Committed to limit use of Licensed Characters in advertising to products that are eligible for its Eat Smart, Drink Smart logo
- Committed that interactive games primarily for children would depict only logo-qualifying products

Implementation Date

- October 15, 2007

Implementation Actions

Unilever reported that its Law Department provided written guidance to relevant staff throughout the company explaining the requirements of its pledge (and its Global Marketing Principles, which form the basis for its pledge). It also directed that the relevant brand managers designate a person to be responsible for pledge implementation for the brand and for submitting any required reports. Unilever further reported that its Director of Media Buying briefed the company’s outside media buying agency with regard to Unilever’s Pledge commitments. Additionally, it reported that the Law Department reviewed all

advertising and promotional activity prior to dissemination to ensure compliance with the pledge and applicable laws and regulations.

Evaluation

Based on our review of the company’s compliance report and our own monitoring, we have concluded that the company fulfilled its pledge obligations, with two minor exceptions.

Measured and Online Media, Including Company-Owned Websites. In our monitoring we found that when it revised www.popsicle.com, a child-directed website, the company overlooked two non-logo qualifying products. Based on our discussions with Unilever representatives, we believe this was an inadvertent and minor oversight. This website contains many products and other non-qualifying products were removed in accordance with the pledge. Unilever has removed the non-qualifying products and reported that it has tightened its procedures further to ensure that non-qualifying products are not permitted on any child-directed site in the future.

Interactive Games. Unilever reported that it removed all non-logo qualifying foods on interactive games from its popsicle.com website in September 2007. Its other child-directed website, www.skippypeanutbutter.com, does not have games that incorporate Skippy products per se, although one game includes an animated character featuring a Skippy logo on its body. Skippy products are logo-qualifying ones so their use on the website is consistent with the pledge.

⁵⁶For complete information on this pledge see www.us.bbb.org/advertisers4healthykidsmars.

⁵⁷Mars uses the term “traditional candy and snacks” to refer to products such as Skittles®, and to distinguish those products from a separate line of “better-for-you” snacks that it formulated to meet its nutrition criteria.

⁵⁸In 2008, it amended its pledge to state that it will not direct marketing communications primarily to children under 12 for any products.

⁵⁹For complete information on this pledge see www.us.bbb.org/advertisers4healthykidsunilever.

⁶⁰Its pledge expressly excludes labeling and certain point of sale materials, which are not covered by the CFBAI, from the term “advertising.”

Use of Licensed Characters. Unilever reported that it had removed non-logo qualifying products with third-party licensed characters from the Internet in September 2007, prior to its pledge implementation date.

Product Placement. Unilever reported that, consistent with its pre-pledge policy as well as its pledge, it had not paid for or actively sought to place any of its food or beverage products in program/editorial content primarily directed to children under 12.

Advertising in Elementary Schools. Unilever voluntarily reported that, months before its pledge implementation date, it had engaged in a small amount of print advertising on milk cartons and in Scholastic magazines that featured the Skippy logo (but not any Skippy products). Since its implementation date, it reports it has not engaged in any advertising of its food or beverage products in elementary schools.

D. COMPANIES THAT PARTIALLY IMPLEMENTED THEIR PLEDGES BETWEEN JULY AND DECEMBER 2007 OR WHOSE IMPLEMENTATION DATES OCCUR AFTER DECEMBER 2007

Our review indicates that all of the participants with future implementation dates acted diligently to prepare their organizations to meet their pledge obligations. For example, all of the compliance reports indicate that the companies began training staff, vendors, and agents, such as media buyers, on what would be required when their scheduled implementation dates became effective. As detailed below, many submitted extensive data showing that they also achieved a considerable degree of compliance with their pledge commitments ahead of schedule.

For these participants, the compliance reporting process also proved extremely helpful in testing how well the company's pledge plans had been incorporated into the company business procedures and what additional requirements or training might be useful to ensure complete compliance. For example, the compliance reporting process identified a technical problem with timely submission of supplemental pledges to maintain with the BBB an up-to-date list of approved products. This problem has been remedied.

1. Burger King Corp.

Pledge Summary⁶¹

- Committed that 100% of “national advertising”⁶² in measured media primarily directed to children under 12 would be for better-for-you “Kids Meals”
 - Using new Burger King Corp. “Nutrition Criteria” as basis for its better-for-you Kids Meals
- Committed that all food pages of company-owned websites that are directed to children under 12 will be only for Kids Meals that meet its Nutrition Criteria
- Committed to limit in advertising the use of Licensed Characters to Kids Meals that meet its Nutrition Criteria
- Committed that interactive games primarily directed to children under 12 would depict only Kids Meals that meet its Nutrition Criteria

Implementation Date

- January 1, 2008 for advertising in elementary schools and product placement
- December 31, 2008 for all other commitments

Implementation Actions

Burger King Corp. (BKC) reported that it communicated its pledge commitments widely to relevant personnel within BKC and to outside advertising and promotion agencies. In February 2008, BKC held a nutrition summit for key BKC internal and external agencies working on BKC nutrition initiatives and pledge compliance issues and reviewed the BKC pledge requirements with the attendees.

BKC also has instituted new reporting requirements for BKC nutrition initiatives and pledge compliance. Additionally, BKC's legal department reviews all of BKC's advertising materials to ensure that they comply with its pledge.

During the July through December 31, 2007 reporting period, BKC was not obligated to advertise a Kids Meal that met its new nutrition criteria. BKC's plan was to use the period from September 2007, when it joined the Initiative, through 2008 to develop and test complying meals. The Kids Meals that it did advertise, however, included low fat milk or apple juice and applesauce, and were a positive step, meeting most, but not all, of its new nutrition criteria.

BKC reported that during the reporting period, in advance of the January 1, 2008 product placement implementation date, it did not pay for or actively seek the placement of any of its food or beverage products in the program or editorial content of any medium primarily directed children under 12. It also stated that it did not advertise its products in elementary schools during the reporting period.

Additionally, on July 7, 2008, six months in advance of its December 31, 2008 implementation date, BKC launched a Kids Meal that is compliant with its new nutrition criteria. The new Kids Meal consists of KRAFT® Macaroni & Cheese, BK Fresh Apple Fries with low-fat caramel dipping sauce, and HERSHEY'S® 1% Low-Fat milk. The company has informed the BBB that its nutritionally-compliant Kids Meal will be featured in 100% of BKC's advertising primarily directed to children under age 12 for the remainder of 2008.⁶³

⁶¹For complete information on this pledge see www.us.bbb.org/advertisers4healthykidsburgerking.

