

**Putting Kids First:
Backing Fair, Effective, and Sustainable
Children Protection Law
OPHA / NRC**

1st annual knowledge exchange and transfer conference

Marketing Towards Children

Toronto

February 25, 2013

Speaking notes of

Bill Jeffery, LLB, National Coordinator, CSPI



CENTRE FOR
Science IN THE
Public Interest

*The nonprofit publisher of
Nutrition Action Healthletter*

CENTRE POUR
la science DANS
l'intérêt public

*Éditeur sans but lucratif de
Nutrition Action Healthletter*

The Centre for Science in the Public Interest...

- **Is an independent, non-partisan health advocacy organization focussing on nutrition policy issues.**
- **Has offices in Ottawa and Washington, with Canadian staff based mostly in Ottawa and Toronto.**
- **Is funded in Canada approximately 100,000 subscribers to the Canadian edition of the *Nutrition Action Healthletter*, which is read by more than 1,000 constituents in most federal ridings, on average more than one subscribing household within a one-block radius of every Canadian street corner.**
- **Does not accept funding from industry or government.**


Our Motivation:

Diet-related disease causes real, avoidable deaths and economic losses, both on a grand scale.

For example, in Canada...

- **An average of nearly 5 years of healthy life expectancy is lost due to six diet-related risk factors.** (See: World Health Organization, *The World Health Report 2002*, (Geneva: WHO, 2002). Esp. see Table 4 in the annex which shows that loss of healthy life expectancy due to all risk factors is 9.4 disability-adjusted-life-years averaged for Canadian men and women at http://www.who.int/whr/2002/en/whr2002_annex4.pdf) and Table 10 which shows that, in developed countries, 50% of all-risk-attributable Disability-Adjusted Life Years (DALYs) were lost due to blood pressure, cholesterol, overweight, low fruit and vegetable intake, and certain rare types of childhood and maternal undernutrition at http://www.who.int/whr/2002/en/whr2002_annex9_10.pdf). So, 50% of 9.4 years is 4.7 years.)
- **And estimated 48,000 premature deaths annually are caused by diet-related disease due mainly to cardiovascular disease, diabetes, and certain cancers caused by excess sodium intake, risky blood cholesterol and glucose levels, inadequate fruit and vegetable intake, and excess abdominal body fat.** World Health Organization. *Global Health Risks: Mortality and burden of disease attributable to selected major risks*. 2009. W.H.O. Geneva. See, esp. p. 17. Available at: http://www.who.int/healthinfo/global_burden_disease/GlobalHealthRisks_report_full.pdf Statistics Canada. *Mortality, Summary List of Causes*. 2008. Ottawa. Catalogue no. 84F0209X which indicates the total number of deaths in 2008 was 238,617, 20% of which is: 47,723. Available at: <http://www.statcan.gc.ca/pub/84f0209x/84f0209x2008000-eng.pdf> See, for example, the extrapolation from published figures in endnote 11 at: http://cspinet.org/canada/pdf/Eng_CSPI_Finance.pdf which, through crude, is also consistent on a per capita basis with the 365,000 annual US deaths attributed to poor diet and physical inactivity. (cf. Mokdad AH, et al, "Actual Causes of Death in the United States, 2000" 291(10) *Journal of the American Medical Association* 1238-1245, and 293(3) pp. 293-4, 298. See also, the Drummond Commission Report (2012), recommendation #5-85 at <http://www.fin.gov.on.ca/en/reformcommission/chapters/ch5.html#ch5-o>
- **A total of \$5-30 billion per year is lost from the Canadian economy as a whole (avoidable health care costs and lost productivity)** Public Health Agency of Canada. *Obesity in Canada*. 2010. Ottawa at 28-29. Available at: <http://www.phac-aspc.gc.ca/hp-ps/hl-mvs/oic-oac/assets/pdf/oic-oac-eng.pdf>; Anis AH, Zhang W, et al. Obesity and overweight in Canada: An updated cost-of-illness study. *Obesity Reviews*. 2009;11(1):31-40; Behan DF, Cox SH, et al. *Obesity and its Relation to Mortality and Morbidity Cost*. December 2010. Committee on Life Insurance Research. Society of Actuaries. University of Manitoba. Winnipeg.

Overarching Disease Reduction Goal:

- WHA: NCD deaths  25% by 2025 or 48,000 fewer deaths annually
 - approx. 190,000 Canadian deaths annually due to NCDs;
 - approx. 100,000 due to alcohol+tobacco+diet;
 - Approx. 48,000 deaths due to poor nutrition.
- Probably requires taking all the measures CSPI advocates (plus stronger action on tobacco, alcohol control), e.g.
 - halve sodium levels in food supply,
 - eliminate synthetic trans fats,
 - **ban ads to children,**
 - improve nutrition labelling on the front of food packages,
 - mandate calories, high-sodium notices on restaurant menus,
 - reform food taxes to promote, not discourage healthy eating,
 - *make Canada's Food Guide* more persuasive and more consistent with science; spur other changes in procurement, school food standards;
 - *Mandate sensible nutrition standards for school foods and subsidize school meals to a level more in keeping with other OECD countries*

How we advocate public health nutrition law reforms

- **Publish**: *Nutrition Action*, policy reports, journal articles, op-eds, book chapters, briefing notes, technical briefs, news releases, etc.
- **Testify**: before legislative committees, esp. House of Commons Standing Cttee. on Health and the Codex Food Labelling Cttee (based on World Health Org., U.S. Institute of Medicine, United Nations, OECD, Supreme Court, etc., etc.)
- **Media**: interviews for print, and broadcast media
- **Participate**: in formal advisory committees, e.g., the Trans Fat Task Force, Sodium Working Group
- **Meet elected officials and government bureaucrats**: esp. at Health Canada, Canada Food Inspection Agency, and increasingly in provincial and municipal health authorities
- **Mobilize supporters**: meet, call, and write NGOs, experts and grassroots supporters to:
 - seek their advice (and share ours),
 - mobilize their support (and offer ours), and
 - (occasionally) enlist their financial support for our conferences
- **Convene**: conferences of experts, policy-makers and journalists

