



July 31, 2017

Dr. Hasan Hutchinson,
Director General/ Directeur general
Director General, Office of Nutrition Policy and Promotion
Office of Nutrition Policy and Promotion/ Bureau de la politique et de la promotion Santé

RE: *Restricting Marketing to Children* Consultation

Dear Dr. Hutchinson:

The Canadian Nutrition Society / Société canadienne de nutrition (CNS/SCN) is the leading Canadian society that integrates disciplines and professions interested in food and nutrition. We promote food and nutrition science and education, and advocate for the application of best practice and policies for the promotion of health and the prevention and treatment of disease. The CNS/SCN is pleased to participate in the Restricting Marketing to Kids Consultation opportunity. It is our hope that the CNS/SCN will continue to be invited to provide its expertise throughout Health Canada's process.

In preparing this response, the CNS/SCN is grateful to our Expert Working Group comprised of some of Canada's leading researchers on this topic, including:

- Nick Bellissimo, PhD, Associate Professor and Director, Nutrition Discovery Labs, School of Nutrition, Faculty of Community Services, Ryerson University/ Working Group Chair
- Meghan Azad, PhD, Assistant Professor, Department of Pediatrics & Child Health and Community Health Sciences, University of Manitoba
- Kate Cole, MHSc, Director, Nutrition and Public Affairs, Nestlé Canada Inc.
- Marcella Garsetti, PhD, Principal Scientist - Nutrition & Health, Unilever North America
- Bohdan Luhovyy, Professor, Mount St. Vincent University
- Laura Pasut, MSc, RD, Nutridata Consulting Service
- Natalie Riediger, PhD, Assistant Professor, Community Health Services, University of Manitoba
- Julie Robitaille, RD, PhD, Professor, Director – Undergraduate Program in Nutrition, School of Nutrition, INAF, Laval University
- Caley Velazquez, PhD, RD, Postdoctoral Research Fellow, UBC Faculty of Land and Food Systems
- Pat Vanderkooy, RD, Public Affairs Manager, Dietitians of Canada
- Andrea Grantham, Executive Director, Canadian Nutrition Society

Further, the response engaged input from the CNS-SCN Board of Directors:

- David Ma, PhD, CNS-SCN President / Professor, Department of Human Health and Nutritional Sciences, University of Guelph
- Jim House, PhD, CNS-SCN President Elect and VP Research / Head of the Department of Human Nutritional Sciences, University of Manitoba

- Mei Tom, RD, CNS-SCN VP-Clinical / Director - Nutrition Service, Edmonton Zone, Alberta Health Services
- Robert Bertolo, PhD, CNS-SCN Past-President / Canada Research Chair in Human Nutrition and Professor, Department of Biochemistry, Memorial University of Newfoundland
- Alison Duncan, PhD, RD, CNS-SCN Treasurer / Professor, Human Health and Nutritional Sciences, University of Guelph
- Dr. Vera Mazurak, PhD CNS-SCN Director-at-large / Associate Professor, University of Alberta
- Dr. Guylaine Ferland, PhD, CNS-SCN Director-at-large / Professor, Université de Montreal
- Rupinder Dhaliwal, RD CNS-SCN Director-at-large / Director of Operations, Metabolic Syndrome Canada

The CNS/SCN has taken significant effort to put forth the following comprehensive response to this consultation. It is important to indicate that coming up with a definitive response and providing solid recommendations to many of these questions was difficult due to a lack and quality of evidence. For this reason, two of our recommendations is that Health Canada fund and/or seek further evidence focusing on the effects of non-nutritive sweeteners, and this evidence coincides with a three-year review of the effectiveness of this ban. While the CNS agrees overall with this proposal, it recognizes many challenges in its implementation. An effective implementation should be developed to position it for success.

RESTRICTING MARKETING TO KIDS – WORKING GROUP RESPONSES

QUESTION 1 - Based on your knowledge of nutrients, should Health Canada’s marketing restrictions focus on sodium (salt), sugars, and saturated fat?

Restricting marketing of foods high in these nutrients does align with the World Health Organization’s ‘Europe Nutrient Profile Model’ and ‘Set of Recommendations on the Marketing of Foods and Non-alcoholic Beverages to Children document’, as well as guidelines developed and implemented by other countries (e.g., the United Kingdom). It is generally agreed that implementing a 5% cut off for these three nutrients of concern will likely limit the range of foods that marketers can promote, many of which may not capture the interest of children. However, the CNS-SCN is concerned that there is no scientific evidence to suggest that it would be appropriate to apply a 15% threshold as a criterion to determine unhealthy; and less evidence using the 5% cutoff. Further, although sugars, saturated fat and sodium are key nutrients of concern for Canadians, there is more nutritional value to a product than being low in negative nutrients.