⁶²Under its pledge “national advertising” means commercial messages paid for and approved by Burger King Corp. and its affiliates that are disseminated to all or substantially all of the United States. Advertising that may be conducted by its franchisees at a local or regional level is not covered by its pledge.

⁶³The company reported that the new Kids Meal was first advertised in conjunction with a Pokémon promotion, accompanied by in-store marketing materials and press materials to promote the nutritionally-balanced Kids Meal and its nutritional profile. BKC also reported that it was separately promoting the availability of BK Fresh Apple Fries in other ways, including by distributing samples of Apple Fries at community events and public parks in New York, Los Angeles, Chicago, Miami and Houston.

2. Cadbury Adams

Pledge Summary⁶⁴

- Committed that it would either not advertise Bubblicious gum at all or would devote at least 50% of its advertising for a version of the product that would meet the program's better-for-you criteria⁶⁵

Implementation Date

- March 31, 2008⁶⁶

Implementation Actions

During the reporting period, although the pledge was not in effect, Cadbury Adams reported that it did not use any licensed characters, did not engage in any product placements in child-directed media, and did not advertise any of its products in elementary schools. It also took steps to revise its advertising consistent with the spirit of the pledge program. Specifically, it included messaging relating to physical activity and healthy lifestyles in its television ads and websites for its Bubblicious products.⁶⁷ Although only third-party licensed characters, not celebrity spokespersons, are covered by the CFBAI, Cadbury reported that during the reporting period it voluntarily reduced its use of LeBron James as the Bubblicious spokesperson in advertising targeting children under 12.

3. General Mills

Pledge Summary⁶⁸

- Committed that 100% of advertising in measured media primarily directed to children under 12 would be for better-for-you foods
 - Using its revised "Healthy Dietary Choice" nutrition criteria and a (not to exceed) 12 gram per serving sugar guideline (exclusive of naturally occurring sugars) as basis for its better-for-you foods
- Committed that company-owned websites directed to children under 12 will feature only products that meet its Healthy Dietary Choice nutrition criteria and sugar guideline⁶⁹
- Committed to limit use of Licensed Characters in advertising to products that meet its Healthy Dietary Choice nutrition criteria and sugar guideline⁷⁰
- Committed that interactive games primarily for children would depict only products that meet its Healthy Dietary Choice nutrition criteria and sugar guideline

Implementation Date

- Committed to implementing its pledge during the July 2007 through December 31, 2008 period
- December 31, 2008 for full compliance

Implementation Actions

The company reported that, following the announcement of its pledge in July 2007, it incorporated the requirements of its pledge into the Company's Marketing Guidelines. These guidelines were provided to hundreds of marketing and other relevant personnel, who were required to review and pass an online quiz on them. Additionally, the company provided the Marketing Guidelines to its outside agencies and vendors who might be involved in advertising to children under 12, including media buying and public relations agencies.

The company also reported that it instituted a Child Marketing Review Council, made up of senior officers, to ensure compliance with the Marketing Guidelines. This council's review supplements the ongoing review of child-oriented marketing activities that is conducted by a Marketing Vice-President and the Law Department.

⁶⁴For complete information on this pledge see www.us.bbb.org/advertisers4healthykidscadbury.

⁶⁵The pledge was for Bubblicious gum because this was the only product for which it engaged in advertising that was primarily directed to children under 12.

⁶⁶Cadbury informed the BBB of its decision not to engage in advertising primarily directed to children under 12 for Bubblicious gum in March. We announced Cadbury's decision in a press release on April 22 and posted on the BBB website the press release and an April 19, 2008 letter to the BBB from Cadbury memorializing its decision. We also announced that Cadbury had stated that television, print and radio ads for the product primarily directed to children under 12 stopped earlier in the year and that it had recently revamped its product website so that it was no longer directed at children under 12. We reviewed the revised website and we concur that it is not targeting children under 12.

⁶⁷The TV ads included a tag line at the end, "Ad's over, now get out and play." The website included a message from its Bubblicious spokes person, LeBron James, stating, "Be Healthy, Stay Active." Additionally, Cadbury began implementing healthy messaging on candy brands (Swedish Fish®, Sour Patch® Kids and Bassett's Liquorice Allsorts®) targeted to consumers over age 12. A message, "Be Treatwise" appears on the front of packaging and refers consumers to the back of the packaging where the following message appears, "To be enjoyed as part of a healthy, active lifestyle. To learn more about nutrition, visit www.mypyramid.gov."

⁶⁸For complete information on this pledge see www.us.bbb.org/advertisers4healthykidsgeneralmills.

⁶⁹General Mills also stated that its websites and interactive games would include a 30-minute "activity break," which pauses the activity to encourage children to engage in another more physically active activity.

⁷⁰Although not encompassed within the scope of the Pledge Program, under its Marketing Guidelines, General Mills' policy is to apply the limit on the use of third-party licensed characters beyond advertising. Consequently, licensed characters that appeal to children under 12 may only be used on packaging for products that meet its Healthy Dietary Choice criteria and sugar guideline.

Overall, the company reported that it made changes in its marketing practices, advertising development and approval procedures, and its product development parameters in order to implement the pledge. As noted in its pledge, General Mills said it would reformulate three product lines or stop advertising them by the end of December 31, 2008.⁷¹ Consistent with its pledge commitment to attain nearly complete compliance during the July 2007-December 2008 period, it reported that it immediately stopped advertising certain products on television, on its websites and in interactive games.⁷²

General Mills' detailed compliance report and our own monitoring indicate that General Mills met its commitment to substantially implement its pledge following the announcement of its pledge in July 2007. Since then, virtually all of its advertising primarily directed to children under 12 has been for products that meet its Healthy Dietary Choice criteria and sugar guideline.

- 12 of the 14 products advertised in measured media that was primarily directed to children under 12 met its nutrition criteria and sugar guideline

- 10 of the 12 products advertised on third-party child-directed websites were for products that met its nutrition criteria and sugar guideline
- 11 of 14 company-owned sites included only products that met its nutrition criteria and sugar guideline⁷³

The company has reported that two of the three product lines to be reformulated by December 31, 2008 will be in production in July 2008 with formulas that meet the nutrition criteria and sugar guideline.

