Dietitians of Canada
Les diététistes du Canada

Response to Health Canada consultation:

Restricting Marketing of Unhealthy Foods and Beverages to Children

August 14, 2017

Introductory Comments from Dietitians of Canada

Dietitians of Canada (DC) applauds Health Canada's initiative to introduce mandatory restrictions on the marketing of unhealthy foods and beverages to children. This Dietitians of Canada (DC) response refers specifically to information from **Toward Restricting Unhealthy Food and Beverage Marketing to Children – Discussion paper for public consultation.** As part of Health Canada's Healthy Eating Strategy, the proposal is a great step forward to help young Canadians make healthier food choices to form healthy habits for life.

DC is a member of the Stop Marketing to Kids Coalition (the Coalition), which has called for restricted marketing of all foods and beverages to children. Our preferred approach to restrictions on marketing directed to children continues to be aligned with the Ottawa Principles. DC is fully supportive of the proposed age range of "under the age of 17" as the definition of "child". This is consistent with the Ottawa Principles and Bill S-228. It is important to include teens as part of the vulnerable population in this context of Marketing to Kids (M2K).

Canada can demonstrate leadership in many aspects of food policy. Currently, there are a number of federal regulatory and policy consultations related to food and healthy eating. This year is an ideal time to integrate and draw from coinciding policy windows, for maximum cohesion and benefit to the food system and for the health of the population. Mandatory restriction of child-directed marketing in Canada could have a sizeable impact on the eating habits and preferences of children and teens.

The development of this DC response includes inputs from the following:

a. Feedback from over 300 DC members during a national webinar, in June 2017
b. Input from several DC volunteers & experts, to develop the Draft response from DC to Health Canada
c. Responses from 128 DC members to DC's Draft response, in July 2017
d. Stop Marketing to Kids Coalition, in which DC is a member – coalition response, from July 2017

The following is a summary of DC's response to Health Canada's consultation on Marketing to Children:

1. FOCUS ON NUTRIENTS: DC agrees that the proposed focus on the three nutrients of public health concern can be a suitable system for defining marketing restrictions provided that the following conditions are met: a) A threshold of 5% DV *or lower* is used as the basis for restricting marketing to children; b) A 50 g reference amount for defining "small servings" is retained; c) Certain food and beverage categories are automatically included in the restrictions, by default, without the application of nutrient criteria. The food and beverage categories to which the marketing restrictions should automatically apply, by default, are defined in the document by the WHO Regional Office for Europe Nutrient Profile Model.

DC recommends clear definition of 'healthy' vs 'unhealthy' food *concepts* to provide consistency and transparency for *regulatory* criteria and underpinning rationale in the development of consumer tools (e.g., used in dietary guidance). Consumer resources must promote healthy choices and encourage a variety of foods, taking care to not conflate advice with regulatory definitions, which are very technical, providing eating advice, which allows for individual choice and variety, within an individual's dietary pattern, and does not vilify foods or appear to draw 'hard lines' that suggest extremes of 'never' or 'always' for food choices.

2. TWO OPTIONS PROPOSED: DC strongly recommends Option 1 (<5% DV), to maximize the impact of restrictions for protection of this vulnerable population.

DC recommends that consumer education and key messages must clearly communicate the differences in purpose/intent of different policies/regulations with simple key messages for the general population.

3. PROHIBIT NON-SUGAR SWEETENERS: Dietitians of Canada supports the position that marketing of food and beverages containing non-sugar sweeteners or sugar should be prohibited in order to provide comprehensive protection from unhealthy products and brands.

4. DEFINITIONS FOR CHILD-DIRECTED MARKETING ON TV AND INTERNET: DC supports the proposal to limit broadcast media M2K according to time of day.

As well, we recommend: use of the term "digital" instead of "internet" and "child/youth directed marketing"; extending restrictions to cover daytime and non-school day viewing times for TV (to protect pre-school and school-age children); extending restriction to 10 pm (to protect older children/teens); restriction on all child specialty TV channels; additional protection should be introduced to limit the overall exposure of marketing for food and beverages high in sugar, salt and saturated fat.

5,6. DEFINITIONS OF TRADITIONAL/DIGITAL MARKETING & COMMUNICATION CHANNELS: DC strongly recommends that Health Canada's lists of marketing techniques and communication channels to be considered for the restrictions matches the list in the WHO publication, "A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to Children".