Plug #1:

42+ (and counting) experts and NGOs supporting Bill C-460, Sodium Reduction Strategy for Canada Act

Joint statement of Canadian Health and Citizens' Groups in support of Bill C-460, Sodium Reduction Strategy for Canada Act

The Perils of a High Sodium Diet. We, the undersigned, recognize that excess sodium in the Canadian diet—three-quarters of which is added to foods by food manufacturers and restaurants—raises blood pressure and increases the risk of stroke, heart disease, kidney failure, and other illnesses causing 10,000 to 16,000 premature deaths annually.

Calls for action since 2010: Shortly after the federal Minister of Health's [25-member Sodium Working Group](#) published its unanimous [Sodium Reduction Strategy for Canada](#) in July 2010, its interim goal to reduce average daily sodium intake from 3,400 mg to 2,300 mg by 2016 was embraced by the [Prime Minister](#) (which the [Globe and Mail](#) noted with anticipation in early 2011) and [Provincial Premiers and Territorial Leaders](#). As early as September 2010, [Provincial and Territorial Health Ministers](#) called for regulations to be developed in case timely voluntary sodium reductions were not demonstrated. The same year, a blue ribbon panel of the [US Institute of Medicine](#) (whose expertise is used as the basis for much Canadian nutrition law and policy) chaired by a former head of the US Food and Drug Administration called for regulations to be implemented in that country as soon as possible to fix food labelling to better inform consumers about sodium levels, and to mandate a gradual reduction in sodium levels in processed foods. In early 2012, [17 health organizations](#) called on the Prime Minister to implement the strategy.

Measure proposed in Bill C-460: If passed, the bill would require all food companies and key government departments to begin or continue to implement the [Sodium Reduction Strategy](#) on an urgent basis. Foods that fail to meet [Health Canada's sodium-reduction targets for the applicable food categories](#) (published as voluntary targets June 2012) would be required to disclose that fact on food labels so long as that failure persists.¹ The bill also obliges the federal government to implement the regulatory reforms concerning nutrition labelling on prepackaged foods and chain restaurant menus, advertising to children, nutrition standards for food procurement, and other measures proposed in the [Strategy](#). [Bill C-460](#) also requires food companies to report Nutrition Facts information to an official on-line database, and establish an independent expert volunteer oversight body to monitoring the implementation of the [Strategy](#). If passed, [Bill C-460](#) would make food companies accountable to their customers through more informative food labelling, and governments accountable to Parliament through annual progress reports on implementing the [Strategy](#). Many companies and products already meet the targets; others do not and likely will not if their non-compliance goes unnoticed. A poll commissioned by the Public Health Agency of Canada in 2009 found that [82% of Canadians thought high-sodium foods should carry a notice highlighting that fact](#) on the front of the label.

Health and Citizens' Groups Call on Parliamentarians to support Bill C-460: Therefore, we the undersigned urge all Members of Parliament and Senators to vote for the speedy passage of [Bill C-460, The Sodium Reduction Strategy for Canada Act](#). The 2016 deadline for achieving the interim targets for population-wide sodium reduction and food category targets is fast-approaching. The federal government needs to embrace an [effective](#) national strategy for achieving those goals. The health and economic well-being of Canadians and the sustainability of Medicare depend on success. We also urge provincial governments to implement effective sodium-reduction measures to the full extent of their constitutional authority.

¹ The proposed notice for non-compliant foods is as follows:

*"This food does not meet Health Canada's sodium-reduction targets. Excess sodium is a leading cause of hypertension, heart attack and strokes.
Cet aliment ne respecte pas les cibles de réduction du sodium de Santé Canada. L'excès de sodium est l'une des principales causes de l'hypertension, des crises cardiaques et des accidents vasculaires cérébraux"*

C-460	C-460
First Session, Forty-first Parliament, 66-61 Elizabeth II, 2011-2012	Première session, quarante et unième législature, 66-61 Elizabeth II, 2011-2012
HOUSE OF COMMONS OF CANADA	CHAMBRE DES COMMUNES DU CANADA
BILL C-460	PROJET DE LOI C-460
An Act respecting the implementation of the Sodium Reduction Strategy for Canada	Loi portant mise en oeuvre de la stratégie nationale de réduction du sodium
FIRST READING, NOVEMBER 5, 2012	PREMIÈRE LECTURE LE 5 NOVEMBRE 2012
MS. DAVIES	M ^{ME} DAVIES
411644	

Embargoed until Thursday July 29 2010, 11 AM EST



Recommendations of the
Sodium Working Group

July 2010

Plug #2: 28 (and counting) experts and NGOs supporting mandating calorie counts + high-sodium notices on restaurant menus

Experts, Health and Citizens' Groups Call on Governments to Mandate Nutrition Information on Menus at Outlets of Large Chain Restaurants

Nutrition-related health risks are high, but avoidable.

Nutrition-related illnesses cause approximately 48,000 deaths annually in Canada, due largely to stroke, heart disease, diabetes, and certain cancers caused by excess intake and excess abdominal fat.¹ The average Canadian consumes more than double the 1,500 mg of sodium per day recommended for most adults, causing an estimated 10,000 to 16,000 premature deaths annually and extensive reliance on anti-hypertensive drugs.² Ninety per cent of Canadians will develop hypertension as they age.³ More than 60% of adults and 25% of children aged 6-19 are overweight or obese.⁴ The economic burden of obesity has been estimated to range from \$5 billion to \$30 billion annually, even the highest estimate of which is based on some conservative assumptions.⁵

Chain restaurants' exemption from nutrition disclosure is not justified.