The company also reported that it limited its use of licensed characters to products meeting its Healthy Dietary Choice criteria and sugar guideline, and that it did not advertise any of its food or beverage products in elementary schools. Additionally, the company reported it has implemented the CFBAI's product placement restriction into its Marketing Guidelines and has not renewed any contracts with external product placement agents.

4. Kellogg Company

Pledge Summary⁷⁴

- Committed that 100% of advertising in measured media primarily directed to children under 12 would be for better-for-you foods
 - Using new "Nutrient Criteria" as basis for its better-for-you foods
- Committed for company-owned websites
 - for brands that do not meet its Nutrient Criteria to limit access by children under 12 (i.e., will use age screening and/or parental consent to achieve this)
 - that contain content directed to children under 12 or designed to appeal to them to
 - limit interactive activities that integrate products (e.g., games, downloads, wallpapers) to only products that meet its Nutrient Criteria, and include healthy life style messages and automatic use break features⁷⁵
 - not permit downloads or clips of ads run in mass media that do not meet its measured media commitment
- Committed to limit use of Licensed Characters in advertising to products that meet its Nutrient Criteria (subject to existing contracts)⁷⁶

Implementation Date

- December 31, 2008

Implementation Actions

Kellogg reported that it has been implementing an internal compliance plan for its pledge commitments, which has included numerous training and one-on-one sessions with relevant Kellogg personnel and media partners. It also has designated central contact points for pledge questions, monitoring, and reporting to ensure consistency in application. Additionally, it reported that it seeks to ensure compliance with its pledge (as well as other company policies and regulatory requirements) through a multi-disciplinary review process conducted by the Advertising and Promotion Review Committee, which has been trained regarding the Kellogg pledge obligations.

Kellogg reported that it has made significant progress in reformulating existing products and introducing new products that meet its Nutrient Criteria. It stated that in July it expects 60 percent, and by the end of 2008 approximately 70 percent, of the products that it markets to children will meet its Nutrient Criteria. After January 1, 2009, any products that do not meet its Nutrient Criteria will not be marketed to children under 12.

Kellogg also reported that it completed, ahead of schedule, certain commitments it made regarding its websites with content targeting or designed to appeal to children under 12. Specifically, by December 31, 2007 it had included healthy lifestyle messaging with a "Get Your Move On" program, which encourages children to be physically active.

⁷¹See Schedule D of its pledge, listing the nutritional composition of the products that would be the subject of child-directed advertising and noting those that did not meet its sugar guideline and would not be advertised after December 31, 2008 if they were not reformulated. In March 2008, General Mills submitted a supplemental pledge with an updated Schedule D reflecting two additional complying products that it had advertised in 2007, and one product that it would be advertising in 2008. These products meet its Healthy Dietary Choice criteria and sugar guideline but it had inadvertently overlooked updating its pledge paperwork in 2007. General Mills has tightened its procedures further to ensure timely reporting of changes to its approved product list. General Mills also has explained that, for the sake of simplicity, Schedule D does not include all products that may appear *incidentally* only on its websites, but it has stated that any products that are present on its child-directed sites will be ones that meet its nutrition criteria and sugar guideline. We agree with the decision to limit Schedule D in this fashion.

⁷²For example, General Mills stopped using television advertising for Chocolate Lucky Charms following the announcement of the pledge, took down several products from its child-oriented website, www.millsberry.com, and removed interactive games featuring Double Chocolate Cookie Crisp.

⁷³Not all of these websites are currently active. See Appendix D for a list of all of the participants' websites that are primarily directed to children under 12.

⁷⁴For complete information on this pledge see www.us.bbb.org/advertisers4healthykidskellogg.

⁷⁵Under the Kellogg pledge, company-owned websites with content directed to children under 12 may contain depictions of child-oriented products that do not meet its Nutrition Criteria (i.e., a page showing all the products or SKUs available for sale, such as all varieties of PopTarts,[™] not just those that meet its Nutrition Criteria). However, all interactive activities, which are the ones most likely to attract children's attention and engagement, will be limited to products that meet Kellogg's Nutrient Criteria.

⁷⁶Although not encompassed within the scope of the CFBAI, Kellogg has committed publicly to limit its use of third-party licensed characters beyond the advertising categories in the program, including limiting use of child-directed licensed properties on the front panels of its packaging and as the basis for food forms to products that meet its Nutrition Criteria. See Kellogg Press Release dated June 17, 2007.

This program includes an automatic use break feature that interrupts activity after 15 minutes of screen time and presents healthy lifestyle messaging and a menu of activities to encourage physical activity.

Kellogg further reported that, consistent with its longstanding practice, it did not engage in any product placement for products in any medium directed primarily to children under 12. One PG movie in which it did have a product placement, while considered appropriate by reviewers for children over age 8, was not primarily directed to children under 12. The product placed in the movie, a club cracker, was adult, not child, oriented.

Kellogg also stated that it did not advertise its food or beverage products to children in elementary schools.

5. McDonald's

Pledge Summary⁷⁷

- Committed that 100% of “national advertising”⁷⁸ in measured media primarily directed to children under 12 would be for better-for-you meals
 - Using “Nutrition Principles” to define Healthy Dietary Choices as basis for its better-for-you meals
- Committed that all food on pages of company-owned websites that are primarily directed to children under 12 will be only for meals that meet its Nutrition Principles
- Committed to limit use of Licensed Characters in child-directed advertising to meals that meet its Nutrition Principles
- Committed that interactive games primarily directed to children under 12 that incorporate its food or beverage products will incorporate or be accompanied by products that are healthy dietary choices or healthy lifestyle messaging

Implementation Date

- January 1, 2008

Implementation Actions

The company reported that it communicated its pledge commitments broadly within the company. Specifically, it stated that it notified U.S. employees and franchisees about its pledge and provided them with a copy of the pledge. Additionally, it gave its advertising agencies a copy of its pledge. The company also reported that its Legal Department reviews McDonald's national advertising.

The company began implementing the

substantive provisions of its pledge during the reporting period. It submitted extensive information showing that, based on units purchased, the majority of McDonald's total child-directed national advertising on television complied with its pledge by including the approved Chicken McNuggets Happy Meal (i.e., chicken nuggets, apple dippers with low-fat caramel dip and low-fat white milk). During the reporting period some of its national advertising on television included Ronald McDonald promoting healthy lifestyle messages. By the end of the reporting period, those spots also included the approved McNuggets meal.