DC also recommends a review of product packaging to assess marketing directed to children, to ensure the marketing is not misleading or misrepresenting a product.

7. PROPOSED EXEMPTIONS FOR MARKETING RESTRICTIONS: DC recommends that federal restrictions to food and beverage marketing to children should be designed to phase out the most harmful elements of sponsorship practices, using the example of Quebec's Consumer Protection Act.

8. ADDITIONAL COMMENTS: It is essential that a robust monitoring and evaluation system be adopted to enforce and improve the marketing restrictions to the fullest extent possible, and that the legislative/regulatory framework be nimble to adapt to future marketing techniques, adjusted as needed, for effectiveness and to address any unintended negative effects.

Marketing restrictions resulting from this consultation and adopted by the federal government must be evaluated, monitored, sufficiently resourced and enforced, to ensure compliance with restrictions and that the expected effects are achieved.

Dietitians of Canada responses to specific questions in Health Canada's online consultation questionnaire:

1. FOCUS ON NUTRIENTS

Health Canada's marketing restrictions focus on sodium (salt), sugars, and saturated fat.

Dietitians of Canada is supportive of using a nutrient profiling system that focuses on nutrients of public health concern, given the potential for this system to provide consistency across policies and regulations within Health Canada's Healthy Eating Strategy.

As a member of the Stop Marketing to Kids Coalition, **DC agrees that the proposed focus on these three nutrients of public health concern** can be a suitable system for defining marketing restrictions provided that the following conditions are met:

a) A threshold of 5% DV *or lower* is used as the basis for restricting marketing to children;

b) A 50 g reference amount for defining "small servings" is retained;

c) Certain food and beverage categories are automatically included in the restrictions, by default, without the application of nutrient criteria.

The food and beverage categories to which the marketing restrictions should automatically apply, by default, are defined in Annex 1 of the document *WHO Regional Office for Europe Nutrient Profile Model* and include: 1) chocolate and sugar confectionery, energy bars and sweet topping and desserts; 2) cakes, sweet biscuits and pastries, other sweet bakery wares, and dry mixes for making such; 3) juices; 4) energy drinks; and 5) edible ices e.g. ice cream, frozen yogurt, iced lollies and sorbets. These foods should not be promoted through child-directed marketing to children and youth, given that the purpose of promotion and marketing is to encourage increased or more frequent consumption.

*NOTE: DC has responded to this question as "not sure", since we have provisional conditions to add to the focus on nutrients. Noteworthy – among DC members who responded to the online questionnaire with their views on DC's proposed response to Health Canada, agreement with the focus on three nutrients and additional conditions was 73% and a further 13% undecided, while 14% were opposed (remarks in the optional narrative comment section indicated that some respondents disagreed with focus on negative nutrients and wanted a nutrient profiling system that also took positive nutrients into account; others disagreed because they continue to believe the ban should be on child-directed marketing of *all* foods and beverages).

As recommended in DC's response to HC's consultation on Dietary Guidance/Canada's Food Guide (CFG), the overarching need is to be consistent and transparent in policy and regulatory criteria. With respect to M2K, the restrictions should also be consistent with school nutrition policies, currently in place in many provinces.

It is understood that the proposed use of the three nutrients of public health concern (sodium, sugars, saturated fat) for threshold levels is consistent with the top three nutrients included in 10 different nutrient profiling models for marketing restrictions, as identified from other jurisdictions around the globe in a systematic review of the peer-reviewed and grey literature. As indicated in the HC Discussion paper, the World Health Organization (WHO) encourages its member states to restrict the marketing of foods high in fat, sugars, and salt/sodium.

(References: 1. L'Abbé MR, Labonté ME, Poon T. *Nutrient profile models for restricting marketing to children around the globe: Application to the Canadian food supply.* Oral presentation at CNS 2017, Montréal, QC, May 26th, 2017; and 2. Labonté ME, Poon T, Gladanac B, Ahmed M, Franco-Arellano B, Rayner M, L'Abbé MR. *Systematic review of nutrient profile models developed for nutrition-related policies and regulations aimed at noncommunicable disease prevention*. Poster presentation at CNS 2017, Montréal, QC, May 26th, 2017).