Major chain-restaurants have been exempt, since 2002, from regulations requiring food manufacturers to disclose the amounts of calories and sodium (plus 12 other nutrients) on labels of packaged foods.⁶ Consumers need nutrition information on chains' menus and menu boards so they can make informed choices for themselves and their children. Canadians consume one-fifth of their food from restaurants and other foodservice operations, mostly with little objective nutrition information to guide their choices. Requiring that menus disclose calorie counts and high-sodium notices would motivate companies to make recipes healthier, which would benefit even customers who do not read nutrition information. Yet, high calorie and sodium levels in many restaurant meals contribute to hypertension, overweight and obesity, diabetes, heart disease, stroke, many forms of cancer, and other diet-related illnesses.

Canada's voluntary menu labelling is ineffective; U.S. governments mandate menu disclosures.

In 2005, as a bill proposing to mandate nutrition disclosure on menus was advancing in the House of Commons, the Canadian Restaurant and Foodservice Association launched its voluntary "Nutrition Information Program" which it maintained would provide such information to customers at many of Canada's largest chains. Reassured by such promises and discouraged by industry claims that mandating nutrition labelling would be unworkable, MPs defeated the bill in November 2006. But, without a regulatory requirement, nutrition information is virtually never posted on restaurant menus in Canada. U.S. research shows that as few as one-tenth-of-one-percent of chain restaurant customers seek out nutrition brochures that are provided in less conspicuous places (such as underneath counters or on the bottom of tray-liners).⁷ The usage rate is 150-fold higher when such information is posted on menus, according to a survey of restaurant customers in New York City⁸ where such labelling has been mandatory since 2008. In New York City, calorie counts are required to be posted, for example, on menus at McDonald's, Tim Hortons, Subway, and other multi-national chains that also operate in Canada without such disclosures.

A study of 8,000 New York City restaurant customers of 168 outlets of 11 chains before and after the city's menu labelling law came into effect found that the 15% of customers who reported using the calorie information purchased a very substantial 96 fewer calories fewer (11% less) per transaction after controlling for gender, age, income level and neighbourhood income level.⁹ And, Stanford University economists examining 100 million Starbucks transaction records at 222 outlets in New York City and 94 in comparison cities (Boston and Philadelphia) observed a 14% decline in calorie levels of food transactions in New York City as a result of customers choosing fewer foods and substituting lower-calorie items.¹⁰ (No change was observed in beverage ordering.)

Ontario bills proposing to mandate nutrition disclosures on restaurant menus in the province passed three votes in two successive sessions of the legislature in 2009 and 2010, but the first bill was vitiated when the legislature was prorogued, and the second died when an election was held.¹¹ Since the set-backs in the

WRITING ON THE WALL
time to put nutrition information on restaurant menus

	\$	Calories*	Sodium (mg)
Cheeseburger	6.99	650	1,000
NY Steak Sandwich	5.50	450	1,500
Fruit Salad	4.00	300	0
Pasta Primavera	9.99	1,100	1,250
Hell's Chicken Penne	9.99	1,300	2,500

*A typical adult should consume less than 2,000 calories in an entire day.
Aim for about 1,500 mg of sodium per day.
Ask your server for full nutrition information or information about allergens or dyes.

CENTRE FOR SCIENCE IN THE PUBLIC INTEREST
The nonprofit publisher of Nutrition Action Newsletter

CENTRE POUR LA SCIENCE DANS L'INTÉRÊT PUBLIC
Éditeur canadien de Nutrition Action Newsletter



1st SESSION, 40th LEGISLATURE, ONTARIO
61 ELIZABETH II, 2012

Bill 126

An Act to enact the
Skin Cancer Prevention Act, 2012
and to amend various statutes
with respect to health matters

M^s Gélinas

Private Member's Bill

1st Reading October 2, 2012
2nd Reading
3rd Reading
Royal Assent

1^{re} SESSION, 40^e LÉGISLATURE, ONTARIO
61 ELIZABETH II, 2012

Projet de loi 126

Loi édictant la
Loi de 2012 sur la prévention
du cancer de la peau
et modifiant diverses lois à l'égard
de questions relatives à la santé

M^{me} Gélinas

Projet de loi de député

1^{re} lecture 2 octobre 2012
2^e lecture
3^e lecture
Sanction royale

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de l'Ontario



Plug #3:

159 groups and networks representing 2,000 plus NGOs in [global] Conflict of Interest Coalition



Conflicts of Interest Coalition Statement of Concern

This Statement of Concern has been developed by the Conflicts of Interest Coalition*. It focuses on the lack of clarity regarding the role of the private sector in public policy-making in relation to the prevention and control of non-communicable diseases (NCDs).

It calls for the development of a Code of Conduct and Ethical Framework to help protect the integrity of, and to ensure transparency in, public policy decision-making, by safeguarding against, and identifying and managing conflicts of interest.

The Statement of Concern has been sent to the President of the United Nations General Assembly and the co-facilitators of the United Nations High Level Meeting on the Prevention and Control of Non-Communicable Diseases.

As of September 2011, the statement has been endorsed by 143 national, regional and global networks and organisations working in public health, including medicine, nutrition, cancer, diabetes, heart disease, lung disease, mental health, infant feeding, food safety and development.

To add your organisation's support for this crucial issue, please email prundall@balymikaction.org or policy@wcrf.org.