McDonald's also stated that all of the food in McDonald's national advertising on child-directed third-party websites was the approved McNuggets meal. Its child-directed company-owned websites also met its pledge obligation ahead of schedule, with the happymeal.com site featuring only the approved McNuggets meal and the Ronald.com site featuring no food products. None of its child-targeted interactive games incorporated its food or beverage products.

The company further reported that, in the majority of its child-directed advertising, it used Licensed Characters in conjunction with its approved McNuggets meal. It also stated that it met its product placement commitment ahead of schedule by informing its product placement agency not to do food and beverage placements in content targeted to children under 12 and by turning down such product placement opportunities.

Finally, McDonald's reported that it took steps to comply with the restrictions on advertising branded food and beverage products to

⁷⁷For complete information on this pledge see www.us.bbb.org/advertisers4healthykidsmcDonalds.

⁷⁸“National advertising” under its pledge means commercial messages for TV, radio, print and the Internet that are paid for and approved by McDonald's USA and its affiliates, and that are disseminated to all or substantially all of the United States. Advertising that may be conducted by its franchisees at a local or regional level is not covered by its pledge.

children in elementary schools. McDonald's does make curriculum materials available to teachers about fitness activities and healthy snacks at its passport2play.com site. These materials promote healthy lifestyles and nutritious snacks while also teaching children about other cultures. These materials, while indicating in a low-key way that they have been provided by McDonald's, do not advertise any of the company's food or beverage products. Accordingly, they do not violate the CFBAI's restriction on advertising a participant's food and beverage products to children in elementary schools.

McDonald's stated that, prior to its implementation date, it received media attention and a number of emails regarding a local program in Florida that offered, through a message on report card sleeves, a free Happy Meal certificate to children who received good grades. This program, which

has been discontinued, was the subject of a press release from the Campaign for a Commercial Free Childhood, which asked its members and the public to send an e-mail to McDonald's and ask it to stop the program. Although this program was not covered by the McDonald's pledge because it occurred before its implementation date and it was conducted at a local level by a franchisee, the BBB discussed this program with McDonald's. The company cooperatively responded by further advising its franchisees and key employees about the company's commitment to abide by the CFBAI's restrictions on advertising its foods and beverages to children in elementary schools.

6. PepsiCo⁷⁹

Pledge Summary

- Committed that 100% of advertising in measured media primarily directed to children under 12 would be for better-for-you products
 - Using Smart Spot™ nutrition eligibility criteria as the basis for its better-for-you products⁸⁰
- Committed that all company-owned websites that are primarily directed to children under 12 will be for products that meet the Smart Spot™ criteria
- Committed to limit use of Licensed Characters in child-directed advertising to Smart Spot™ products
- Committed that interactive games primarily directed to children under 12 that incorporate food or beverage products will only incorporate Smart Spot™ products

Implementation Date

- January 1, 2008

Implementation Actions

The company reported that its Marketing Counsel fully briefed all of PepsiCo's marketing leadership teams regarding the company's pledge obligations.⁸¹ The company also reported that its Marketing Counsel specifically communicated the company's pledge obligations to the Gatorade and Frito-Lay marketing leadership teams in writing. Additionally, the company requires the respective divisional Law Departments to review and approve all marketing materials, including child-directed materials. Finally, its Marketing Counsel advised the company's

product placement agency not to place any PepsiCo products in media primarily directed to kids under 12.

The detailed reports PepsiCo submitted for its Frito-Lay North America and the Gatorade Company show that, prior to its January 1, 2008 implementation date, the company had already substantially complied with its commitments. Virtually all of its measured media advertising in the year prior to the implementation date was for the products listed in its pledge (and supplemental pledge).

Based on the report for the July-December 2007 period and our ongoing monitoring, we identified an issue for 2008 concerning the use of the Cheetos® logo on the cheetos.com website. Although all of the actual products shown on the website are for approved products, we raised the possibility that the use of the logo could appear to be advertising for the entire Cheetos line of products, including ones that do not meet its Smart Spot™ nutrition criteria. The company cooperatively agreed to substitute the Baked! Cheetos® logo on the cheetos.com webpages.

Additionally, we noted that on the "Ask Chester" page of cheetos.com, when asked what his favorite food is, Chester answers "Cheetos snacks are my favorite food but I eat a balanced diet." At our suggestion, the company revised the answer to be specifically for one of its approved Smart Spot™ products (e.g., Baked Flamin Hot Cheetos® or Cheetos Cracker Trax®) to supplement its good "balanced diet" message.

Both of the changes that the BBB requested have already been implemented by Frito-Lay North America.

⁷⁹For complete information on this pledge see www.us.bbb.org/advertisers4healthykidspepsico.

⁸⁰Although many of the company's products meet its Smart Spot™ criteria, the company has chosen to limit its child-directed advertising, at this time, to a handful of Smart Spot™ products: Gatorade® Thirst Quencher and certain varieties of Baked! Cheetos® snacks and snack crackers. See Appendix C for a complete list of products that are approved for child-directed advertising.

⁸¹The Frito-Lay Marketing Counsel also reported conducting training for relevant Cheetos® brand staff, creative and interactive agencies, media buyers, and the Food Service Education Channel Team on the pledge because only certain SKUs are Smart Spot™ eligible and approved under the pledge.

We also concluded, based on information the company provided, that the company met its product placement obligations prior to its implementation date. Specifically, the company voluntarily disclosed information about two placement arrangements in media content that was or is not primarily directed to children under 12.

In one instance the Gatorade Thirst Quencher product was shown in the movie, "Gracie." Information about the movie indicates that it was not primarily directed to children under 12. The movie was rated PG-13 and dealt with themes that were not intended for anyone younger. Movie rating sources for parents, such as commonsensemedia.org, clearly stated that the movie was not appropriate for those under 13 and why.⁸² Furthermore, although the movie premiered in May 2007, the placement arrangement was entered into in 2006,

substantially prior to the company's implementation date.

The other placement agreement is with "Friday Night Lights," a television show that aired during 2007 and will be continuing in 2008. In this series Gatorade is depicted on the sidelines during football scenes. Based on audience data from the prior season, the company has demonstrated that this programming is not primarily directed to children under 12. Accordingly, this placement does not breach its pledge obligation.