DC recommends clear definition of 'healthy' vs 'unhealthy' food concepts to provide consistency and transparency for regulatory criteria and underpinning rationale in the development of consumer tools.

Consistency = keeping focus on added sodium and (free) sugars, and proportion of saturated fat within total fat; distinguish between intrinsic and added nutrients of public health concern; additional nutrient criteria for inclusion/exclusion; thresholds for harm reduction and health promotion. Ideally, there should be consistency amongst Canadian criteria for HC's CFG Tier system (used in surveillance), foundational foods in M2K, Guiding Principles #1 & 2 in CFG, and foods with FOP symbols. [this is alluded to in the HC proposal, for Foods Allowed to be Marketed, p 9]. **Restrictions for M2K should be at least as strict as the PT harmonized school nutrition guidelines** [available on request], aligning in areas that require child-focussed nutrition perspective for criteria.

Transparency = the rationale for decisions about exemptions – based on evidence, Canadian dietary patterns and other food policies/standards in place elsewhere in Canada.

Consider potential benefits and unintended negative consequences, especially for children and vulnerable populations.

Within our response to Dietary Guidance and Canada's Food Guide, DC recommends inclusion of additional analysis of recent evidence to address effect size on CVD risk, as related to different food sources of saturated fats, and relative to trans fats in partially hydrogenated oils (which will no longer be allowed within the Canadian food supply). For example, within DC's membership, questions have been raised regarding the validity of evidence for an association between saturated fat from dairy products and cardiovascular risk. DC suggests that HC conduct further review of the most up-to-date evidence, especially risk for children versus adults, and consideration of factors such as common dietary patterns in Canada, to specify exemptions for foods that may be included in child-directed marketing. One food example of an exemption, suggested by some DC members, is cheese – since it is a popular food in many Canadian children's diets, total fat intake is not necessarily meant to be restricted and food sources of calcium for growth are important. (This could be verified with the CCHS 2015 data and dietary pattern analysis).

As educators and counsellors, mindful of public perceptions and confusion, many DC members have expressed concern related to how food regulatory consultations are being portrayed in the popular media, with public discussion and confusion about the potentially divisive/categorizing nature of proposed regulations based only on negative nutrients, and fear that foods not eligible for child-directed marketing and/or with "high in" front of package labels will generally be referred to as "unhealthy". The term "unhealthy" could easily be misinterpreted and/or cause anxiety to parents who are trying to make healthy choices for foods they purchase and offer to their children and teens. With respect to restricted child-directed marketing of foods & beverages, there is potential that public discussion and the media could turn focus on examining foods and beverages *excluded* from child-directed marketing. DC recommends that some consumer focus group discussion be conducted by HC to better understand any misperceptions or unintended consequences from having regulatory definitions that categorize foods as "healthy" or exclude certain foods from certain lists. Our concern is the potential for confusion, stress and excessive restrictions if consumers think "unhealthy" foods, as defined within food *regulations*, must be entirely avoided. Such unintended consequences would interfere with newer emphasis in dietary guidance/CFG on the enjoyment of eating ('how to eat'), perhaps extending to the avoidance or exclusion of some nutritious, affordable and accessible foods.For this reason, **we cannot stress enough how important it will be for Health Canada (and the dietetic profession) to offer education that helps consumers understand dietary guidance,** and to avoid any confusion with *regulatory* categorizations of foods and beverages within *Canada's food regulations*, which are not meant to be used as dietary guidance**.**

Considering the need to monitor results following implementation of this new regulation, and the potential for adjustments to be suggested, DC further recommends that the M2K legislation be written to allow for changes in the future, in response to developing evidence base and evaluation of the policy's effects.

DC recommends that the essential framework of restrictions in the upcoming Canada Gazette 1 (CG1) regulatory proposal for Restricted Marketing to Children should include the regulations outlining mandatory elements (e.g., restricted marketing targeted to children under the age of 17), while using incorporation by reference as a tool for those elements which may require updating in future (e.g., unhealthy food and beverage definitions/ exemptions, communication channels, forms of marketing). Such a system would keep the regulatory framework within the Food & Drug Act, while allowing for some refinement in this new addition to food regulations, including adjustments following data collected during monitoring and evidence analysis from assessment and evaluation of outcomes and impact and comparing with CCHS Nutrition Cycle information.