* The Conflicts of Interest Coalition comprises civil society organisations united by the common objective of safeguarding public health policy-making against commercial conflicts of interest through the development of a Code of Conduct and Ethical Framework for interactions with the private sector.

Plug #4:

Site Licensing for

Nutrition Action Healthletter

For more information on our Site Licensing Programme, please contact:

Nat Parsons
Director of Online
Publishing & Interactive
Media

nparsons@cspinet.org

202-777-8308 (in US)

Site Licensing Programme

- Share Nutrition Action diet and health advice with your colleagues, association members, or your fellow employees.
- Easy-to-implement Site Licensing Programme regularly delivers digital content for you to share at your Web site ... and by email to your audience.
- Content includes Canadian-specific food product ratings and reviews – from breads and yogurts to salad dressings, cheeses, breakfast cereals, and more!
- Affordable pricing and terms are attractive for an organization of any size.

Plus #5:

Federal *Bill, C-430*, to restrict advertising to children (as Quebec legislature has done since 1980)

C-430	C-430
First Session, Forty-first Parliament, 60-61 Elizabeth II, 2011-2012	Première session, quarante et unième législature, 60-61 Elizabeth II, 2011-2012
HOUSE OF COMMONS OF CANADA	CHAMBRE DES COMMUNES DU CANADA
BILL C-430	PROJET DE LOI C-430
An Act to amend the Competition Act and the Food and Drugs Act (child protection against advertising exploitation)	Loi modifiant la Loi sur la concurrence et la Loi sur les aliments et drogues (publicité ou réclame destinée aux enfants)
<hr/> FIRST READING, JUNE 6, 2012 <hr/>	<hr/> PREMIÈRE LECTURE LE 6 JUIN 2012 <hr/>
MR. JULIAN	M. JULIAN

411085

- Call for supporters
- Debate and vote as early as the conditions are right
- How will Liberals vote?
- How will 5 Quebec Conservative MPs vote?

Undoing the harm of advertising to children:

Prevent gate-crashing?

(Quebec approach)

-or-

Skim worst junk food ads?

(UK approach)

**scientific evidence & expert opinion
about the vulnerability of children to
commercial advertising**

S. Basrur, *2004 Report of the Chief Medical Officer Of Health: Healthy Weights, Healthy Lives*, (Toronto: CMOH, 2004) 49 at http://www.health.gov.on.ca/english/public/pub/ministry_reports/cmoh04_report/healthy_weights_112404.pdf



Develop policies and programs that promote healthy eating, including:

- exploring policy options to control food advertising targeting children similar to those now in place in Quebec, where advertising of some products to children under 13 is prohibited. (A number of European countries have introduced legislation to ban advertising aimed at children.)

G. Hastings, Et Al., *Review Of Research on the Effects of Food Promotion to Children*, prepared for the UK Food Standards Authority, (London: UK FSA, and Glasgow, Scotland: Centre for Social Marketing, University of Strathclyde, 2003), 19, 87-8, 138 at <http://www.food.gov.uk/multimedia/pdfs/foodpromotiontochildren1.pdf>



REVIEW OF RESEARCH ON THE EFFECTS OF FOOD
PROMOTION TO CHILDREN

Final Report

Prepared for the Food Standards Agency

*Gerard Hastings, Martine Stead, Laura McDermott,
Alasdair Forzyth, Anne Marie MacKintosh, Mike Rayner,
Christine Godfrey, Martin Caraher and Kathryn Angus*

22nd September 2003



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Director: Professor G. Hastings

- **Seminal systematic review of English literature on advertising directed at children concluded:**
 - foods marketed to children tend to be of very low nutritional value;
 - that there is reasonably strong evidence of that food promotion affects both brand and category preferences, and evidence of a strong effect of food promotion on children’s purchasing and purchase-related behaviour
 - **at around age eight, children are just “beginning to respond to advertising in a more sophisticated way” and that children’s ability to retrieve and process information is still developing between the ages of eight and twelve (pp. 35–36).**

And another systematic analysis of 123 eligible studies:

Inst. of Med. of the Nat'l Acads. of Sci., *Food Marketing to Children and Youth: Threat or Opportunity* (J. Michael McGinnis et al. eds., 2006) [in press] . See the exec. summ. at http://www.nap.edu/execsumm_pdf/11514.pdf

- Children *begin* to develop cognitive skills at age 8 to ascertain commercial intent of advertising -- passively until age 11 (or older?); little research on children aged 12-18
- Recommend federal legislation for TV and cable ads if voluntary efforts to “shift away from high-calorie, low-nutrient foods” are unsuccessful.



American Psychological Association
2004 *Report of the APA Task Force on Advertising and Children*,
(Brian Wilcox, Task Force Chair). Washington, DC: APA. On the World Wide Web at
<http://www.apa.org/pi/cyf/advertisingandchildren.pdf>

- Children, because they are still maturing, have very poor **cognitive defences** against commercial advertisements (APA, 2004, pp. 6–7).
- “the ability to recognize persuasive intent does not develop for most children before 8 years of age.... Even at that age ... such capability tends to emerge in only **rudimentary form**” (APA, 2004, p. 9).
- “**Further investigation is needed to establish the upper age boundary of children who are uniquely vulnerable to televised commercial persuasion as a function of normative developmental limitations on their information-processing capabilities...**[T]he evidence points directly to one fundamental concern: that advertising targeting children below the ages of 7–8 years is inherently unfair because it capitalizes on younger children's inability to attribute persuasive intent to advertising. As a result of this limitation, children below this age comprehend the information contained in television commercials uncritically, accepting most advertising claims and appeals as truthful, accurate, and unbiased.