The CNS-SCN is offering the following recommendations to Health Canada:

- Use the levels of these nutrients, **along with other properties**, to determine the eligibility for marketing to children.
- Make exceptions for nutrient-dense foods that cross the 5-15% thresholds, such as cheese and yogurt. Current literature supports beneficial or neutral effects of cheese and yogurt consumption for children and teenagers’ health, including inverse association with central obesity (Bradlee ML et al., Public Health Nutr 2010 13(6):797-805); lower body fat, lower risk for CVD (Moreno LA et al., Nutr Rev 2015 73(suppl 1) 8-14).

- Use similar criteria by categories as with the EU Pledge criteria that is better aligned with dietary guidelines.
- Our strongest recommendation, albeit ambitious, is for Health Canada to develop a more robust profiling system that better discriminates against products within and across food categories and that can consider a larger number of the characteristics of a food. This would be an important future goal that should be used for an overall food strategy, and an important opportunity for Canada to lead in this approach as a global example.

The CNS-SCN urges Health Canada that the **implementation of a ban be reviewed after three years**, while ongoing work focuses on developing a nutrient profile based system. This will help to ensure that this ban is working and effective; or indicate whether a different system is needed. The CNS-SCN also urges Health Canada to plan/support more consumer education targeting parents (who are the food providers), as well as children so that when they become adults they have the knowledge and understanding to make healthy food choices, including those that are not high in salt, sugar, saturated fats and other negative nutrients.

QUESTION 2 – In your estimation, which is more appropriate as the basis for restricting marketing to children: Option 1 (~5% DV) or Option 2 (15% DV) thresholds for sodium, sugar and saturated fats?

Once again, the CNS-SCN is concerned that this system is not rooted in science and without seeing a complete list of foods that would fall under this category, it is challenging to give an opinion with certainty. If Health Canada adopts the less than 5% thresholds then it is essentially limiting options to include only whole foods. It is important to acknowledge that there can be good food alternatives that contribute to a healthy diet and suit the needs of Canadian parents who are not always able to create every meal/snack for their children from scratch.

In addition, if Health Canada proceeds with the 5% threshold, nutrient-dense foods such as cheese will not be allowed to be marketed. The UK model made an exception to the “high in fat, salt or sugar” model where protein content was high. Once again, this is where a more detailed nutrient profile would help to better discriminate between products within and across food categories, and that can consider a larger number of the characteristics of a food.

Over the past years, as a part of the Nutrition Facts Education Campaign, Health Canada worked in partnership with industry and retailers across the country to help Canadians choose healthier foods by learning how to use and read information on a food label. A key component of this campaign was the message that 5% DV of a nutrient represents “a little” and 15% DV of a nutrient represents “a lot”. As such, using just the 5% DV threshold would be contradictory with its initial intent as a comparative nutrition tool.

Because of these concerns, and due to a lack of evidence and limited quality of existing evidence, the CNS-SCN cannot wholeheartedly endorse either option. **The CNS-SCN recommends that Health Canada proceed with banning the marketing of ALL foods**, rather than debate which nutrients are more negative than others.

QUESTION 3 – Based on your understanding of non-sugar sweeteners (such as Aspartame and Sucralose), should Health Canada prohibit the marketing to children of all foods and beverages containing non-sugar sweeteners?

From a marketing point-of-view, it is reasonable to prohibit marketing to children of all foods and beverages containing non-sugar sweeteners. Companies aim to create lifelong consumers, a task that is often facilitated by establishing brand awareness at an early age (children as young as 2-3 years old can recognize brands). Companies try to reach children not only because of their purchasing power now, but also because they represent the future adult market (Story, M., & French, S., *Int J Behav Nutr Phys Act.* 2004 Feb 10;1(1):3). In addition, an unintended consequence is that if everything else is banned and the food industry responds by heavily marketing foods containing non-nutritive sweeteners, then this may seem like an endorsement of these products.

On the other hand, non-nutritive sweeteners can be added to some nutrient-dense foods (such as yogurts) that otherwise would be less likely to be selected by children (e.g. plain yogurt). In addition, intense sweeteners can be used in combination with sugar to reduce energy density of various foods and beverages and are even used in some flavor systems to reduce the amount of sodium. Further, in some settings, intense sweeteners represent a useful strategy to reduce calorie intake in adults (Peters JC et al., *Obesity (Silver Spring).* 2016 Feb;24(2):297-304; Rogers PJ et al., *Int J Obes (Lond).* 2016 Mar;40(3):381-94.)