2. TWO OPTIONS PROPOSED BY HEALTH CANADA

The basis for restricting marketing to children could be
- Option 1 – don't allow marketing of foods with more than 5% DV sodium/sugars/saturated fat, or
- Option 2 – don't allow marketing of foods with more than 15% DV sodium/sugar/saturated fat

DC, with other members of the Coalition, strongly recommends Option 1 (<5% DV), to maximize the impact of restrictions for protection of this vulnerable population. Our reasons for recommending the strictest option include:

A) There is alignment with federal definitions for "low in" for sugar, saturated fat, and salt. This "low" level for a threshold will minimize exposure to nutrients of greatest concern for the health of Canadians.

B) There is more consistency with proposed guiding principles for Canada's Food Guide, especially vegetables and fruit. More than 60% of Canadians report they do not consume vegetables and fruit as frequently as recommended to maintain long-term health. Fostering a marketing environment that more strongly supports Canada's Food Guide, in its revised form, is an essential precursor to addressing Canada's healthy eating crisis and diet-related chronic disease epidemic.

Again, we emphasize that the following food and beverage categories, as defined in Annex 1 of the document *WHO Regional Office for Europe Nutrient Profile Model*, should be included in the marketing restrictions, by default--regardless of their %DV for salt, saturated fat, and sugar: 1) chocolate and sugar confectionery, energy bars and sweet topping and desserts; 2) cakes, sweet biscuits and pastries, other sweet bakery wares, and dry mixes for making such; 3) juices; 4) energy drinks; and 5) edible ices e.g. ice cream, frozen yogurt, iced lollies and sorbets.

We encourage Health Canada to draw upon the strongest elements of Nutrient Profile Models (NPM) such as the Pan American Health Organization Nutrient Profile Model and the WHO Europe Nutrient Profile Model. These NPMs provide comprehensive tools to classify food and drink products that contain excessive amounts of free sugars, salt, total fat, saturated fat, and trans-fatty acids.

In summary, the preferred approach recommended by members of the Stop Marketing to Kids Coalition would be to draw upon the strongest elements from each of the PAHO and WHO Europe NPM's. This can be achieved by adopting Option 1 i.e. 5%DV for salt, sugar, and saturated fats-- coupled with strong exclusion categories (as outlined above), and retaining the 50 g reference amount for small servings, along with a restriction on added sweeteners.

Option 2 is not preferred for several reasons:

- Would allow some food products to be marketed to kids, even though they are not in line with dietary guidance (e.g., potato chips, French fries) and would undermine the policy's intent
- Examination of children's eating habits may also reveal that their intakes of some food products are relatively high, making the daily amount of sodium/sugars/saturated fat from these products more likely to approach 15% DV/day.
- The 5% and 15% DV concepts apply to adult modelling, which is not necessarily the case for younger children whose calorie intakes would not approach 2000 calories/day – so <5% DV for adults could be equivalent to <10% for younger children (quite high); <15% DV for adults could be equivalent to <30% for younger children, which is unacceptably high.
- The 5% DV aligns with other Canadian regulations, such as "low in" nutrient content claims and is known to mean "a little" – hence more appropriate for the amounts of sodium, sugars and/or saturated fat in a product eligible for child-directed marketing.

DC recognizes that some individuals and groups may recommend the >15% DV option (#2) in order to be consistent with the cut-off proposed for the FOP labelling approach. In spite of the potential rationale suggested in p 10 of the Health Canada proposal, we suggest rationale below for why such action is not needed or critical to achieving 'consistency' within Canada's food regulations:

- The intents of M2K vs FOP policies are not the same and should not therefore be assumed to have the same criteria or cut-offs.
- The proposed FOP labelling approach in Canada might apply to about 60% of processed/pre-packaged foods and is intended to stimulate reformulation to bring the content of these nutrients under 15% DV/serving. In contrast, the restrictions in option #1 for M2K are designed to protect vulnerable populations, allowing only the healthiest, foundational category of foods, with not more than 'a little' sodium, sugars or saturated fat per serving. The latter approach to M2K will likely allow only about 10% of pre-packaged foods/beverages with Nutrition Facts table to be marketed to children in Canada (compared to about 40%, if using option #2). The estimates for the % of products to be affected were similar when comparing the % eligible for marketing with calculations using the more rigorous PAHO criteria. (Source: verbal communication, Marie-Eve Labonte, PhD, RD, Assistant Professor, Laval University, QC, in July 2017).
- Experts in nutrient profiling actually *recommend* use of the *same* nutrient profiling system within a country (e.g., in Canada, the currently proposed system based on three nutrients of public health concern, %DV/serving) at different levels of stringency (e.g., <5%, >15% DV/serving) for different policy objectives (e.g., restricted marketing to children versus front of package labelling), *instead of* using the same thresholds for different policies or developing a different system for each policy. The use of the same system at different levels of stringency (as proposed by Health Canada in this M2K consultation and the FOP labelling system) allows for consistency between policies (defining healthfulness of foods using nutrients of public health concern) while also supporting the credibility of each approach (according to the intended purposes). The FOP labelling system is designed to alert consumers about products high in these 3 nutrients when shopping for foods, as a means of drawing attention to information already in the Nutrition Facts table. The proposal for restrictions on M2K is designed to be comprehensive, to avoid confusion and allow only the promotion of certain 'healthy' or 'foundational' foods and beverages that pass stringent thresholds, for the protection of children. (Source: verbal communication, Mary L'Abbe, PhD, Professor, University of Toronto; Marie-Eve Labonte, PhD, RD, Assistant Professor, Laval University, QC. July 2017).

DC recommends that consumer education and key messages must clearly communicate the differences in purpose/intent of different policies/regulations with simple key messages for the general population.

While the FOP labels will be noticed by their visibility on packaging, the more stringent restriction of products eligible for M2K will not be as obvious, since only the eligible products will be visible. It may be that this more stringent system helps to make a more clear divide between the policies, since consumers would not question why some foods generally perceived to be less healthy are allowed to be marketed to children, yet do not bear a FOP label. While it would not be reasonable to require FOP labels on all packages that contain more than "a little" (5% DV) of any one of the three nutrients, it is reasonable to require all these products to be restricted from M2K. Overall, there is need to

emphasize that the categorization of foods by thresholds does not necessarily mean that certain foods should always be avoided. Consumers and health professionals alike will be uncomfortable with some of this "profiling", seeing certain foods in a category or list with which they disagree; there must be effort to raise awareness that these categories are strictly for the purpose of regulatory definition, whereas Dietary Guidance is provided through Canada's Food Guide.

DC members have noted in particular the controversy regarding classification of regular and lower fat cheeses – which may be allowed within some nutrient profiling systems, yet rejected by others. In the case of regulations for restricted marketing, the benefits of nutrients contained in cheese and the nutrient and growth needs of children and teens, as well as typical eating patterns, may be considered. The Ireland model for M2K exempts cheese products from being evaluated against the nutritional criteria.

Among DC members who responded to the online questionnaire with their views on DC's proposed response to Health Canada, we note there was 79% agreement favouring Option #1, and a further 7% who were unsure. The proportion of DC members who reviewed DC's draft of this response and indicated they were not supportive of the proposed DC response to this question was similar to that in question #1 above – 14%..

3. PROHIBIT NON-SUGAR SWEETENERS

Health Canada suggests prohibiting the marketing to children of all foods and beverages containing non-sugar sweeteners (such as Aspartame and Sucralose).

As a member of the Stop Marketing to Kids Coalition, Dietitians of Canada supports the position that marketing of food and beverages containing non-sugar sweeteners or sugar should be prohibited in order to provide comprehensive protection from unhealthy products and brands. Brand identity and brand loyalty are fostered at a young age, and as such, brands that have a significant proportion of products that fall within the "unhealthy" category would be indirectly marketing their unhealthy products to children and youth. Allowing brands to market their artificially-sweetened and/or healthier brand extensions to children and youth is problematic as children may not be able to distinguish between and choose the healthier options within a brand as a whole.