**Report of
the APA Task Force
on Advertising and Children**

Submitted by

Brian L. Wilcox, PhD
Dale Kunkel, PhD
Joanne Cantor, PhD
Peter Dowrick, PhD
Susan Linn, EdD
Edward Palmer, PhD

February 20, 2004



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

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**legal recognition of the
vulnerability of children to
commercial advertising**

Supreme Court of Canada

Irwin Toy v. Quebec (Attorney General), [1989] 1 S.C.R. 927 at 988 (

http://www.lexum.umontreal.ca/csc-scc/en/pub/1989/vol1/html/1989scr1_0927.html)

- In upholding the constitutional validity of the Quebec *Consumer Protection Act* restrictions on advertising to children under age 13 (in the case of a challenge by a toy company) the Court held:

“...advertising directed at young children is per se manipulative.

Such advertising aims to promote products by convincing those who will always believe.”

Key, Relevant Federal Laws

Competition Act:

- subsection 9(1) of the *Act, itself, requires citizens to be at least 18 years old to petition for an investigation of misleading advertising.*

Evidence Act:

- s. 16 *creates a presumption that children under the age of fourteen are not reliable witnesses*
- See also the Supreme Court of Canada ruling in *Kendall v. The Queen (1962)*.

General Common Law

(Attorney General of Québec v. Irwin Toy, 1989, p. 990).

The Supreme Court of Canada, in *Irwin Toy*, summarized the unique status of children in the common law as follows:

- “viz. to protect a group that is most vulnerable to commercial manipulation ... [is] reflected in general contract doctrine.... Children are not as equipped as adults to evaluate the persuasive force of advertising and advertisements directed at children would take advantage of this”

Justice for Children and Youth survey of Ontario and federal laws

(<http://www.jfcy.org/PDFs/AgeBasedLawsJune2012.pdf>)

- Of nearly 70 age-delimited legal milestones (rights and responsibilities), only 3 vest in children under age 12:
 - the statutory right then duty to attend school from age 4 (or 5) then 6, respectively,
 - the authority to withhold consent to be adopted at age 7

Age of Majority and Accountability Act, **(Ontario) R.S.O. 1990, c. A.7**

- the age of majority is 18 (down from 21, generally, in common law)
- five of the other nine provinces set it at 19
- minors may enter into binding (enforceable) contracts for the “necessities of life”

R. v. Cunningham Drug Stores, 1973 (BC C.A.);

R. v. Imperial Tobacco, 1971 (Alta. C.A.); and

R. v. International Vacations, 1980, p. 284 (Ont. C.A.)

Restrictions on “misleading” must be considered from the vantage point of:

- the ad’s intended target (i.e., not just by applying an adult’s logical literal analysis of claims); and
- as interpreted by persons of “average” abilities appropriate to the circumstances (not by well informed or sophisticated persons)

McDonald's

- In an effort to foil an effort to unionize employees, McDonald's once argued that people lack of legal capacity to enter contracts (like contracts for the sale of food) should undermine the capacity of some of its teenage employees to sign hold union cards (Wilson J, *Wilson on Children and the Law*, § 5.39, 3d ed. 1994).

A conservative MP on media literacy for children

(Oct 19, 2006, House of Commons Standing Committee on Health)



- Asking a young child to see through that with their x-ray eyes, to see that they're being targeted, is sort of like child-proofing your kid on the street. Rather than get the bad guys off the street, we'll just teach kids how to recognize the good guys and the bad guys.
- I have to say that I'm a little bit cynical about that kind of approach. Obviously there is a role here, and what we're doing doesn't seem to be effective.

Precedents and Opportunities

- So far, Quebec (children under age 13), Norway (ads directed at children under age 12), and Sweden (television ads aimed at children under age 12) have legislated broad bans on advertising to children, and other European countries have issued narrower restrictions. Corinne Hawkes, *Marketing Food to Children: The Global Regulatory Environment*, (Geneva: World Health Organization, 2004) at <http://whqlibdoc.who.int/publications/2004/9241591579.pdf>
- Ads to kids may already contravene existing common law, and federal and provincial restrictions on misleading, deceptive advertising and unconscionable business practices
 - Mislead -“Lead astray, cause to wrong, in conduct or belief.” -- *Concise Oxford English Dictionary* 647 (J.B.Sykes ed., Oxford Univ. Press 1982)(1911).
 - Jeffery, B. 2006 “The Supreme Court of Canada’s Appraisal of the 1980 Québec: Implications for ‘Misleading’ Advertising Elsewhere” 39 *Loyola of Los Angeles Law Review* 321-360 (eventually) at <http://lr.lls.edu/>
- Plainly, federal and provincial governments have authority to regulate/legislate advertising to children.
- **Section 109 (1) of the Ontario Consumer Protection Act:** “If the Director believes on reasonable grounds that any person is making a false, misleading or deceptive representation in respect of any consumer transaction in an advertisement, circular, pamphlet or material published by any means, the Director may, (a) order the person to cease making the representation...”

