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April 24, 2014

Julie Brewer
Chief, School Programs Branch
U.S. Department of Agriculture
Policy and Program Development Division,
Child Nutrition Programs, Food and Nutrition Service
P.O. Box 66740
St. Louis, MO 63166-6740

Re: RIN 0584-AE25

Dear Ms. Brewer:

On behalf of Public Citizen, we appreciate this opportunity to provide comments on the proposed rule for Local School Wellness Policy Implementation under the Healthy Hunger-Free Kids Act of 2010. Public Citizen is a strong supporter of robust school policies that create healthy, supportive learning environments free from unhealthy commercial influences.

Public Citizen, a consumer protection organization based in Washington, D.C. with more than 300,000 members and supporters, engages in research and advocacy on a number of health and safety issues nationally and locally. Commercial Alert, a project of Public Citizen, aims to keep commercialism from exploiting children, undermining public health and subverting higher values of family, community, environmental integrity and democracy.

We support other healthy food advocates' comments on other aspects of the rule. Our comments focus on the issue of food marketing in schools.

We are very pleased that the proposed rule would require schools to include food marketing and advertising in their local wellness policies. Advertising and marketing to children in schools requires special consideration because the food industry is reaching children in an environment where parents have little or no oversight or ability to consent.

While research shows¹ that schools receive little net benefit from school commercialism, corporate marketers are granted extensive access² to students, according to a recent report² by the National Education Policy Center (NEPC). Common strategies include “using school space for marketing messages; negotiating exclusive marketing agreements with schools and districts; creating or exploiting digital platforms that contain advertising and/or collect student data; offering fundraising promotions; sponsoring school programs and activities; offering incentives to buy products or services; and producing product- or brand-related supplementary education material.”³

Research suggests that advertising poses a threat to children’s psychological health, in addition to threats to physical health.⁴ Children exposed to advertising suffer displacement of values and activities other than those consistent with materialism; and heightened insecurity about themselves and their place in the social world among other issues.⁵ Materialistic values encouraged by commercialism and a consumer culture have been found to be associated with higher rates of anxiety, depression, psychological distress, chronic physical symptoms, and lower self-esteem.⁶ In teenagers, higher materialistic values also correlate with increased smoking, drinking, drug use, weapon carrying, vandalism and truancy.⁷ Commercial messaging in education compounds the overall effects of children’s exposure to ubiquitous commercialism while undermining students’ capacities to think creatively, critically and independently in school.

¹ Public Citizen, *School Commercialism: High Costs, Low Revenues*, October 2012. Retrieved April 11, 2014 from http://www.commercialalert.org/PDFs/SchoolCommercialismReport_PC.pdf.

² Molnar A., Boninger, F. Libby, Fogarty, J. *Schoolhouse Commercialism Leaves Policymakers Behind*, Boulder, CO: National Education Policy Center. Retrieved April 11, 2014 from <http://nepc.colorado.edu/files/trends-2013.pdf>.

³ Id.

⁴ See Id. (citing Molnar, A., Boninger, F., Wilkinson, G., Fogarty, J., & Geary, S. (2010). *Effectively embedded: Schools and the machinery of modern marketing – The thirteenth annual report on schoolhouse commercializing trends: 2009- 2010*. Boulder, CO: National Education Policy Center. Retrieved April 11, 2014 from <http://nepc.colorado.edu/publication/Schoolhouse-commercialism-2010>)

⁵ Id. at 11.

⁶ Id. (citing Schor, J.B. (2004). *Born to Buy*. New York: Scribner.)

⁷ Id. (citing Kasser, T. (2002). *The High Price of Materialism*. Cambridge, MA: MIT Press.)

Public Citizen maintains that no commercial marketing or advertising should be present in the education context given its demonstrated harms to children's physical and psychological health. School advertising promotes and affects behavioral attitudes in *and out* of school. For example, a school sports stadium advertising a mall promotes the idea that students should shop in their free time, rather than, for example, engage in creative or physical activity. That the impact of any particular advertising message is marginal doesn't mean it is zero; and the minimal effect of any particular advertisement is why marketers rely so heavily on repetition and multiple impressions. Thus, all commercialism in schools—not just unhealthy food product marketing—undermines child health, to some degree.