This approach is also consistent with the "Provincial and Territorial (PT) Guidance Document for the Development of Nutrient Criteria for Foods and Beverages in Schools 2013" (and several other school nutrition guidelines currently in place). Page 5 of the PT Guidance Document states:

"The nutrient criteria for foods and beverages do not allow for the use of sugar substitutes. This decision is based on the Institute of Medicine recommendations and the varying practices by jurisdictions across the country. Sugar substitutes, defined as those listed as food additives, include additives such as: acesulfame-potassium, aspartame, erythritol, hydrogenated starch hydrolysates, isomalt, lactitol, maltitol, maltitol syrup, mannitol, neotame, sorbitol, sorbitol syrup, sucralose, thaumatin, xylitol, and steviol glycosides."

Food choices in childhood and adolescence lay the foundation for lifelong eating habits. Allowing marketers to promote sugary (natural or artificial) products perpetuates a preference for sweetness and promotes a sugary palate among the population. Restricting the marketing of artificially-sweetened products as well as products with free sugars may foster healthier eating habits.

We also note that, while artificial sweeteners are used mostly in beverages to reduce calories, their use in foods may not result in a substantial drop in total caloric density, since some substrate/filler (usually starch) is still needed to replace the weight of sugar in solid foods.

DC members are quite unified in their support of this position as stated above – only 6% of DC members who responded to the online questionnaire with their views on DC's proposed response to Health Canada indicated there might be value in allowing products with artificial sweeteners to be marketed. This view was supported in narrative comments indicating that some provincial school nutrition guidelines allow the sale of artificially sweetened beverages in high schools, that such beverages are a better alternative than sugar-sweetened beverages, and that these sweeteners are deemed to be safe for consumption in the general population.

4. DEFINITIONS FOR CHILD-DIRECTED MARKETING ON TV AND INTERNET

Health Canada proposed definitions to adequately protect children from unhealthy food and beverage marketing on TV and Internet.

> ***TV:*** *on weekdays from 6:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 9:00 p.m., and on weekends between 6:00 a.m. and 9:00 p.m.*
>
> ***Internet:*** *on websites, platforms and apps that are popular with children, even when these digital channels are intended for adults as well.*

DC supports the proposal to limit broadcast media M2K according to time of day.

As a member of the Stop Marketing to Kids Coalition, DC suggests the following:

1. **Use the term "digital" instead of "internet."** Digital applies to a wider range of mediums including mobile communications, texting, online and video games, apps, social media, websites, and future online mediums. This broader term enables the best protection in an ever-evolving online landscape.

2. **The definition should refer to "child/youth directed"** (not only "child directed").

3. During the summer and during non-school times (March break and winter holidays), children and youth are exposed to unhealthy food beverage marketing during prime time TV hours. As such, the **summer/non-school weeks' prime time (9 am to 3 pm) should also be covered**.

4. Pre-school-age children can be exposed to marketing of unhealthy food/beverages during prime time hours. In order to protect pre-schoolers, add criteria stipulating that: **on weekdays, between 6:00 AM and 3:00 PM, "child-directed" marketing on TV is defined as "all unhealthy food and beverage marketing on children's programs and channels that are popular with preschool-age children,"** and therefore not permitted.

5. **TV programming restricted time zones should be revised to run from 6 AM to 10 PM.** Current proposed times do not take into account: exposure for pre-school age children (toddlers), exposure during holidays and the summertime (non-school season), and the fact that many children/youth watch TV past 9 pm and as late as 10 PM. Moreover, since youth under the age of 17 need to be sufficiently protected as well, it is critical to extend the TV viewing hours to 10 PM (rather than the proposed 9 PM).

6. **Marketing on child specialty television channels and movies should be restricted at all times of day and throughout the year.** This type of approach has been used in Taiwan where 13 television channels have specific restrictions on products deemed unhealthy. In Mexico, movies shown in theatres are restricted from advertising unhealthy food and beverages to children before show times. The existing regional film rating system could be used to determine which movies are geared towards and will be viewed by children and youth under the age of 17.

7. **Additional protection should be introduced to limit the overall exposure of marketing for food and beverages high in sugar, salt and saturated fat.** Ireland has introduced a limit on television marketing of unhealthy food and beverage products at any time of day to no more than 25% of advertising spots. This regulation would create a more supportive food environment for all Canadians.

8. It is recommended that Canada regulate **using time restrictions rather than viewership thresholds** to determine what type of television programming is directed to children and youth.