Regarding elementary school advertising, the company stated that during the reporting period it modified prizes available through food service incentive programs to eliminate any branding on items that may be distributed through schools. It also stated that it otherwise stopped advertising any products in elementary (and middle) schools.⁸³

V. Next Steps

The BBB and the CFBAI participants are committed to dynamic, effective, and transparent self-regulation that results in positive change to the landscape of children's food and beverage product advertising. In keeping with that goal the CFBAI has determined to report annually on the status of the program, and the participants' implementation efforts and compliance with their pledges. Additionally, the CFBAI will be continuing its efforts to expand the number of program participants, soliciting initial feedback on the program, seeking to expand awareness of the program with parents and elementary school officials, and monitoring developments in nutrition science and dietary guidelines recommendations.

Expanding the CFBAI. The current participants in the CFBAI represent a substantial portion of the food and beverage advertising expenditures to children under 12 on television, which continues to be the dominant means for reaching this group. We are committed, however, to expanding this group, and to reaching out to other companies that may rely more on other media to direct advertising to children under 12. We welcome inquiries from any company interested in joining the CFBAI or in learning more about it.

Soliciting Feedback on the CFBAI. Having conducted an initial assessment of pledge compliance and with most of the participants now having had a year of pledge experience, the CFBAI plans to solicit informal feedback about the program from the FTC⁸⁴ and other interested government officials, advocacy groups, academics and public opinion leaders on an individual basis. Through one-on-one meetings we will be seeking initial and informal comments on the program, including what they think is working well or what could be done better. In addition, the CFBAI is committed to conducting a comprehensive review of its procedures and overall impact after the program has been operational for at least three years. That review is tentatively scheduled to begin in August 2010.

Expanding Awareness of the CFBAI Among Elementary School Parents and Administrators. A recent survey shows there is already a significant degree of awareness among parents about the CFBAI. We are, nevertheless, considering ways to build on the awareness that already exists and raise parents' awareness that the CFBAI's participants have voluntarily agreed not to advertise their food and beverage products to children in elementary schools. Specifically, School Family Media, Inc. recently conducted a survey showing that 30% of parents are aware

⁸²The film contained scenes involving theft, drinking and an older man attempting sex with the young soccer player.

⁸³The company also noted that well before it had made a pledge commitment it had begun limiting its advertising in elementary schools to Smart Spot™ products. It states this advertising has now stopped. Further, as a signatory to the Alliance for a Healthier Generation School Beverage and Snack Food Agreements, PepsiCo limits the types of offerings that it makes available in schools.

⁸⁴The CFBAI also welcomes any feedback on the program that the FTC may provide in its forthcoming Food Marketing to Children Report.

of the CFBAI. The survey, released on May 20, 2008, had over 1,000 Moms of school-age children responding.⁸⁵ Additionally, the vast majority of the respondents said they strongly agree or agree that the CFBAI “is a step in the right direction and shows food and beverage companies are genuinely committed to curbing advertising to kids.”

Monitoring Nutrition Science Developments and Government Guidelines. The heart of the CFBAI is reaching a balance in child-directed food and beverage product advertising. Although all foods can be enjoyed in

moderation as part of a balanced diet and healthy lifestyle, some participants have decided not to advertise their products to children under 12 and the others have committed to advertising only better-for-you or healthier foods to them. Monitoring developments in nutrition science and recommendations and guidelines from government agencies is a key part of ensuring that the participants base their own nutrition guidelines on current information and recommendations.

VI. Conclusion

The first six months of the program’s operation have shown that the CFBAI’s participants are dedicated to honoring their pledge obligations and to helping to achieve the balance in child-directed food and beverage advertising that is the program’s goal. As with any new program, there were occasional glitches and some growing pains as the participants implemented sometimes dramatic changes to the way they were doing business. Accomplishing these changes involved adopting new internal marketing and governance policies or revising existing ones and, in some instances, putting new

infrastructures into place to ensure that only approved better-for-you products appeared in advertising primarily directed to children under 12, or that no product advertising was directed to them as specified by their pledge.

Regardless of whether a participant had yet implemented its pledge, all of the participants as well the program administrator gained valuable insights from the process of preparing, submitting and reviewing compliance reports.⁸⁶ The lessons we all learned are resulting in a stronger program as we go forward.

⁸⁵The survey results were reported on by Media Post and Ad Age. See, e.g., “Moms Open to Parent-Focused Approaches to Reaching Children,” Media Post, July 2, 2008. For copies of the company’s proprietary research, contact John Driscoll at 800-644-3561, x 202 or jdriscoll@schoolfamilymedia.com.

⁸⁶See Part IV, C-D, above.

Appendix A: Children's Food and Beverage Advertising Initiative

INTRODUCTION

Companies engaged in advertising and marketing food and beverage products have developed this self regulatory initiative for advertising such products to children under 12. The goal of this initiative is to use advertising to help promote healthy dietary choices and healthy lifestyles among American children. While it remains the primary responsibility of parents to guide their children's behavior in these areas, industry members are voluntarily pursuing this initiative as a means of assisting parents in their efforts.

CORE PRINCIPLES

Companies participating in this initiative will publicly commit to advertising that will further the goal of promoting healthy dietary choices and healthy lifestyles to children under 12. These commitments will be set forth in an individual "Pledge" for each participant. Because companies and their product lines vary, company commitments will also vary. However, all commitments will be consistent with the following core principles:

■ **Advertising Messaging.** Participants will devote at least 50%¹ of their television, radio, print and internet advertising primarily directed to children under 12² to advertising that will further the goal of promoting healthy dietary choices and healthy lifestyles. This will be achieved in one of two ways (or some combination of both):

(1) By advertising products that represent healthy dietary choices in accordance with company developed standards

that are consistent with established scientific and/or government standards. Examples of possible standards include:

- FDA defined "healthy" foods [21 CFR 101.65(d)(2)]
- Products that qualify for an FDA authorized health claim [21 CFR101.70-101.83]
- Products meeting FDA/USDA criteria for claims of "free," "low," or "reduced" calories, total fat, saturated fat, sodium or sugar
- Products that qualify for the USDA Healthier School Challenge Program criteria for Sales/Service of A La Carte and/or Vended Items
- Principles addressing recommended consumption by children under 12 under USDA Dietary Guidelines and MyPyramid
- Products representing a portion control option, such as products advertised and sold in a package size of 100 calories or less

or

- (2) By advertising that prominently includes healthy lifestyle messages designed to appeal to the intended audience, such as:
- messaging that encourages physical activity
 - messaging that encourages good dietary habits, consistent with established scientific and/or government standards such as USDA Dietary Guidelines and My Pyramid

¹This minimum percentage may be increased over time.