Measured Impact of UK, Quebec laws (and the need to narrow loopholes)

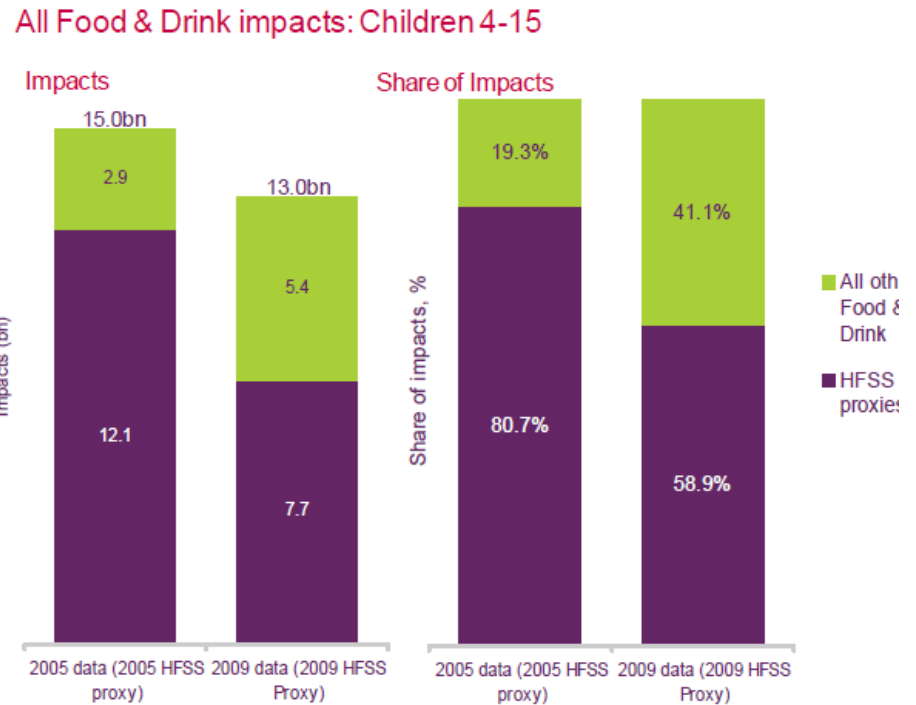
Proportion of food ads for HFSS down from 4/5 to 3/5

(<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/hfss-review-final.pdf>)

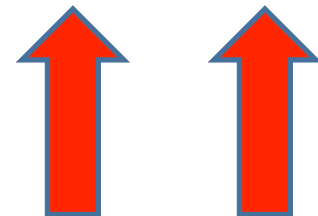


Publication date: 26 July 2010
Statement

Figure 16: Children's exposure to HFSS advertising



Source: Nielsen Media
Note: Minor variations due to rounding
*HFSS refers to proxy measures



Dhar T and Baylis K,
American Journal of Marketing. 2011

TIRTHA DHAR and KATHY BAYLIS*

Amid growing concerns about childhood obesity and the associated health risks, several countries are considering banning fast-food advertising targeting children. In this article, the authors study the effect of such a ban in the Canadian province of Quebec. Using household expenditure survey data from 1984 to 1992, authors examine whether expenditure on fast food is lower in those groups affected by the ban than in those that are not. The authors use a triple difference-in-difference methodology by appropriately defining treatment and control groups and find that the ban's effectiveness is not a result of the decrease in fast food expenditures per week but rather of the decrease in purchase propensity by 13% per week. Overall, the authors estimate that the ban reduced fast-food consumption by US\$88 million per year. The study suggests that advertising bans can be effective provided media markets do not overlap.

Keywords: advertising regulation, fast food, obesity, difference-in-difference estimator

Fast-Food Consumption and the Ban on
Advertising Targeting Children: The
Quebec Experience

Childhood obesity is a growing problem, and governments in different countries are considering a variety of policy solutions, including banning advertisements on so-called junk food. Obesity puts children and adolescents at risk for a range of health problems such as cardiovascular disease, diabetes, and depression (Krebs and Jacobson 2003), making obesity second only to smoking as a cause of preventable death (Allison et al. 1999; McGinnis and Foege 1993). Obesity researchers have identified fast food as one of the key drivers of this problem because it significantly increases caloric consumption per meal (Bowman and Vinyard 2004; Niemeyer et al. 2006; Paeratakul et al. 2003; Satia, Galanko, and Siega-Riz 2005). For example, French et al.'s

(2001) study of 11- to 18-year-olds finds that regular consumption of fast food is associated with ingesting an extra 800 calories per week for boys and 660 extra calories per week for girls. These extra calories translate into a possible weight gain of 10 pounds or more per year. Furthermore, Duerksen et al.'s (2007) study of Mexican children in San Diego finds that 4- to 7-year-olds who ate at fast-food restaurants were twice as likely to be obese as those who did not. Indeed, from 1977 to 1996, calorie intake from fast-food restaurants has doubled as a percentage of energy intake for Americans over the age of 2 years (Nielsen, Suega-Riz, and Popkin 2003).