With respect to the views of DC members, while 4 in 5 agreed with the above response, there were several comments questioning the proposal from Health Canada. Remarks included: broadcast times are not entirely critical, because many households watch recordings from TV shows; concern that other advertisements aired in lieu of foods and beverages might be child-directed – ads for toys, videogames etc; time-based restrictions would also preclude adult viewing of food/beverage ads, unless they were specifically not child-directed. Criteria for "child-directed" marketing will need to be clearly defined for regulatory purposes.

5. DEFINITIONS OF TRADITIONAL AND DIGITAL MARKETING THAT INFLUENCE CHILDREN

The traditional and digital marketing techniques that influence children are defined (and proposed to be restricted) – Health Canada asks if other marketing techniques should be restricted.

As a member of the Coalition, DC strongly recommends that Health Canada's list of marketing techniques to be considered for the restrictions matches the list on pages 10 and 53 of the WHO publication, "A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to Children." The World Health Organization provides a comprehensive list of marketing techniques, some of which are missing from Health Canada's proposed list of marketing techniques that should be considered as part of the marketing restrictions.

Moreover, Health Canada's legislation, regulations and policies to restrict food and beverage marketing to children should be designed to be sufficiently flexible (nimble) to allow for the inclusion of new marketing methods as they evolve.

The WHO document above (A Framework...) defines marketing to include: self-promotional means (e.g. via an organization's own web site, sales promotions in shops, or attractive devices, messages or images used with, on, or in *the products themselves*). While this consultation is focussed on child-directed marketing allowed in digital and broadcast marketing, some DC members have also raised questions regarding criteria for restrictions and application to *marketing on product packaging*. Some evidence indicates that some food/beverage products, designed as 'children's foods', with on-package M2K, generally have a lower nutritional quality or nutrient profile than similar products marketed for a general consumer audience. This is a matter that DC would like to further discuss with Health Canada from a food regulatory point of view, over and above the current consultation.

DC recommends a review of product packaging to assess marketing directed to children, to ensure the marketing is not misleading or misrepresenting a product (e.g., is a product specifically formulated to meet needs of children or is the marketing directed to children as a vulnerable, potentially receptive, market audience for a product that is not inherently different from regular products consumed in similar ways? – this is a requirement already established within food regulations, but little is known about the degree of enforcement). We acknowledge that such restrictions on product packaging could be problematic to enforce, especially for foods imported from other countries where marketing restrictions do not apply.

(References: 1. Murray C. *Examining the Nutritional Content of Prepackaged Foods and Beverages Marketed to Children in Canada.* University of Toronto (Canada), MSc thesis, 2014:115 pages; 2. Labonté ME, Mulligan C, L'Abbé MR. *Is the nutritional quality of foods marketed to children comparable to that of foods marketed to a general audience? An analysis of the Canadian packaged food supply.* Abstract published in Appl Physiol Nutr Metab. 2016;41(5 Suppl. 1):S21. Presented at the annual meeting of the Canadian Nutrition Society (CNS), May 5-6, 2016, Hôtel Hilton Lac Leamy, Gatineau, QC).

For this question, there was almost unanimous agreement amongst DC members reviewing the draft DC response. However, there were questions about *how* content on the Internet could be monitored and what powers Canada could have over child-directed marketing that comes from other countries.

6. COMMUNICATION CHANNELS THAT SHOULD BE RESTRICTED

Communication channels used for marketing to children, including television, radio, print media, billboards, DVDs, video games, digital channels and mobile devices, are proposed as channels that should be restricted.

Members of DC who entered their comments in response to DC's draft response in July 2017 generally agreed that Health Canada's list of communication channels to which restrictions should apply was comprehensive, although we ask that Health Canada follow recommendations made in #5 question - that Health Canada's list of marketing techniques to be considered for the restrictions matches the list on pages 10 and 53 of the WHO publication, "A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to Children."

Some questions were raised with respect to capacity for monitoring M2K on digital channels (e.g., internet, apps), especially for marketing that originates from countries where M2K is not restricted by law and/or following similar criteria as in Canada. The process, and capacity, for monitoring and enforcement of the restrictions must be decided in conjunction with the policy. The presence of restrictions, with limited capacity for enforcement, could weaken the policy and decrease the potential contribution to overall objectives of promoting children's health.

