

February 15, 2019

Office of Nutrition Policy and Promotion
Laboratory Centre for Disease Control (LCDC) Building # 6
Address Locator: 0603C
Tunney's Pasture
Ottawa, Ontario
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Re: **Guide to the Application of the Child Health Protection Act (Bill S-228)**

The Ontario Dietitians in Public Health (ODPH) commends Health Canada for its work on the Healthy Eating Strategy and its commitment to reduce commercial marketing of foods and beverages to children.

ODPH is the independent and official voice of Registered Dietitians working in Ontario's public health system. ODPH provides leadership in public health nutrition by promoting and supporting member collaboration to improve the health of Ontario residents. ODPH has long been advocating for legislation on restricting commercial marketing to children as a strategy to improve population health. ODPH believes that marketing to children is an unethical practice and, as such, encourages that regulations limiting marketing to children should be as comprehensive as possible. Children under the age of six are unable to distinguish between truth and marketing claims. Even as children and youth begin to understand the persuasive intent of marketing, they remain vulnerable to commercial influence because of their underdeveloped ability to control impulses and resist the emotional appeal of advertising.

ODPH position: ODPH supports a ban on commercial marketing of **all food and beverages** to children and youth under 17 years of age. This is in line with the [Stop Marketing to Kids Coalition](#) recommendations, led by the Heart and Stroke Foundation. While ODPH continues to support a ban on the marketing of **all** food and beverages, we support Bill S-228 because it is a step in the right direction.

The draft guide is a useful document for those involved in food advertising as well as those who would like to better understand the regulations of the Bill. The inclusion of examples and flow charts are helpful and easy to understand. However, we feel there are opportunities to strengthen the impact of the guide. Please take into consideration our feedback on the proposed **Guide to the Application of the Child Health Protection Act (Bill S-228)** and related regulation.

Brand Advertising

On December 14, 2018, during a Health Canada stakeholder engagement session, regulations for brand advertising were discussed. However, the current draft guide does not mention marketing restrictions pertaining to brand advertising. It is imperative that these brand restrictions be included in both the regulation and the guide document, as they may play a significant role in marketing to children.

Child versus Mixed Audience Settings

Although marketing will be restricted specifically in child-directed settings, family friendly mixed audience settings such as parks (amusement and municipal), recreation centres and libraries are currently excluded from this definition. By excluding family friendly settings, where children frequent often, the Bill will not truly achieve what it set out to do. Please consider this point in your categorization of child-directed versus mixed-audience settings.

Child Audience Thresholds

The “child audience” threshold is currently set at 15%, which is 2% higher than the current children's population in Canada (13%). ODPH would like to know more about the rationale and evidence regarding setting the threshold 2% above the population total. Also, as the population of Canada changes, will the regulations be updated accordingly?

Nutrient Thresholds

The marketing restrictions used for Bill S-228 are based on the nutrient content claims for “Lower in” thresholds set by the Canadian Food Inspection Agency, instead of % Daily Values (%DV) as set out by Health Canada. ODPH believes that %DV, where “5%DV or less is a little” should be considered as the threshold as it aligns with the new Nutrition Facts Table and general nutrition guidance promoted by the Healthy Eating Strategy. Setting 5%DV for each of these nutrients is also more stringent compared to the Bill S-228 criteria (Appendix 1). This will serve to better protect the health of children.

Vague Terminology

Some of the terms provided in the guide are vague and subjective. To reduce bias and encourage universal application of the regulations by the food industry, these terms should be more fully defined (p.15):

- Child-appealing subjects/themes
- Child appealing wording
- Child appeal of advertised product (shape, colour, and/or design)
- Situations that play on parent-child relationships between a child and an adult in a particularly insistent or idealized manner

In addition, the guide discusses that design elements, techniques and characteristics are all collectively considered in determining if an advertisement is targeted to children. Given the subjective nature of the current language in this section of the guide, clarity and support is required to interpret and implement what is outlined in these considerations.

Monitoring and Enforcement

ODPH would like further details on enforcement protocols and the expected capacity to monitor these regulations. We understand that there is a five year review clause after the Bill receives royal assent. Specifically, we wonder how enforcement will be conducted at a community level (e.g., coupons provided at community events) and online (Canadian vs. international websites)?

Additional Comments:

- Current legislation will only restrict marketing to children of 13 years or younger. However, it is valuable to describe in the introduction section of the guide the evidence that teenagers are also impacted by marketing.
- The Canadian Children's Food and Beverage Advertising Initiative (CAI) voluntary self-restriction is mentioned in the introduction; however, there is no mention that this intervention has proven to be ineffective.
- The regulation will apply to pre-packaged foods. Examples of approved and restricted items would be helpful to the reader.
- The definition of "main dish" will need to be updated to incorporate the revised Canada's Food Guide.
- In determining if a food can be advertised, added fat, added sodium and sugars are assessed. With respect to "sugars" the guide document only refers to the food items that should be excluded from the category. To make it easier for the reader to interpret, the guide should explicitly state what items are included in the "sugars" category.

Thank you for considering these recommendations. ODPH acknowledges that drafting regulations and supporting materials is an onerous task and appreciate the work that has been done to date. We look forward to continuing this collaboration.



Nadine Khan, Chair M2K Workgroup, ODPH



Carolyn Doris, Chair, ODPH

Appendix 1 -Nutrient Thresholds Table

Nutrient	Bill S-228 criteria
Sodium	Exceeds 140 mg of sodium per Reference Amount (RA) and serving of stated size (~6% of DV of 2400 mg/day)
Saturated Fat	Exceeds 2 g of saturated fatty acids and trans fatty acids per RA and serving of stated size (~10% of DV of 20 g/day)
Sugar	Exceeds 5 g of total sugar per RA (~5% DV as per Health Canada's proposed new labeling standards) (Source: https://www.canada.ca/en/health-canada/services/food-nutrition/public-involvement-partnerships/proposal-table-permitted-nutrient-content-statements-and-claims.html)