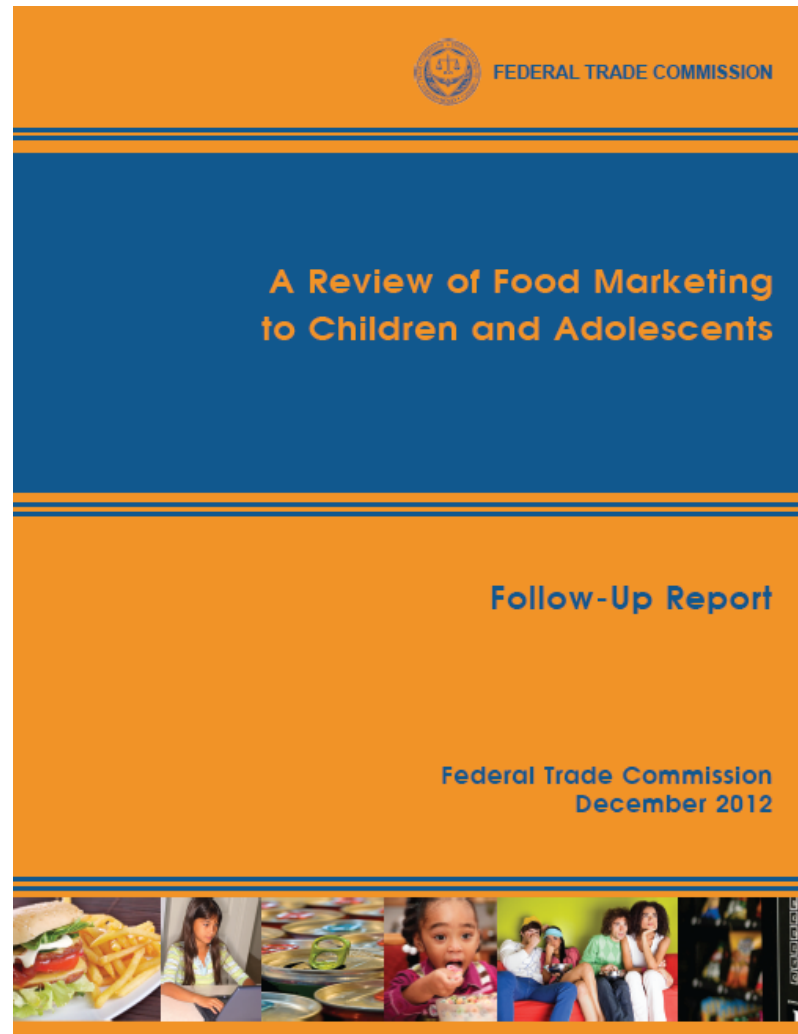
Fast food is also one of the most heavily advertised product categories targeting children, and according to recent studies, such advertising is effective in changing behavior (Connor 2006; Institute of Medicine of the National Academies 2006). For example, Taveras et al. (2006) show that in the United States, children who view fast-food television advertisements are approximately 50% more likely to eat fast food. Thus, advertising plays a critical role in a household's decision to consume fast food and thereby affects health outcomes. Advertising can influence obesity in two ways: by encouraging the consumption of unhealthy food

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- Decrease in purchase propensity by 13% per week reduced fast-food consumption by US \$88 million per year (published in US econ journal)

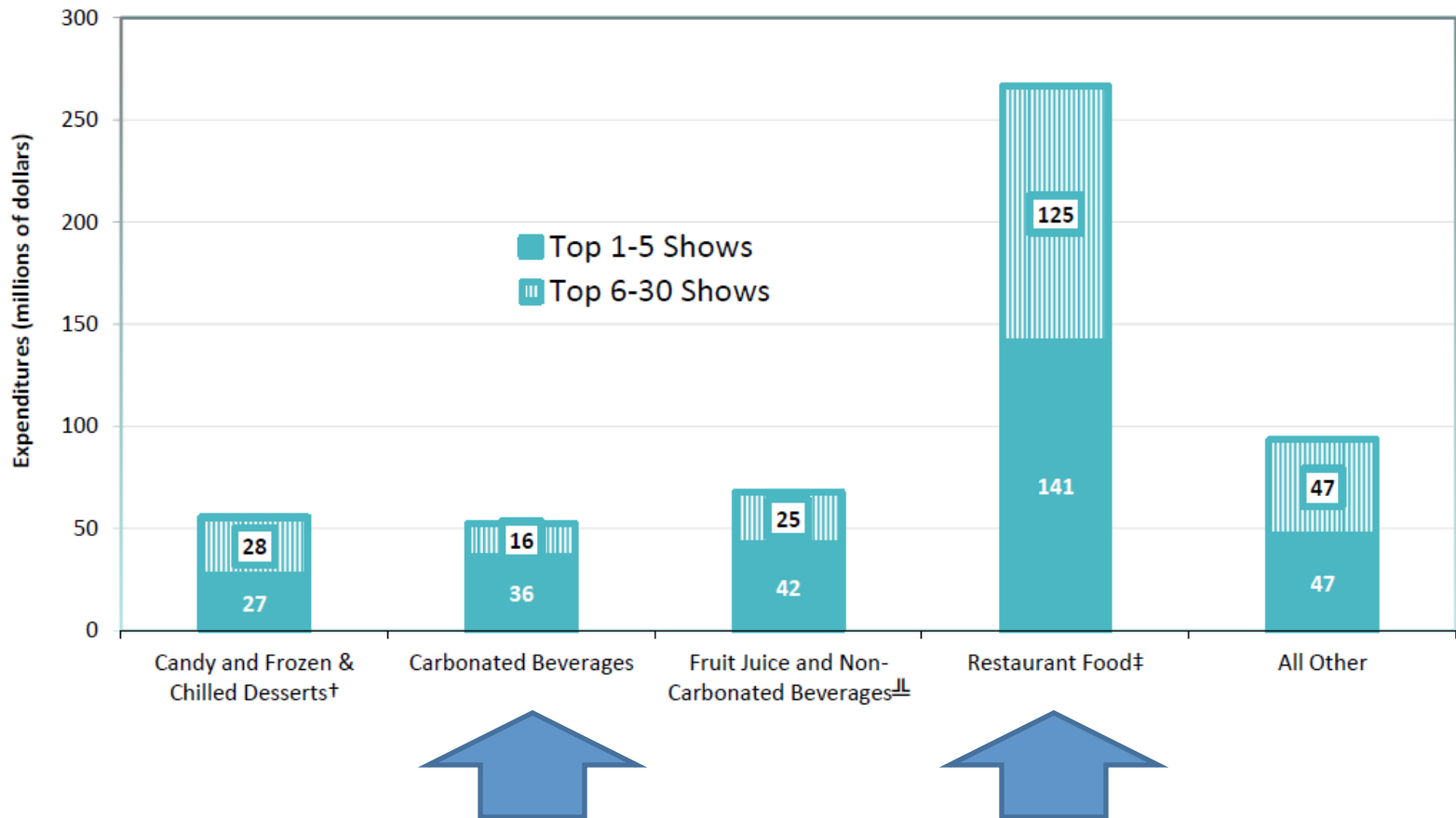
**And the foreseeable permeability of a
nutrient-based limit on ads**