²Measured in media impressions at the time the advertising is purchased, as determined by reliable third party data such as Nielsen ratings for TV, radio and Internet, and PIB (Publisher's Information Bureau) and MRI (Mediamark Research Inc.) data for print advertising. The 50% commitment will be calculated separately for each advertising medium. Measurement for advertising on company owned websites will be determined in accordance with standards established as part of the company's Pledge.

- **Use of Licensed Characters.** Participants will commit to reduce their use of third-party licensed characters³ in advertising primarily directed to children under 12, unless such advertising complies with the messaging options set out above. Each participant will state in its commitment the percentage reduction in its use of licensed characters.
- **Product Placement.** Participants will commit to not paying for or actively seeking to place their food or beverage products in the program/editorial content of any medium primarily directed to children under 12 for the purpose of promoting the sale of those products.
- **Use of Products in Interactive Games.** Participants will commit that, in any interactive game primarily directed to children under 12 where the company's food or beverage products are incorporated into the game, the interactive game must incorporate or be accompanied by products representing healthy dietary choices under #1 above or healthy lifestyle messaging under #2 above.
- **Advertising in Schools.** Participants will commit to not advertising food or beverage products in elementary schools.⁴
- **Implementation.** Participants will formalize and publish their Pledge approximately 6 to 9 months following the establishment of the Monitoring/Enforcement entity described below. The Pledge will include an implementation schedule for each commitment made by the participant.

³This commitment does not apply to the use of licensed characters on packaging, provided the packaging does not appear in advertising directed to children under 12. The limitation also does not apply to the use of company-owned characters.

⁴This limitation will not apply to displays of food and beverage products, charitable fundraising activities, public service messaging, or items provided to school administrators.

MONITORING/ENFORCEMENT

Company Pledges, including the specific commitments that will identify the healthy dietary choices criteria, will be established in consultation with a new program administered by the Council of Better Business Bureaus.

The new program will be responsible for monitoring company commitments. Monitoring will include the review of advertising materials, product information, and media impression information (submitted on a confidential basis) to confirm participant compliance. The program will also respond to public inquiries relating to compliance.

The new program will develop procedures that provide for the expulsion of a company that does not comply with its Pledge after being given notice and an opportunity to bring its conduct into compliance, and notice of any expulsion to regulatory authorities such as the Federal Trade Commission under appropriate circumstances.

The new program will publicly issue reports detailing its activities, including any expulsions or notices of such to regulatory authorities.

The new program, in consultation with the participants, will periodically review its procedures and the overall impact of this initiative. The first such review shall be started after the new program has been operational for at least 3 years.

Appendix B: Fact Sheet on CFBAI and CARU

BBB CHILDREN'S SELF-REGULATION PROGRAMS

Two separate industry self-regulation programs working together to foster trust in the marketplace by promoting balance in food and beverage marketing and truthful, responsible advertising to children under 12 years old.

	Children's Food and Beverage Advertising Initiative (CFBAI)	Children's Advertising Review Unit (CARU)
About the Programs	The Initiative addresses <i>what</i> food and beverages are advertised to children under 12 years old. It aims to shift the mix of child-directed advertising to include healthier dietary choices and promote healthy lifestyles.	CARU addresses <i>how</i> all products—including food and beverages—are advertised to children under 12 years old. Taking into account their special vulnerabilities, CARU sets high standards to assure that advertising directed to children is truthful, not misleading, unfair or inappropriate for its intended audience.
The Programs in Action	<p>The Initiative is currently comprised of 13 food and beverage industry leaders. Under the Initiative, participants commit—or pledge—to devote at least half of their TV, radio, print, and Internet advertising primarily directed to children under 12 years old to better-for-you products and/or to messages that encourage good nutrition or healthy lifestyles.</p> <p>Eight members—Burger King Corporation, Campbell Soup Company, General Mills Inc., Kellogg Company, Kraft Foods Global Inc., McDonald's USA, LLC, PepsiCo, Inc. and Unilever United States—have pledged that, going forward, 100 percent of their child-directed advertising will be for food and beverages that meet the company's nutritional standards.</p> <p>ConAgra Foods has pledged that 100 percent of its advertising will be for healthier products or include healthy lifestyle messages, with its focus on healthier products.</p> <p>Four members—Cadbury Adams USA, The Coca-Cola Company, The Hershey Company, and Mars, Inc.—have pledged to cease advertising primarily directed to children under 12 years old.</p>	<p>CARU reviews and evaluates child-directed advertising in all media and online privacy practices as they affect children. CARU scrutinizes thousands of television commercials and advertisements in print, radio and online media annually.</p> <p>CARU's Self-Regulatory Guidelines for Children's Advertising provide detailed guidance to children's advertisers on how to deal sensitively and honestly with children. These guidelines are designed to go beyond the issues of truthfulness and accuracy to take into account the uniquely impressionable and vulnerable child audience.</p> <p>When CARU finds advertising to be misleading, inaccurate, or inconsistent with CARU's standards, it seeks change through the voluntary cooperation of advertisers. CARU publishes its decisions to provide guidance to all advertisers. CARU also offers an ad pre-screening service for CARU supporters to help advertisers spot and correct problems before the ads are disseminated.</p> <p>In 2006, CARU Guidelines were comprehensively revised to:</p> <ul style="list-style-type: none"> ■ Authorize CARU to take action on "unfair advertising";

cont.