7. PROPOSED EXEMPTIONS FOR MARKETING RESTRICTIONS

Health Canada asks if there are certain situations where some marketing techniques should be exempted from broad marketing restrictions.

DC supports the principles outlined in the Ottawa Principles.

DC acknowledges Health Canada's statement that "less healthy foods are promoted through their association with sports and education, and studies have shown that kids are more likely to favour and consume products of companies that support their teams and schools.**[53]"** In other words, the sponsorship of children and youth programs--coupled with exposing kids to the sponsors' logos and further amplified with product or coupon giveaways--are some of the most effective marketing tactics.

As a member of the Stop Marketing to Children Coalition, we recommend that federal restrictions to food and beverage marketing to children should be designed to phase out the most harmful elements of sponsorship practices. Here, Quebec provides an effective model of how community groups can receive financial contributions from corporate sponsors without the harm of advertising targeted at children. In particular, the Quebec's Consumer Protection Act stipulates that:

"The sponsor of an activity for children or families whose products are primarily intended for children or appeal to them cannot, during the event:

1) Present the message in a childlike way or in a manner that would arouse the interest of children;

2) Use a logo or mascot.

However, the sponsor can discreetly mention a name that does not draw children's attention. For example: "This event is sponsored by [mention of the name]."

The above approach could be used for federal restrictions as well, and prohibit coupon or product giveaway to children, in order to further reduce children's vulnerability to this marketing practice. Ultimately, it will be incumbent upon government to determine the best strategy to ensure the passage and adoption of the most effective restrictions as possible on marketing of 'unhealthy' food and beverages to children.

There is general agreement however that sponsorships of recreational sports teams in which children/teens participate are a form of marketing that children would notice. DC is in agreement with suggestions that such potentially contentious restrictions should not be considered for immediate implementation. Furthermore, it would be important to ensure that teams can continue to operate, since these teams provide opportunities for healthy physical activity and socialization. A phase-in period may help teams to find alternate sources of revenue. Similar challenges were encountered when decisions were made about tobacco sponsorship in the past. Members of the Coalition agree that food product giveaways/coupons should *not* be allowed under the terms of team sponsorship by companies that produce foods/beverages.

8. ADDITIONAL COMMENTS from Dietitians of Canada:

As a member of the Coalition, DC agrees that **it is unethical to target children and youth with marketing messages that undermine efforts by parents, schools, and public health authorities to support healthy choices.** Children and youth should not be the targets of uncontrolled marketing messages and tactics for which they lack the cognitive abilities to objectively evaluate and process.

While **we continue to prefer and support the Coalition's approach of banning "all food and beverage" marketing directed to children approach,** we recognize this approach will not be considered by the federal government at this time. As such, **we believe it is essential that a robust monitoring and evaluation system be adopted to: 1) enforce and, 2) improve the restrictions to the fullest extent possible. We also believe that it is imperative that the legislative/regulatory framework be nimble to adapt to future marketing techniques,** adjusted as needed, for effectiveness and to address any unintended negative effects.

We strongly reinforce the importance that restrictions protect children under the age of 17. While it is well recognized that children are uniquely vulnerable to marketing, adolescents are also remarkably susceptible to marketing tactics. Adult reasoning capacity is not fully reached until age 25 to 30 years. The prefrontal cortex (PFC) is not fully developed until that age. In addition, adolescence is characterized by hormonal changes which increase the influence of the risk/reward center and those domains related to peer affiliation. As a result of all these factors the underdeveloped PFC is often overwhelmed by tendencies for risk-taking and a need to prioritize peer opinions over that of adults.

Follow-up monitoring and research is needed: Research should be conducted to validate the proposed system – i.e., using 5 and 15% DV for sodium, sugars and saturated fat, with additional exemptions. The WHO Guiding Principles/ framework should be used to develop research protocol to assess this nutrient profile system. **Marketing restrictions resulting from this consultation and adopted by the federal government must be evaluated, monitored, sufficiently resourced and enforced,** to ensure compliance with restrictions and that the expected effects are achieved.

For further information:

Pat Vanderkooy, MSc, RD
Manager, Public Affairs
Dietitians of Canada
pat.vanderkooy@dietitians.ca
www.dietitians.ca