We realize the USDA can only address unhealthy food marketing in this proposed rule. But against the backdrop of the unhealthy effects of commercialism in general and the specific devastating effect of food marketing, we urge the USDA to make sure local educational agencies (LEAs) are free and encouraged to implement the strongest possible standards for food marketing. We encourage the USDA to expand the definition of section [210.30 (b)] to include the definition of food and beverage marketing, among other definitions. We offer the following model language:

Food and Beverage Marketing and Advertising means an oral, written, or graphic statement or representation, including a company name, logo or trademark, made for the direct or indirect purpose of promoting the use or sale of a product by the producer, manufacturer, distributor, seller, or any other entity with a commercial interest in the product. This covers any property or facility owned or leased by the school district or school (such as school buildings, athletic fields, transportation vehicles, parking lots, or other facilities) and used at any time during the school day.

We agree that the Smart Snack standards should be used as the minimum standard for school food marketing. However, schools, districts, or states should be encouraged to strengthen and build on those standards. For example, LEAs could extend the marketing standards beyond the school day, and they could choose to use their local or state competitive foods standards if those standards go beyond the Smart Snack standards. That would allow LEAs to align their marketing standards with their food sales standards. USDA also should note that LEAs also have the discretion to restrict all marketing of food and beverages in schools.

USDA should clarify in the final rule which marketing is covered, providing the broadest possible definition inclusive of brands and product advertising and marketing on anything owned by the school or associated with its programs and property. Through guidance and model local wellness policies, USDA should help schools to understand and encourage them to address the full range of food marketing in schools, including marketing and advertising through:

- signs, scoreboards, and posters
- curricula, textbooks, websites promoted for educational purposes or recommended by the school (ex. coolmathgames.com), and other educational materials
- vending machine exteriors, food or beverage cups or containers, food display racks, coolers
- equipment, uniforms, school supplies (ex. pencils, notebooks, textbook covers)
- advertisements in school publications, on school radio stations, in-school television (such as Channel One), computer screen savers and/or school-sponsored Internet sites, or announcements on the public announcement (PA) system
- branded fundraisers and corporate-sponsored programs that encourage students and their families to sell, purchase or consume products and/or provide funds to schools in exchange for consumer purchases of those products (ex. McTeacher's night, Labels for Education, Box Tops for Education)
- corporate incentive programs that provide children with free or discounted foods or beverages (ex. Pizza Hut Book It! Program)
- sponsorship of materials, programs, events, or teams, scholarships, property and equipment
- market research activities
- free samples, taste-tests, or coupons
- naming rights to school property

USDA should give special guidance to schools about how to address brand advertising, an increasing trend. Brand advertising features general brand depictions, such as brand logos, product line logos, or spokescharacters, in the absence of a prominent focus on a specific product (for example, showing the company brand on a sign at a sponsored event, Ronald McDonald on a t-shirt, or a Gatorade logo on a soccer uniform). If a brand is marketed rather than a specific product, then all the products within the marketed brand or product line should meet the Smart Snack guidelines.

LEAs should be free and encouraged to limit all commercial food and beverage brand advertising, since products associated with brands quickly and constantly change. Schools are not likely to have the capacity to monitor whether all advertised brands' product lines meet Smart Snack guidelines.

USDA should provide guidance, model policies and resources to support implementation of the final rule. Those resources should include data and materials regarding revenue from school marketing to assist schools that are concerned about possible financial ramifications. We also encourage USDA to incorporate the guidance and details in the preamble into the toolkits and resources that USDA provides LEAs to assist in implementation.

We commend USDA for developing a robust rule for local school wellness policies that will strengthen existing policies and lead to more effective leadership, implementation, stakeholder involvement, accountability, assessment, and transparency. We are pleased that USDA will be providing comprehensive model policies, toolkits, and technical assistance. We urge USDA to include additional definitions—particularly for food marketing—in the final rule for each of the key areas to be covered in the Local Wellness Policies and provide schools with about a year for compliance with the final rule.

If you have any questions or need any additional information related to our comments, please do not hesitate to contact us.

Sincerely,

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