	Children's Food and Beverage Advertising Initiative (CFBAI) cont.	Children's Advertising Review Unit (CARU) cont.
The Programs in Action cont.	<p>The Initiative requires its participants, as it pertains to their marketing efforts primarily directed to children under 12 years old, to:</p> <ul style="list-style-type: none"> ■ Reduce the use of third-party licensed characters in ads; ■ Cease paying for or seeking placement of foods and beverages in editorial/programming content; ■ Stop advertising foods and beverages in elementary schools; and ■ Change company-owned Web sites and interactive games to incorporate better-for-you foods and encourage a healthy lifestyle. <p>Initiative staff reviews the company pledges to ensure they comply with the Initiative requirements. The companies' nutritional standards are subject to the approval of the Initiative and must be based on, for example, USDA dietary guidelines or FDA-established definitions for "healthy," "low" or "reduced" products. The Initiative staff is monitoring the participants' commitments to ensure they are met as they are implemented over time and will report publicly on the companies' compliance.</p>	<ul style="list-style-type: none"> ■ Address explicitly "blurring" or advertising that obscures the line between editorial content and advertising messages; ■ Address explicitly the use of commercial messages in online interactive games; ■ Provide additional guidance on food and beverage marketing including: ■ Requiring that any depiction of food being consumed must be tied to the labeled serving size ■ Prohibiting the disparagement of healthy foods or lifestyles, and ■ Requiring that mealtime depictions of foods be shown in the context of a nutritionally balanced meal.
History	<p>The Initiative was established as a voluntary self-regulation program to help combat childhood obesity in November 2006. It is administered by the Council of Better Business Bureaus.</p> <p>Founded in 1912, Better Business Bureau is supported by over 300,000 businesses and is dedicated to fostering fair and honest relationships between businesses and consumers, and contributing to an ethical business environment.</p>	<p>The National Advertising Review Council (NARC) established CARU in 1974 to promote responsible children's advertising. NARC is administered by the Council of Better Business Bureaus. The National Advertising Review Council was formed in 1971 by the Association of National Advertisers, the American Advertising Federation, the American Association of Advertising Agencies and the Council of Better Business Bureaus. Its purpose is to foster truth and accuracy in national advertising through self-regulation.</p>
For More Information	<p>Visit www.bbb.org/advertisers4healthykids or contact Elaine D. Kolish at 703-247-9382 or ekolish@council.bbb.org. Comments and questions about the program or any pledges can be sent to kidsinitiative@council.bbb.org. Media Contact: Alison Preszler 703-247-9376 or apreszler@council.bbb.org</p>	<p>Visit www.caru.org or contact Wayne Keeley at 212-705-0112 or wkeeley@caru.bbb.org.</p> <p>To file a complaint regarding an advertisement that you feel violates CARU Guidelines, go to www.caru.org/complaint</p> <p>Media Contact: Linda Bean 212-705-0129 or lbean@narc.bbb.org</p>

Appendix C: List of Pledge-Approved Products; July 2007 – July 2008¹

Participants with implemented or partially implemented nutrition standards— products listed on following pages

1. Burger King Corp.
2. Campbell Soup Company
3. General Mills
4. Kraft Foods Global Inc.
5. Mars (July – August 2007)
6. McDonalds
7. PepsiCo, Inc.
8. Unilever

Participants whose pledges are not yet effective

1. ConAgra Foods, Inc.
2. Kellogg Company

Participants who are not engaged in advertising primarily directed to children under 12

1. Cadbury Adams, USA, LLC (since Jan. 2008)
2. The Coca-Cola Company
3. Hershey Company
4. Mars (since Aug. 2007)

¹These products may be the subject of advertising directed primarily to children under 12 based on original and approved supplemental pledges.

- Pledge scheduled to implement on December 31, 2008. BKC launched the nutritionally-compliant Kids Meal on July 7, 2008.

Mac & Cheese Kids Meal

- KRAFT® Macaroni & Cheese
- BK™ Fresh Apple Fries
- Low-Fat Caramel Dipping Sauce
- HERSHEY'S® 1% Low Fat Milk

CAMPBELL SOUP COMPANY

Soups

- Campbell's 25% Less Sodium Chicken Noodle soup
- Campbell's Tomato soup
- Campbell's Chicken & Stars soup
- Campbell's 25% Less Sodium Tomato soup
- Campbell's Double Noodle soup
- Campbell's Dora the Explorer soup
- Campbell's Chicken NoodleO's soup
- Campbell's Goldfish Pasta with Chicken in Chicken Broth soup
- Campbell's Souper Shapes Cars soup Campbell's Mega Noodle in Chicken Broth soup
- Campbell's Shrek Shaped Pasta with Chicken Broth soup
- Campbell's Chicken Alphabet soup
- Campbell's Goldfish Pasta with Meatballs in Chicken Broth soup
- Campbell's Curly Noodle soup

Snack Crackers

- Pepperidge Farm Goldfish Cheddar
- Pepperidge Farm Goldfish Cheddar made with Whole Grain
- Pepperidge Farm Flavor Blasted Goldfish Xtra Cheddar
- Pepperidge Farm Goldfish Mix Up Adventures

Canned Pastas

- Campbell's SpaghettiOs plain
- Campbell's SpaghettiOs meatball

GENERAL MILLS, INC.

- Products that currently meet pledge-approved nutrition criteria.
- Complete implementation scheduled for December 31, 2008.

Cereals

- Cinnamon Toast Crunch
- Cocoa Puffs
- Cookie Crisp
- Honey Nut Cheerios
- Lucky Charms
- Berry Lucky Charms
- Reese's Puff
- Cocoa Puffs Combo

Yogurts

- Yoplait Go-Gurt Fruit Flavors
- Yoplait Fizzix

Fruit Snacks

- Fruit by the Foot
- Fruit Roll-Ups
- Fruit Roll-Up Stackerz
- Fruit Gushers G-Force
- Fruit Gushers

KRAFT FOODS GLOBAL, INC.

Ready-to-drink Beverages

- Capri Sun Roarin' Waters
- Capri Sun Juice Drinks (all flavors)
- Kool-Aid Jammer 10 (fruit punch)

Powdered Beverages

- Kool-Aid Singles
- Kool-Aid Sugar Free (tropical punch)

Cereal

- Post Honeycomb
- Post Chocolate Honeycomb
- Post Cocoa Pebbles Cereal
- Post Fruity Pebbles Cereal
- Post Mixed Berry Pebbles Cereal
- Post Dino S'mores Pebbles Cereal (2008)

Crackers and Cookies

- Nabisco Cheese Nips Baked Snack Crackers, Spiderman Shapes (discontinued 2008)
- Kraft Handi-Snacks Honey Maid Grahams n' Apple Dip
- Nabisco Teddy Grahams
- Ritz Bitz Soccer Sandwiches
- Nabisco Confetti Crème Ritz Bits Cracker Sandwiches (2008)

Convenient Meal Products²

- Kraft Macaroni & Cheese Shapes
- Kraft Macaroni & Cheese Spirals
- Lunchables Chicken Dunks
- Lunchables Fun Pack Extra Cheesy Pizza
- Lunchables Fun Pack Pepperoni Pizza
- Lunchables Max'd Out Cheese Pizza
- Lunchables Mini Hot Dogs
- Lunchables Mini Pizza
- Lunchables Mini Tacos (name changed in 2008: Lunchables Beef Tacos Wrapz)
- Lunchables Pizza Treatza
- Lunchables Double Stack Taco (discontinued 2008)
- Lunchables Chicken Wrapz (2008)
- Lunchables Max'd Out Pepperoni Pizza (2008)

MARS, INC.