However, given that there is limited evidence and even conflicting data on the short and long term effects of non-sugar sweeteners (Azad et al., *CMAJ* 2017;189(28)), particularly when dealing with children (Reid, C. et al., *Pediatrics.* 2016 Mar;137(3):e20153603), the CNS-SCN **recommends that Health Canada prohibit marketing to children of ALL foods, including those containing non-sugar sweeteners.**

The CNS-SCN also recommends that Health Canada fund or seek evidence focused on the short- and long-term effects of non-nutritive sweeteners, including the relationship to appetite, cognition, body weight and cardio-metabolic health. This research should coincide with a three-year review of this ban. Given the growing evidence around early origins of disease, children are most vulnerable and therefore warrant extra care.

QUESTION 4 – Would the definitions proposed adequately protect children from unhealthy food and beverage marketing?

Generally, the CNS-SCN believes that this ban will have significant challenges in its implementation, including:

- Planning the ban during specific time slots may protect “school-aged” children from television advertising but will not limit exposure to preschool-aged children.
- The age range of under the age of 17 is not consistent with other age restrictions used with most apps and Internet sites that typically impose restrictions for under 13 years, and many sites are popular with all ages.
- Health Canada will need to determine a system on how it will differentiate a product that appeals to teenagers vs. adults, particularly when youth are often interested in adult programs and activities.
- Most adult television and digital channels are also used by 14-16 year olds, which means that the ban will effectively restrict marketing to adults or fail to achieve the ability to

restrict marketing to this age range. In addition, some programming is not limited to any age range, such as sports.

- Global advertising avenues, such as billboards, mobile devices, etc. are viewed by people of all ages; thus, Health Canada will need to determine how to address these venues.

The CNS-SCN recommends that Health Canada will need to develop a monitoring and enforcement plan to ensure that this ban is strictly implemented, otherwise there is a risk of creating an uneven playing field with some industry members complying and others not. It is also important to suggest potential unintended consequences that may result, such as no advertising with the exemption of toys, luxury items, technology, entertainment and alcohol. These items may equally not promote healthy behaviours, and may also exclude children from low SES backgrounds. The Quebec restriction encompasses all marketing of products and services to children under the age of 13, not just foods and beverages. Health Canada should consider this broad approach, particularly since the Minister of Health's mandate letter indicated a need to implement a policy like Quebec.

QUESTION 5 – Based on your experience, are there any other marketing techniques that influence children and should be considered as part of the marketing restrictions?

Consideration will need to be given on clothing items (e.g., t-shirts, hats, etc.) with food or beverage company logos. In addition, school participation programs that offer reward or incentive programs (e.g. “Campbell’s Labels for Education” or Pizza Hut’s “Book It?” program), competitions/contests organized or sponsored by food/beverage companies, scholarship programs, or market research are other marketing initiatives that this policy will need to determine how to address.

QUESTION 6 – Based on your experience, are there any other channels used for marketing to children that should be considered as part of the marketing restrictions?

Other marketing channels that should be considered include point of sale marketing, window decal signs, toys (i.e. Shopkins) and, as previously indicated, clothes with a food/brand logo.

QUESTION 7 – Are there certain situations where some marketing techniques should be exempted from broad marketing restrictions?

With physical activity levels on a decline, and the high cost of participating in school and community recreational and competitive sport and physical activity programs, it is important to consider what the impact of this marketing ban will be on sponsored teams. Team sponsorships can make all the difference in a child’s ability to participate/not participate due to making participation fees accessible. An important unintended consequence that must be considered is the potential of this ban to result in a further decline in physical activity levels which will negatively influence a child’s health. In addition, limiting sponsorship will disproportionately affect low income children/families. Evidence indicates that obesity and diabetes are higher among low SES populations. The result of limiting sponsorship is likely to be a further widening of the health equity gap.

This ban may lead to more strategic marketing activities, such as marketing ‘child-oriented’ products to parents/families. In the absence of strict guidelines, the line will be blurred very quickly as marketers try to find loopholes. Health Canada will need to develop a comprehensive and

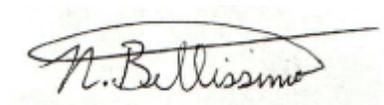
thoughtful plan to monitor how these regulations are put in place. A government developed plan for monitoring will be key, with appropriate penalties for violations.