Dec 2012 US Federal Trade Commission f/u report



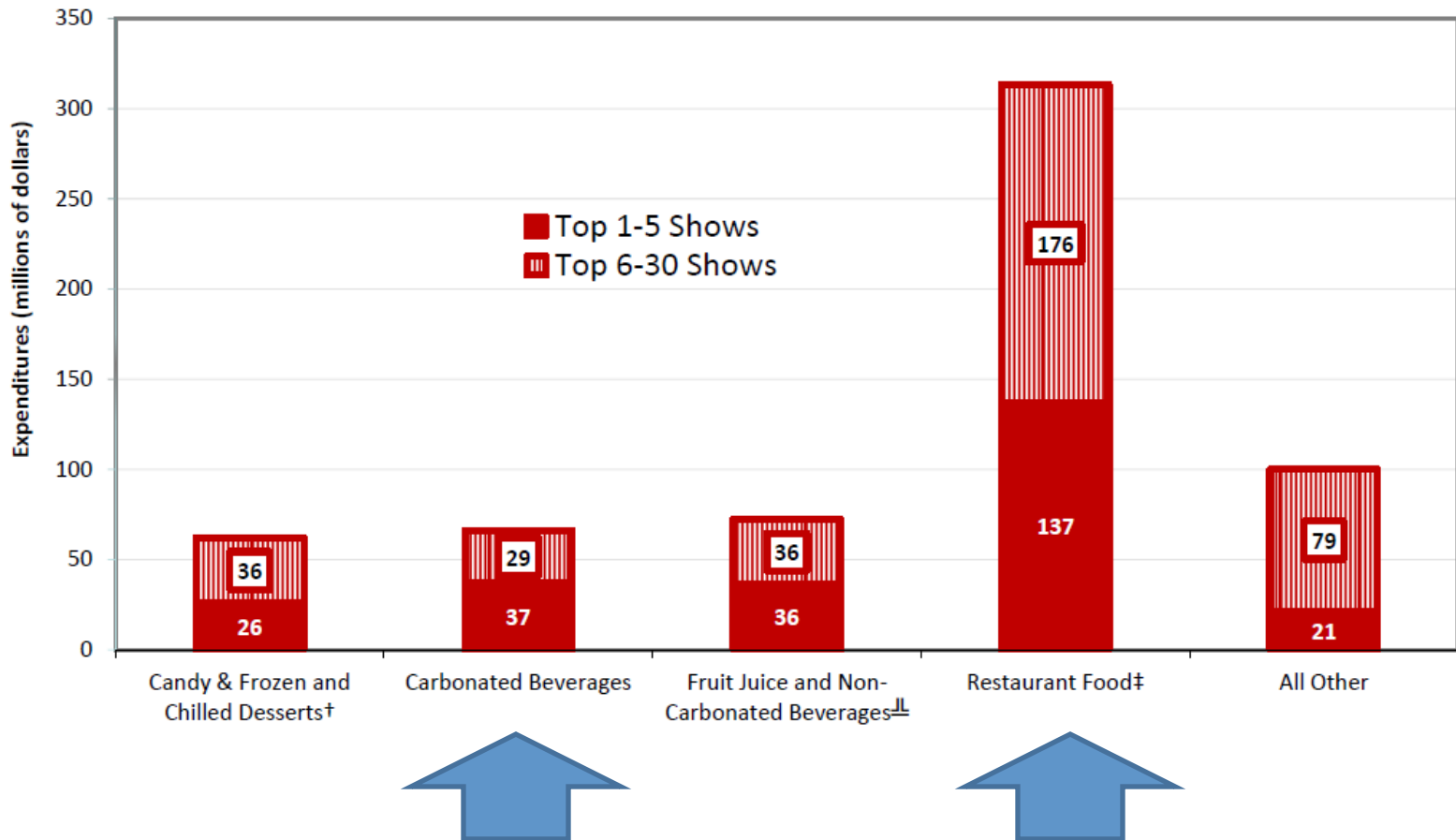
ENORMOUS loopholes in nutrient based ad limits
(e.g., w/ brand promos , ads for diet drink, or restaurant venue/trophy foods)

Figure II.10: Food Ad Expenditures on Top 30 Broadcast TV Shows Viewed by Children 2-11* (2009)



ENORMOUS loopholes in nutrient based ad limits
(e.g., w/ brand promos , ads for diet drink, or restaurant venue/trophy foods)

Figure II.11: Food Ad Expenditures on Top 30 Broadcast TV Shows Viewed by Teens 12-17* (2009)



Who comprise Concerned Children's Advertisers?

(See: http://cca-kids.ca/about_who/members.html)

Food

- Nestlé Canada Inc.
- Pepsi-QTG Canada Inc.
- Coca-Cola Ltd.
- McDonald's Restaurants of Canada Limited
- Cadbury Adams Canada Inc.
- McCain Foods (Canada)
- Campbell Company of Canada
- Frito Lay Canada
- General Mills Canada Corporation
- Kellogg Canada Inc.
- Kraft Canada Inc.
- Unilever Canada
- Weston Bakeries Limited

Media

- TELETOON Canada Inc.
- Buena Vista Home Entertainment (Disney)
- Corus Entertainment (YTV & Treehouse)
- CTV Television Inc.
- Global Television Network

Toys

- Mattel Canada Inc.
- Mega Blocks Inc.
- Zenith Optimedia Canada
- Hasbro Canada Corporation

For Children's Healthy Active Living Program:

- Hershey Canada Inc.
- Canadian Sugar Institute
- Confectionery Mfrs Assn. of Canada
- Food and Consumer Products Canada

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