- Advertising for "better-for-you" snacks to children under 12, solely on www.kiddidits.com (July-Aug. 2007).
- Under March 2008 amended pledge, company will not advertise traditional or better-for-you snacks to children under 12.

KidDidits Snacks

- Really Cheesy Crackers
- Little Dippers
- Mini Vanilla Cookies
- Mini Chocolate Cookies
- Pretzel Launchers
- Chocolate Vanilla Sundae Bars

²The content of *Lunchables* products may vary from time to time. Although the main component will remain the same, Kraft may periodically modify the treat and/or drink (i.e., *Capri Sun Roarin' Waters* switched for *Capri Sun 100% fruit juice*). The product's nutritional profile, however, will always stay within the boundaries of the *Sensible Solution* criteria. For the most current information about *Lunchables* products' content, consult the Kraft website at www.kraftfoods.com.

MCDONALD'S, USA

Chicken McNuggets Happy Meal

- 4 Piece Chicken McNuggets
- Apple Dippers
- Low-Fat Caramel Apple Dip
- 1% Low-Fat Milk

Hamburger Happy Meal

- Hamburger
- Apple Dippers
- Low-Fat Caramel Apple Dip
- 1% Low-Fat Milk

Grilled Snack Wrap with choice of 3 sauces (ranch, honey mustard, and chipotle BBQ)

- Grilled Snack Wrap
- Fruit and Yogurt Parfait with Granola
- Bottled Water

Snack Wrap with choice of 3 sauces (ranch, honey mustard, and chipotle BBQ)

- Honey Mustard Snack Wrap
- Fruit and Yogurt Parfait with Granola
- Bottled Water

PEPSICO, INC.

Beverages

- Gatorade Thirst Quencher

Snacks

- Baked! Cheetos Crunchy Cheese Flavored Snacks
- Baked! Cheetos Flamin Hot Cheese Flavored Snacks
- Baked! Cheetos Cracker Trax Cheesy Cheddar Flavored Snacks
- Baked! Cheetos Cracker Trax Spicy Cheddar Flavored Snacks

Popsicles

- 2 Ball Screwball Cherry
- Dora the Explorer Dora
- Spider-Man
- SpongeBob SquarePants
- The Great White
- Orange Burst Pop-Ups
- Reckless Rainbow Pop-Ups
- Snow Cone
- Mega Missile Watermelon
- Mega Missile Mega Warheads
- Mega Missile Firecracker Red/White/Blue
- Lemon/Lime Shots
- Fruity Shots
- Orange/Cherry/Grape
- Red/White/Blue
- Firecracker Red/White/Blue
- Fat Free Fudgsicle
- Cotton Candy Swirl
- Bubble Gum Swirl
- Super Twin
- BigStick Lick-A-Color
- LifeSavers
- Sour Firecracker
- Sugar Free Tropicals
- Rainbow
- Fudgsicle
- Scribblers
- Sugar Free Healthy Bunch Variety Pack
- Diet Soda Pops
- LifeSavers Pops
- Dora The Explorer grape, berry, watermelon, orange
- No Sugar Added Fudgsicle
- Mighty Magic Minis

Popsicles Continued

- Sugar Free Orange/Cherry/Grape
- Slow Melt Pops
- Firecracker with Exploding Candy Tip
- Super Heroes Super Villains
- Firecracker Jr.
- RootBeer/Banana/LemonLime
- No Sugar Added Creamsicle
- Big Stick Cherry Pineapple Swirl
- Swirlwinds
- Twister
- Triple Chocolate Fudgsicle
- Peel a Pop
- Big Stick Cherry Pineapple
- Snoopy
- Hyper Stripe

Peanut Butter

- Skippy Natural Creamy Peanut Butter
- Skippy Creamy Peanut Butter
- Skippy Reduced Fat Creamy Peanut Butter
- Skippy Roasted Honey Nut Creamy Peanut Butter
- Skippy Natural Super Chunk Peanut Butter
- Skippy Super Chunk Peanut Butter
- Skippy Reduced Fat Super Chunk Peanut Butter
- Skippy Roasted Honey Nut Super Chunk Peanut Butter

Appendix D: List of Child-Directed Company-Owned Websites

Company-Owned Websites That Are Primarily Directed to Children Under 12

Burger King Corp.

www.ClubBK.com

Cadbury Adams, USA, LLC

www.bubblicious.com

- In 2007 the site was directed to children under 12; in 2008 the site was changed and is no longer primarily directed to children under 12

Campbell Soup Company

www.myslurp.com

www.pfgoldfish.com

The Coca-Cola Company

None

General Mills, Inc.

www.ultimateboarding.com

www.tonguetracks.com

www.sillyrabbit.com

www.fruitontheloose.com

www.gushersredoyourroom.com

www.luckycharms.com

www.gushersphoneaday.com

(now inactive)

www.gogurtmonstertracker.com

(now inactive)

www.puffyourspace.com (now inactive)

www.ctclivelikeastar.com (now inactive)

www.newfizzix.com (now inactive)

www.cuckooshow.com

www.millsberry.com

www.reesespuffs.com

www.gogurtfizzix.com

The Hershey Company

None

Kellogg Company

www.frostedflakes.com

www.cocoakrispies.com

www.leggommyeggo.com

www.getyourmoveon.com

www.applejacks.com

www.gripzjacks.com

www.poptarts.com

www.kelloggsyogos.com

www.cornpops.com

Kraft Foods Global, Inc.

www.lunchables.com

www.postopia.com

www.thecheesiest.com

www.kool-aid.com

www.caprisun.com

- In 2007, caprisun.com was an adult-directed website. In 2008, Kraft redesigned the site to have a portion dedicated primarily to children under 12 and another portion to adults. The two portions are clearly marked and the children's portion can also be accessed directly by using the URL respectthepouch.com

Mars, Inc.

None

- From July-Aug. 2007 www.kidditits.com was directed to children under 12. That site was taken down in August 2007.

McDonald's USA

www.happymeal.com

www.ronald.com

PepsiCo, Inc.

www.cheetos.com

Unilever United States

www.popsicles.com

www.skippypeanutbutter.com/kidscorner