Concluding Remarks

Once again, the CNS-SCN recommends that Health Canada fund or seek evidence focused on the short- and long-term effects of non-nutritive sweeteners, particularly in relation to their effects on children. This research should coincide with a three-year review on the effectiveness of this ban. The CNS-SCN urges Health Canada to plan/support more consumer education targeting parents (who are the food providers), as well as children so that when they become adults they have the knowledge and understanding to make healthy food choices, including those that are not high in salt, sugar, saturated fats and other negative nutrients. Finally, we remind Health Canada that it is important to be mindful of the importance of critical thinking, parenting skills and skill development/ knowledge of food decisions and some autonomy for parents to make decisions on behalf of children, not decisions made for parents. This makes a strong educational component even more important.

The CNS/SCN hopes that our response to the public consultation process on Restricting Marketing to Kids provides feedback of value to your process. We hope that you will continue to engage our expertise at all stages of your process. Further the CNS/SCN would be pleased to support access to expertise to assist Health Canada in the implementation and ongoing monitoring of the this ban. Please feel free to contact us for further information or clarification.

Sincerely,



Nick Bellissimo, PhD
CNS/SCN Working Group Chair



Andrea Grantham
CNS/SCN Executive Director



Appendix A –

Working Group / Board of Director Disclosures

Nick Bellissimo, Ryerson University	<ul style="list-style-type: none"> • Research funding from: Danone Institute of Canada, TOS/Egg Nutrition Center, Alliance for Potato Research & Education (APRE), Ontario Centres of Excellence, Mitacs, Dairy Farmers of Canada (DFC), Canadian Foundation for Innovation, Nutrition & Exercise Testing (NExT) Lab, The Hershey Company, Ryerson University. • Provided consulting services/reviews and/or received honoraria and travel reimbursements from: Canadian Sugar Institute, APRE, Egg Nutrition Center, Hass Avocado Board, DFC.
Meghan Azad, University of Manitoba	<ul style="list-style-type: none"> • No disclosures to report
Robert Bertolo, Memorial University	<ul style="list-style-type: none"> • No disclosures to report
Kate Cole, Nestlé Canada	<ul style="list-style-type: none"> • Employee of Nestlé Canada
Rupinder Dhaliwal, Metabolic Syndrome Canada	<ul style="list-style-type: none"> • From 2001-2015, salary was partially supported by research grants received by Queen's University from Nestle, Baxter, Fresenius Kabi and Dietitians of Canada. • Received funding from Nestle and Baxter for travel to scientific meetings/conferences and honoraria for speaking engagements.
Alison Duncan, University of Guelph	<ul style="list-style-type: none"> • Research funding from: Agriculture and Agri-food Canada, American Institute of Cancer Research, Canadian Foundation for Dietetic Research, CIHR, Danone Institute, OMAFRA, Public Health Agency of Canada, Pulse Canada, Saskatchewan Pulse Growers. • Currently serve on Scientific Advisory Boards for Bioenterprise and Guiding Stars Licensing Company • No financial or personal interest in any agriculture or food companies.
Marcella Garsetti, Unilever North America	<ul style="list-style-type: none"> • Employee of Unilever Canada
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Jim House, University of Manitoba	<ul style="list-style-type: none"> • Current Grants & Contracts <ul style="list-style-type: none"> ○ Agriculture and Agri-Food Canada Growing Forward 2 – Private-Public Partnership with: <ul style="list-style-type: none"> ▪ Pulse Grower Associations and processing industries ▪ Cereal Grower Associations and agronomic industries ○ Natural Sciences and Engineering Research Council of Canada (NSERC) <ul style="list-style-type: none"> ▪ Discovery Grant, Connect Grant ○ Industry Contracts and Technical Services Agreements related to Protein Quality Assessment of foods and food ingredients ○ Egg Farmers of Canada ○ Manitoba Egg Farmers ○ MITACS Canada • Current participation on Advisory Boards and Grant Review Panels <ul style="list-style-type: none"> ○ ILSI North America – Canadian Advisory Council ○ AOAC International Editorial Board • No financial interests in agri-food/nutrition companies

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David Ma, University of Guelph	<ul style="list-style-type: none"> • Research funding from: CIHR, NSERC, Canada Foundation for Innovation, Dairy Farmers of Canada, Canola Council, OMAFRA, University of Toronto, University of Guelph, American Institute of Cancer Research, Bickel Foundation. • Provided consulting services/reviews and/or received honoraria and travel reimbursements from: Unilever, Dairy Farmers of Canada, Vegetable Oils Industry of Canada, Pepsi, Heinz infant institute, North American Meat Scientific Advisory Network/Canadian Meat Council, Governmental of Alberta, Government of Newfoundland, Michael Smith Foundation, Dietitians of Canada, American Oil Chemists Society, Dietitians of Toronto
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Pat Vanderkooy, Dietitians of Canada	<ul style="list-style-type: none"> • No disclosures to report